

IN THE PUBLIC PROCUREMENT APPEALS AUTHORITY

APPEAL CASE NO. 06 OF 2025 - 2026

BETWEEN

M/S SUNLON GENERAL ENTERPRISES BUILDING

CONTRACTORS LTD..... APPELLANT

AND

TANZANIA RURAL AND URBAN ROADS AGENCY

(TARURA - SINGIDA REGIONAL OFFICE)..... RESPONDENT

DECISION

CORAM

- | | |
|-----------------------------------|---------------|
| 1. Hon. Judge (Rtd) Awadh Bawazir | - Chairperson |
| 2. Dr. William Kazungu | - Member |
| 3. Mr. Raphael Maganga | - Member |
| 4. Mr. James Sando | - Secretary |

SECRETARIAT

- | | |
|-------------------------|---------------------------|
| 1. Ms. Florida Mapunda | - PALS Manager |
| 2. Ms. Agnes Sayi | - Principal Legal Officer |
| 3. Ms. Violet Limilabo | - Senior Legal Officer |
| 4. Mr. Venance Mkonongo | - Legal Officer |

FOR THE APPELLANT

- | | |
|-------------------------|---------------------|
| 1. Mr. Baraka Hosea | - Managing Director |
| 2. Mr. Gimonge Nyaimaga | - Director |



FOR THE RESPONDENT

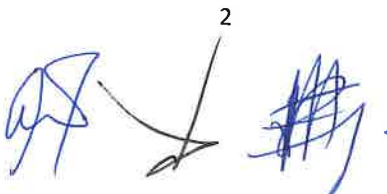
- | | |
|-------------------------|---|
| 1. Ms. Jenipher Kaaya | - Senior State Attorney,
OSG |
| 2. Mr. Mundhir Mrindoko | - Senior State Attorney,
TARURA |
| 3. Mr. Bryceson Kalinga | - Procurement Supplies
Officer, TARURA-Singida |
| 4. Ms. Jamila Awadh | - Legal Officer, TARURA |

This appeal was lodged by M/S Sunlon General Enterprises Building Contractors Limited (hereinafter referred to as **"the appellant"**) against the Tanzania Rural and Urban Roads Agency (TARURA – Singida Regional Office) (hereinafter referred to as **"the respondent"**). It concerns Tender No. S10/023/2025/2026/W/40 for Periodic Maintenance along Shelui - Mtoa - Ndago and Mtoa - Masimba - Kibaya Roads and Construction and Repair of Culverts along Masagi - Tyeme Road in Iramba DC (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 can be summarized as follows: -

The Tender was done in accordance with the National Competitive Tendering method as specified in 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"**).

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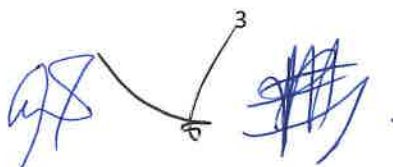
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On 5th June 2025, the respondent, via the National e-Procurement System of Tanzania (NeST), invited eligible tenderers to participate in the Tender. By the submission deadline on 23rd June 2025, eight tenders, including that of the appellant, were received by the respondent. Following evaluation, the Evaluation Committee recommended awarding the Tender to M/S Otonde Construction & General Supplies Limited (**the Proposed awardee**) for a contract price of Tanzania shillings Nine Hundred Eighteen Million Five Hundred Nineteen Thousand only (TZS. 918,519,000) (VAT exclusive) for a completion period of 240 days.

On 5th August 2025, the respondent issued a Notice of Intention to award notifying the appellant of its intention to award the contract to the proposed awardee. The Notice indicated that the appellant's tender was disqualified due to the submission of a defective notarized special power of attorney contrary to Clause 20.2 of the Instruction to Bidders (ITB). Additionally, the Notice stated that the appellant submitted uncertified financial statements contrary to Clause 28.2 of ITB.

Dissatisfied with the reasons for its disqualification, the appellant applied for administrative review on 6th August 2025. On 11th August 2025, the respondent rejected the Application. Further aggrieved, the appellant lodged this appeal to the Appeals Authority on 15th August 2025.

In this appeal, the appellant contested the award of the Tender on two grounds. First, the appellant contended that the submitted Power of Attorney was duly stamped in accordance with the law and that the

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requirement to stamp the donee section with a company seal was unnecessary and lacked legal basis.

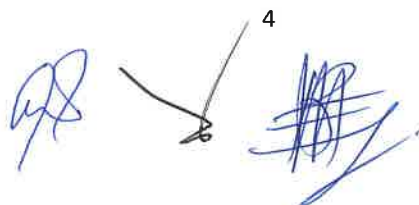
Second, the appellant submitted that the financial statements provided were valid and properly audited in compliance with Clauses 28.1 and 3.10 of the ITB. The financial statements for the year 2025 were management accounts, which, under the Accountants and Auditors (Registration) Act, Cap. 286, are neither subject to audit nor required to bear an auditor's certificate. The appellant asserted that it had duly submitted certified financial statements for the years 2022, 2023, and 2024, prepared by registered Public Accountants pursuant to Clauses 28.1 and 3.10 of the ITB.

Based on the foregoing submissions, the appellant prayed to be awarded the Tender.

In response to the first ground of appeal, the respondent asserted that the appellant submitted a Standard Power of Attorney which was defective in two aspects: the donee section had not been stamped and the description of the procurement had not been included in the third paragraph contrary to requirements of the prescribed format.

Regarding the second ground of appeal, the respondent maintained that the financial statements submitted by the appellant were deficient, as they were not stamped by the appellant's company to demonstrate ownership. Additionally, the respondent noted that during the financial evaluation, the

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Financial Statements for the year ended 31st December 2024, contained material misstatements in the following areas:-

- i. The surplus for the year, as reported in the Statement of Cash Flows, differs from that reported in the Statement of Comprehensive Income. Specifically, the surpluses are TZS 179,405,332 and TZS 55,122,493 for the years ended 31st December 2023 and 2024, respectively, compared to TZS 46,132,296 and TZS 11,108,659 in the Statement of Comprehensive Income for the same years.
- ii. The Statement of Cash Flows for the year ended 31st December 2024, along with its comparable amounts for the year 2023, was found to be materially misstated. Such misstatements may result from error or fraud. Fraudulent financial reporting, whether through falsification of records, creation of false transactions, or intentional misapplication of accounting policies, violates Section 151(5) of the Companies Act, 2002.
- iii. There was a misrepresentation of cash and cash equivalents in the Financial Statements for the year ended 31st December 2024, as follows: -
 - a) The opening cash and cash equivalents reported in the Statement of Cash Flows differed from the closing balances of the previous year (2023).
 - b) The balances of cash and cash equivalents reported in the Statement of Cash Flows differed from those reported in the Statement of Financial Position.

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Finally, the respondent stated that the appellant's disqualification was justified, as it failed to comply with the evaluation criteria provided in the Tender Document.

When the appeal was called on for hearing, the following issues were framed for determination: -

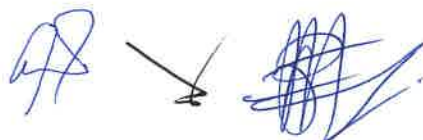
1.0. Whether the disqualification of the appellant's tender was justified; and

2.0. To what reliefs, if any, are the parties entitled to?

Before addressing the issues framed, learned Senior State Attorney from the Office of the Solicitor General, Ms. Jenipher Kaaya, for the Respondent, conceded that the Appellant's disqualification was indeed unjustified. She stated that since the appellant was disqualified at the commercial evaluation stage, the respondent requests permission to reinstate the appellant and conduct a re-evaluation process of all the tenders.

Mr. Baraka Hosea, representing the appellant, did not object to the respondent's concession or the prayer for re-evaluation of tenders. He expressed that, in the interest of justice, it would be appropriate for the tenders to be re-evaluated.

Considering the respondent's concession to the appeal affirming that the appellant's disqualification was unjustified, the Appeals Authority hereby allows the appeal, quashes the Notice of Intention to award and orders the respondent to: -

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- i. Reinstate the appellant into the Tender process.
- ii. Conduct a re-evaluation of tenders with a new evaluation team in accordance with the law.

We make no order as to costs.

It is so ordered.

This decision is binding and enforceable under section 121(7) of the Act.

The Right of Judicial Review, as per section 125 of the Act is explained to the parties.

This decision is delivered in the presence of the parties on this 11th day of September 2025.

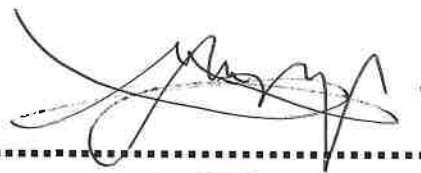
HON. JUDGE (rtd) AWADH BAWAZIR



CHAIRPERSON

MEMBERS: -

1. DR. WILLIAM KAZUNGU.....



2. MR. RAPHAEL MAGANGA.....

