

IN THE PUBLIC PROCUREMENT APPEALS AUTHORITY

APPEAL CASE NO. 14 OF 2026-27

BETWEEN

M/S NEO CITY ARCHITECTS LIMITEDAPPELLANT

AND

NATIONAL SOCIAL SECURITY FUND (NSSF)..... RESPONDENT

RULING

CORAM

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| 1. Ms. Florentina Sumawe | - Ag. Chairperson |
| 2. Dr. William Kazungu | - Member |
| 3. Ms. Sarah Bisanda | - Member |
| 4. Mr. James Sando | - Secretary |

SECRETARIAT

- | | |
|-------------------------|-----------------|
| 1. Ms. Florida Mapunda | - PALS Manager |
| 2. Mr. Venance Mkonongo | - Legal Officer |

FOR THE APPELLANT

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| 1. Mr. Felician Mushi | - Managing Director |
| 2. Eng. Eli Mndeme | - Structural Engineer |
| 3. Mr. Peter Salyeem | - Project Manager |



FOR THE RESPONDENT

- | | |
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| 1. Mr. Daudi Maneno | - Legal Officer |
| 2. Mr. Geoffrey Ngwembe | - Legal Officer |
| 3. Ms. Fidea Mkapu | - Legal Officer |
| 4. Mr. Hussein Sanga | - Principal Procurement Officer |
| 5. Mr. Joseph Zephania | - Senior Procurement Officer |

This appeal was lodged by **M/S Neo City Architects Limited** (hereinafter referred to as "**the appellant**") against **National Social Security Fund** abbreviated as "**NSSF**" (hereinafter referred to as "**the respondent**"). It concerns Proposal No. TR191/2025/2026/C/02 for Provision of Consultancy Service for Design Review and Supervision of Construction of NSSF Ubungu Office Building (hereinafter referred to as "**the tender**").

Based on the documents submitted to the Public Procurement Appeals Authority (hereinafter referred to as "**the Appeals Authority**"), the background of this appeal may be summarized as follows:

The tender was done through the Quality and Cost Based Selection (**QCBS**) method in accordance with the Public Procurement Act, No. 10 of 2023 (hereinafter referred to as "**the Act**") and the Public Procurement Regulations, GN No. 518 of 2024 (hereinafter referred to as "**the Regulations**").

On the 9th of March 2026, the respondent, through the National e-Procurement System of Tanzania (NeST), invited eligible consultants to submit their proposals. By the deadline of 26th March 2026, nineteen proposals, including that of the appellant, were received and evaluated. Upon completion, the Evaluation Committee recommended award of the tender to M/S Inter Consult Limited (hereinafter referred to as "the proposed awardee").

On 6th August 2026, the respondent issued a Notice of Intention to Award, informing the appellant of its intention to award the tender to the proposed awardee at a contract price of Tanzania Shillings Eight Hundred Twenty – Nine Million One Hundred Thousand Eight Hundred Five only (TZS 829,100,805.00), VAT Exclusive, with a completion period of 120 days. The Notice further stated that the appellant's tender was not considered for award as it was not the lowest evaluated tenderer at the financial evaluation stage.

Dissatisfied with the stated reason, on 10th August 2026, the appellant applied for administrative review before the respondent. The record of appeal indicates that the respondent did not entertain the appellant's complaint. Consequently, on 24th August 2026, the appellant lodged its complaint before the Appeals Authority.

In this appeal, the appellant challenges its disqualification on the ground that it was erroneously determined not to be the lowest evaluated tenderer at the financial evaluation stage, despite having submitted a lower tender price than that of the proposed awardee. The appellant further contends

that the respondent failed to determine its application for administrative review as required by the law.

On its part, the respondent maintained that the appellant's disqualification was justified, as it was ranked second based on its combined technical and financial scores, and that a lower quoted price alone did not entitle the appellant to be awarded the tender. The respondent further asserted that the appellant's complaint was duly determined and that the decision was communicated through a letter dated 13th August 2026.

Before commencement of the hearing, the Appeals Authority informed the parties that, upon reviewing the record of appeal, it had *suo motu* identified a point of law regarding the validity of the tender which required determination prior to consideration of the substantive merits of the appeal. In view of this observation, the following issues were framed for determination:

- 1.0 Whether there is a valid tender for determination by the Appeals Authority;**
- 2.0 Whether the disqualification of the appellant's tender was justified; and**
- 3.0 What reliefs if any are the parties entitled to?**

After framing the issues, the Appeals Authority directed the parties to first address the point of law before proceeding to consider the merits of the appeal.

SUBMISSIONS BY THE RESPONDENT ON THE POINT OF LAW

The respondent's submissions were made by Mr Daudi Maneno, Legal Officer. He commenced by stating that the specified tender validity period was 120 days from the tender opening date of 26th March 2026. Accordingly, the tender validity period expired on 24th July 2026.

He argued that before the expiry of the tender validity period, the evaluation process had been completed and the proposed awardee had already been invited to negotiations, which were successfully concluded. He noted that negotiation results were approved on 6th July 2026, well before the expiry of the tender validity period. He therefore contended that the proposed awardee's participation in the negotiations implied acceptance of the award prior to the expiry of the tender validity period, although the award process was not finalized due to the appellant's complaint.

Mr. Maneno, however, conceded that the tender validity period expired on 24th July 2026 and no extension was sought from the tenderers. He submitted that since the tender validity period had expired, there is no longer a valid tender capable of sustaining this appeal.

REPLY BY THE APPELLANT ON THE POINT OF LAW

The appellant's reply was made by Mr. Peter Salyeem, Project Manager. He confirmed that the tender validity period was 120 days and expired on 24th July 2026. He argued that the respondent was legally required to seek an extension of the tender validity period from all tenderers before its expiry, however no such extension was sought.

He further contended that following the expiry of the tender validity period, all subsequent acts by the respondent, including issuance of the Notice of Intention to Award, were null and void in law.

Mr. Salyeem concluded that since the tender validity period had expired, there is no valid tender for determination by the Appeals Authority.

REJOINDER BY THE RESPONDENT

In his brief rejoinder, Mr. Maneno submitted that since the appellant had also conceded that the tender validity period expired on 24th July 2026, any subsequent acts, including the institution of this appeal, cannot legally be sustained. He therefore urged the Appeals Authority to determine whether the appeal should nevertheless proceed to determination on its merits or not.

ANALYSIS BY THE APPEALS AUTHORITY ON THE POINT OF LAW

1.0 Whether there is a valid tender for determination by the Appeals Authority

In resolving this issue, the Appeals Authority revisited clauses 25.1 of the Instruction to Consultants (ITC), clause 25 of the Proposal Data Sheet (PDS) and Item 2 of Section 4 - Qualification and Evaluation Criteria, which provide as follows:

"ITC 25.1

Proposals shall remain valid for the period specified in the PDS after the Proposal submission deadline date prescribed by the PE.

PDS 25

*Validity Period of the Proposals: **120 days after the submission deadline date.***

Section 4

2. Standard Tender Forms

1. Tender Validity Period (SCORE: Comply/Not Comply to specified minimum requirements)

Consultants are required to confirm with the tender validity period specified by the Procuring Entity.

<i>Tender Validity Period (Days)</i>	<i>120"</i>
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(Emphasis Added)

The above provisions clearly stipulate that the tender validity period for the tender was 120 days from the submission deadline.

Furthermore, we reviewed section 86 of the Act, regulation 200 (1), (4) and (6) of the Regulations and clause 25.3 of the ITC, which read as follows:

"s. 86 *The procuring entity shall require tenderers to make their tenders and tender securities valid for periods specified in the tendering documents, sufficient to enable the procuring entity to complete the comparison and evaluation of tenders, approval of the recommendations, issuance of notification of award and signing of contract whilst the tenders and tender securities are still valid.*

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r. 200 (1) The tender validity period shall be specified in the tender document.

(4) The period fixed by a procuring entity shall be sufficient to permit evaluation and comparison of tenders to obtain all necessary clearances and approvals, and issue notification of the award of contracts and contract signing but shall not exceed one hundred and twenty days from the final date fixed for submission of tenders.

(6) A procuring entity may, prior to the expiry of the original tender validity period, request tenderers to extend the period for a further term not exceeding the original validity period, if there are justifiable grounds for the procuring entity failing to complete the tendering process within the specified time.

ITC 25.3

In exceptional circumstance, prior to the expiration of the original proposal validity period, the PE may request Consultants to extend the period of validity of their Proposals not exceeding the initial validity period for a specified additional period. The request and the responses shall be made through

NeST. If a Consultant does not respond or refuse the request, its Proposal shall no longer be considered in the procurement proceedings. A Consultant agreeing to the request will not be required or permitted to modify its Proposal."

(Emphasis Added)

The quoted provisions clearly establish that a procuring entity is required to specify a tender validity period sufficient to allow completion of the procurement process, (the evaluation, approval of award recommendation, issuance of the notification of award, and signing of the contract), and tenderers must ensure that their tenders remain valid for the specified period. In exceptional circumstances, the procuring entity may request for an extension before the expiry of the original validity period.

Applying these provisions to the present matter, we observe that it is undisputed that the tender document specified a validity period of 120 days. It was further established during the hearing that all parties conceded that the specified tender validity period expired on 24th July 2026, and no extension was sought by the respondent before its expiry.

In view of this concession, we find that since the tender validity period expired on 24th July 2026 before the tender process was finalized, the tender effectively lapsed. Consequently, all subsequent acts undertaken by the respondent after expiry of the tender validity period, including issuance of the Notice of Intention to Award and the filing of this appeal, are null and void in law.

Under these circumstances, we determine the first issue in affirmative that there is no valid tender in place warranting the filing and determination of this appeal. Accordingly, the appeal is dismissed and we will not delve into the remaining issues. We hereby nullify the respondent's Notice of Intention to Award for having been issued after expiry of the tender validity period. The respondent is ordered to restart the tender process afresh in compliance with the applicable law. We make no order as to costs. **It is so ordered.**

This Ruling is binding and enforceable in accordance with section 121(7) of the Act.

The right of Judicial Review, as provided under section 125 of the Act, has been explained to the parties.

This Ruling is delivered in the virtual presence of both parties this 18th day of September 2026.

MS. FLORENTINA SUMAWE



Ag. CHAIRPERSON

MEMBERS:

1. DR. WILLIAM KAZUNGU



2. MS. SARAH BISANDA

