

IN THE PUBLIC PROCUREMENT APPEALS AUTHORITY

APPEAL CASE NO. 04 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 |



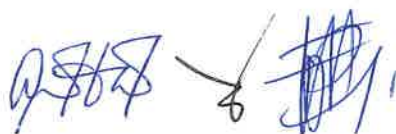
FOR THE RESPONDENT

- | | |
|-------------------------|---|
| 1. Ms. Jenipher Kaaya | - Senior State Attorney,
OSG |
| 2. Mr. Ayoub Sanga | - Senior State Attorney,
OSG |
| 3. Mr. Mundhir Mrindoko | - Senior State Attorney,
TARURA |
| 4. Ms. Karen Mgula | - Procurement Supplies
Officer, TARURA |
| 5. Mr. Bryceson Kalinga | - Procurement Supplies
Officer, TARURA-Singida |
| 6. Ms. Jamila Awadh | - Legal Officer, TARURA |

This appeal has been 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/53 for Spot Improvement and Construction of Culverts and Drains along Mandewa Roads and Bomani (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

Handwritten signature in blue ink, followed by a circular official stamp containing a signature and some illegible text.

2023 (hereinafter referred to as "**the Act**") and the Public Procurement Regulations, GN. No. 518 of 2024 (hereinafter referred to as "**the Regulations**").

On 5th June 2025, the Respondent, through the National e-Procurement System of Tanzania (NeST), invited eligible tenderers to participate in the Tender. By the 23rd June 2025, deadline for submission of tenders, seven tenders were received by the Respondent, including that of the Appellant. After evaluation, the Evaluation Committee recommended award of the Tender to M/S Jam Engineers Co. Limited (**the Proposed awardee**) for a contract price of Tanzania Shillings Six Hundred Fifty-Eight Million Eight Hundred Seven Thousand Three Hundred Eighty - Three and Fifty Cents only (TZS 658,807,383.50) (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 stated that the Appellant's tender was not considered for award as it submitted a notarized special power of attorney which was not stamped on the donee's part, contrary to Clause 20.2 of the Instruction to Bidders (ITB).

Dissatisfied with the reasons for its disqualification, on 6th August 2025, the Appellant applied for administrative review to the Respondent which issued its decision on 11th August 2025 rejecting the Appellant's complaint on the grounds that it submitted financial statements for the year 2025 that were neither stamped by the company seal nor audited by a certified

Handwritten signature and a circular stamp, likely an official seal or mark, located at the bottom of the page.

auditor. The Respondent required valid audited financial statements for three consecutive years, namely from 2022 to 2025, as stipulated under Clauses 28.1 and 3.10 of the ITB.

Aggrieved further, on 15th August 2025, the Appellant filed this appeal before the Appeals Authority.

In this appeal, the Appellant contested the award of the Tender on two grounds. First, the submitted Power of Attorney was duly stamped in accordance with the law, and that stamping of the donee section with a company seal was unnecessary and lacked legal basis.

Second, the Appellant argued that the financial statements provided were valid and properly audited in compliance with Clauses 28.1 and 3.10 of the Instructions to Tenderers (ITT). The financial statements for the year 2025 were, in fact, the 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.

Based on the above submissions, the Appellant prayed to be awarded the Tender.

In response to the first ground of appeal, the Respondent argued that the Appellant submitted a Standard Power of Attorney that 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.

Handwritten signature and mark in blue ink, consisting of a stylized signature followed by a checkmark-like symbol.

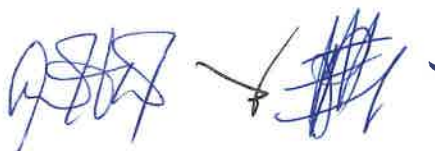
With respect to the second ground of appeal, the Respondent maintained that the financial statements submitted by the Appellant were deficient. In particular they were not stamped by the Appellant's company to demonstrate ownership. Furthermore, the Respondent alleged that the financial statements for the year ending 31st December 2024 contained material misstatements, which could have had arisen either from error or fraud. In this regard, the Respondent cited sections 151(5) and section 154 of the Companies Act, 2002, noting that fraudulent financial reporting may occur through falsification of records, creation of fictitious transactions, or by deliberate misapplication of accounting policies.

Furthermore, the Respondent asserted that there was a misrepresentation of cash and cash equivalents in the financial statements for the year ending 31st December 2024. It observed that the opening balances of cash and cash equivalents in the Statement of Cash Flows did not correspond with the closing cash balance for the year 2023, nor aligned with the balances reported in the Statement of Cash Flows and the Statement of Financial Position for the same period.

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

Handwritten signature and initials in blue ink, likely representing the Respondent or a legal representative.

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

Before addressing the issues framed, the learned Senior State Attorney from the Office of the Solicitor General, Mr. Ayoub Sanga, who represented the Respondent, conceded that the Appellant's disqualification based on the deficiencies on the Power of Attorney was not justified. The learned State Attorney stated that since the Appellant was disqualified at the commercial evaluation stage, the Respondent requests to be allowed to reinstate the Appellant and conduct a re-evaluation process for 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 stated that, in the interest of justice, it would be proper for the tenders to be re-evaluated.

Considering the Respondent's concession to the appeal that the Appellant's disqualification was not justified, the Appeals Authority hereby allows the appeal, quashes the Notice of Intention to award and orders the Respondent to do the following:-

- 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.

Handwritten signature and mark in blue ink, consisting of a stylized signature followed by a checkmark-like symbol.

This decision is binding and can be enforced in accordance with 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 10th day of September 2025.

HON. JUDGE (rtd) AWADH BAWAZIR



.....

CHAIRPERSON

MEMBERS: -

1. DR. WILLIAM KAZUNGU.....

2. MR. RAPHAEL MAGANGA.....