

THE REPUBLIC OF UGANDA

THE CENTRE FOR ARBITRATION AND DISPUTE RESOLUTION
[CADER]

CAD/ARB/67/2017

INTERNATIONAL DEVELOPMENT
CONSULTANTS LTD ----- APPLICANT

VERSUS

1. AECOM RoA (PTY) LTD
2. UGANDA NATIONAL
ROADS AUTHORITY ----- RESPONDENTS

Applicant Counsel

Arthur Murangira
A. Murangira & Co.
Advocates.

First

Respondent Counsel

Brian Kalule
A.F. Mpanga
Advocates

Second

Respondent Counsel

Pecos Mutatina
Uganda National Roads
Authority

RULING

1. A sub-consultancy agreement was concluded between Aecom RoA (Pty) Ltd and International Development Consultants Ltd.
2. The first Respondent's [hereafter IDC] support Affidavit deposited by Bridget Samula, filed on 16th November 2017, evidenced,
 - a. the main contract between Uganda National Road Authority and AECOM RoA (Pty) Ltd, and
 - b. the sub-consultancy contract between AECOM RoA (Pty) Ltd and International Development Consultants.
3. The second Respondent's [hereafter UNRA] support Affidavit, filed on 17th November 2017, evidenced the High Court Order in the matter of ***International Development Consultants Ltd versus Aecom RoA Pty SA Ltd, UNRA***, Misc. Cause No.157/2017.

The Order records the amount in dispute between IDC and Aecom RoA Pty under a contract known as ***Contract for Consultancy Services for the upgrading from gravel to paved bitumen standard of the Mpigi-Kanoni-Sembabule Road***.

The Order decrees that the disputed amount be held by the court pending the outcome of the arbitration.

4. The Anthony Rwebanda main affidavit and Supplementary Affidavit filed on 22nd November 2017 do not provide useful background information on the dispute at hand.

It is the Respondents' Affidavits which provide the relevant information on the dispute at hand.

5. The sub-consultancy contract has been evidenced as follows: -

Party	Affidavit Date	Page Numbers	Footer date
Applicant	22-Nov-2017 Annex 5 Main Contract	14	2013-10-23
1st Respondent	16-Nov-2017	14	2013-11-21
2nd Respondent	17-Nov-2017	14	2013-11-21

6. Clause 17.1 sub-consultancy contracts states as follows,

“17. Dispute

17.1

Subject to clause 17.2, any dispute arising under **this Agreement** which cannot be resolved amicably between the parties shall be resolved exclusively **in accordance with the provisions of the Main Contract** as if the same we set out here *mutatis mutandis*.”

7. Clause 17.2 GCC Main Contract states as follows,

“17 Settlement of Disputes

17.2

If the parties fail to resolve such a dispute or difference by mutual consultation within twenty-eight days from the commencement of such consultation, either party may require that the dispute be referred for resolution in accordance with the Arbitration Law of Uganda or such other formal mechanism specified in the SCC.”.

The SCC states as follows,

GCC Clause Reference	Special Conditions of Contract
GCC 17.2	Dispute Settlement: The formal mechanism for the resolution of disputes shall be: In accordance with Ugandan Law of arbitration and the place of arbitration shall be Kampala, Uganda.

8. We note from the above that the sub-consultancy parties import the admitted arbitration clause from the main contract.
9. The Respondents' affidavits in harmony with the Court Order inform us that of the dispute between the Applicant and first respondent.

10. Section 2(1)(i) Arbitration and Conciliation Act [hereafter ACA] defines a “party” as a **party to an arbitration agreement**.
11. Section 3(2) ACA dictates that an arbitration agreement shall be in writing.
12. The Applicant has not proved UNRA’s relevance to the sub-consultancy contract.
13. On the basis of the respondents’ useful information on the scope of the dispute arising under the sub-consultancy contract, I shall appoint the arbitrator.
14. The Applicant shall bear the second respondent’s costs.
15. Applicant and first respondent shall each bear their own costs.

Dated at Kampala on **16th March 2018**.

JIMMY .M. MUYANJA
EXECUTIVE DIRECTOR