

REPUBLIC OF LIBERIA
COMPLAINTS, APPEALS & REVIEW PANEL (CARP)
Public Procurement & Concessions Commission
Executive Mansion Grounds
Capitol Hill, Monrovia, Liberia

IN RE:

M-TOSH

by and thru its **GENERAL MANAGER**
Mr. Varney Fahnbulleh
Monrovia, Liberia. **COMPLAINANT**

VERSUS

National Elections Commission (NEC)
By and thru its **CHAIRMAN**, Hon. Davidetta
Brown-Lassana and all those acting under her
Authority, 9 & 10 Street Sinkor
Monrovia, Liberia **DEFENDANT**

COMPLAINT

FINAL RULING IN THE COMPLAINT:

1.0 FACTUAL SUMMARY

This matter arises from a complaint filed by M-Tosh Print Media Inc. ("M-Tosh") against the National Elections Commission ("NEC"), alleging wrongful exclusion from the procurement process related to the supply of pre-packed electoral materials for the Nimba County Senatorial Bi-Election.

Following publication of the complaint on the PPCC website, notices of assignment were issued to both parties directing them to appear for a hearing before the Complaints, Appeals & Review Panel (CARP).

At the call of the case, the Complainant, through its CEO/Representative, averred the following:

1. That the NEC initiated a Restricted Bidding process for the supply of pre-packed electoral materials for the Nimba County Senatorial Bi-Election and invited M-Tosh as one of the pre-qualified vendors.
2. That M-Tosh submitted its bid in full compliance with the tender requirements.

3. That M-Tosh, being a legitimate Liberian company with a long history of supplying electoral materials to the NEC, believed it was the most responsive bidder, especially since it already had sufficient stock in-country and could meet the delivery deadline.
4. That at all material times, M-Tosh maintained an adequate stock of pre-packed electoral materials consistent with the NEC's needs for the bi-election.
5. That NEC subsequently informed M-Tosh that its bid was unsuccessful because it allegedly failed to meet certain requirements.

Dissatisfied with the outcome, M-Tosh requested a debriefing session and sought clarity on the specific reasons for its disqualification. Still unconvinced after the debriefing, M-Tosh lodged a formal complaint with the NEC. M-Tosh asserted that after filing the complaint, NEC failed to hear and determine the matter within the statutory fifteen (15) days as required under the PPC Act, 2010.

It was this alleged failure that prompted M-Tosh to seek redress before the CARP. CARP took seizure of the matter and issued citations to both parties. Upon appearance, representation was made for both the Complainant and the Respondent. The Complainant narrated the events leading to the complaint and rested its case.

NEC's Preliminary Objection

The Respondent, NEC, through its Legal Counsel, raised a jurisdictional objection, arguing that M-Tosh failed to comply with Sections 125 and 126 of the PPC Act, which require that a complaint be filed first with the head of the procuring entity, and that only after the lapse of fifteen (15) days without redress may the complainant petition CARP.

NEC contended that M-Tosh never filed such complaint with NEC and therefore CARP lacked jurisdiction.

Complainant's Response

The Complainant maintained that:

- It filed a complaint with NEC on **February 10, 2025**;
- NEC acknowledged receipt of the complaint;
- NEC failed to act on the complaint within the statutory period; and
- It thereafter filed its complaint with CARP on **March 20, 2025**.

CARP granted the Complainant three (3) working days to produce proof of service of its February 10th complaint. The Complainant subsequently presented:

1. A stamped/signed copy of the February 10, 2025 complaint addressed to the Chairperson of the By-Election Steering Committee; and
2. A delivery receipt acknowledging NEC's receipt of said complaint.

CARP found this to be adequate proof of compliance with Sections 125 and 126 of the PPC Act. Having waited beyond fifteen (15) days without NEC addressing the complaint, the Complainant properly invoked CARP's jurisdiction. The NEC's objection was therefore **overruled**, and CARP assumed full jurisdiction.

Proceeding to the Merits

On the merits, NEC argued:

1. That the procurement was lawfully conducted under **Restricted Bidding**;
2. That a significant portion of the materials was acquired through **Single Source Procurement**; and
3. That both methods were permitted under the PPC Act, making the Complainant's claim of wrongful exclusion baseless.

ISSUES FOR DETERMINATION

1. Whether NEC properly invoked Restricted Bidding in compliance with the PPC Act, 2010?
2. Whether the use of Single Source Procurement was justified under the PPC Act, 2010?
3. Whether the Complainant, M-Tosh Print Media Inc., was wrongfully excluded from the procurement process?

Issue 1: Whether Restricted Bidding was Properly Invoked?

The Panel answers **in the NEGATIVE**.

Section 50 of the PPC Act permits the use of Restricted Bidding only where:

- a. Goods, works, or services are available from a limited number of suppliers; or
- b. The cost or time of using open competitive bidding is disproportionate to the value of the procurement.

NEC did not provide any written justification, Procurement Committee minutes, or technical report demonstrating compliance with Section 50. Accordingly, the Panel holds that NEC **failed to justify** the use of Restricted Bidding.

Issue 2: Whether Single Source Procurement Was Justified?

The Panel again answers **in the NEGATIVE**.

Under Section 55 of the PPC Act, Single Source Procurement may only be applied under specific circumstances, such as:

- a. Where the goods or services are available from only one supplier;
- b. For compatibility with existing equipment;
- c. In case of extreme urgency not attributable to the procuring entity.

NEC presented **no evidence** of seeking or receiving PPCC approval to conduct Single Source Procurement for this election. Moreover, there was no documented request, waiver, or justification before the Panel. The absence of statutory compliance renders NEC's use of Single Source Procurement **unlawful**.

Issue 3: Whether M-Tosh Was Wrongfully Excluded?

The Panel answers **in the AFFIRMATIVE**.

The records show that:

- M-Tosh is a legally registered supplier;
- It has a longstanding performance history with NEC;
- It met the requirements of the tender;
- It possessed in-country stock sufficient to meet delivery deadlines.

The unjustified use of Restricted Bidding and Single Source Procurement resulted in the Complainant's exclusion from a fair, transparent, and competitive process. This violates fundamental procurement principles under the PPC Act, including transparency, competition, and equal access.

FINAL ORDERS OF THE PANEL


WHEREFORE AND IN VIEW OF THE FOREGOING FACTS AND CIRCUMSTANCES, the Panel hereby orders and directs as follows:

1. That NEC is strongly cautioned and directed to refrain from invoking Restricted Bidding or Single Source Procurement unless fully justified and documented in accordance with the PPC Act, 2010.
2. NEC shall ensure strict compliance with all provisions of the PPC Act in all future procurement processes, particularly those relating to elections.
3. NEC is further directed to strengthen internal compliance mechanisms within its Procurement Committee to prevent recurrence of such violations.


4. The Panel notes that the instant procurement process has already expired and therefore cannot be reversed. However, NEC is hereby instructed to ensure that pre-qualified vendors/suppliers—including M-Tosh Print Media Inc.—are afforded equal opportunity to participate in all future procurement activities as mandated by the PPC Act.
5. This matter is hereby concluded and ordered suspended, there being no further relief available due to the lapse of the procurement period.

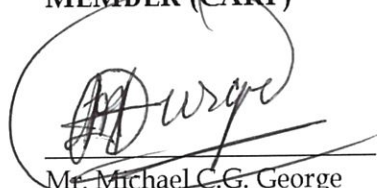
AND IT IS HEREBY SO ORDERED.

Signed by:


Cllr. Sundaiway E. Nelson Amegashie
CHAIRPERSON


Cllr. Vincent B. Smith
MEMBER (CARP)


Cllr. Morris M. Davis, Jr.
MEMBER (CARP)


Mr. Michael C.G. George
MEMBER (CARP)

Mr. Ezekiel F. Nyumah
MEMBER (CARP)

Dated this 11TH Day of December A.D. 2025.

NOTE

PRIOR TO THE FINAL RULING OF THE COMPLAINT, MR. EZEKIEL F. NYUMAH RESIGNED AS MEMBER OF THE CARP. HENCE, HE COULD NOT SIGN THIS RULING!