

IN THE PUBLIC PROCUREMENT APPEALS AUTHORITY

APPEAL CASE NO. 10 OF 2025-26

BETWEEN

**M/S CARGO FLASH INFOTECH PRIVATE LIMITED.....APPELLANT
AND**

AIR TANZANIA COMPANY LIMITED RESPONDENT

DECISION

CORAM

- | | |
|-----------------------------------|---------------|
| 1. Hon. (rtd) Judge Awadh Bawazir | - Chairperson |
| 2. Dr. William Kazungu | - Member |
| 3. Ms. Florentina Sumawe | - 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. Ms. Nivedita Tarau | - Client Success Facilitator |
| 2. Ms. Neha Kumari | - Vice President |

FOR THE RESPONDENT

- | | |
|-------------------------|-----------------------|
| 1. Mr. Benedict Temba | - Legal Officer |
| 2. Mr. Nkundwe Mwakyusa | - Procurement Officer |



This appeal filed by **M/S Cargo Flash Infotech Private Limited** (hereinafter referred to as "**the appellant**") against **Air Tanzania Company Limited**, abbreviated as **ATCL** (hereinafter referred to as "**the respondent**") pertains to tender No. TR128/2024/2025/G/82 for Supply of a Cargo Management System at Air Tanzania Company Limited (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 through the International 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**").

On 28th February 2025, the respondent, via the National e-Procurement System of Tanzania (**NeST**), invited eligible tenderers to participate in the tender, with a submission deadline set on 18th March 2025. By the deadline, eight tenders, including that of the appellant, were received and evaluated. After evaluation, the award was recommended to M/S iTran Systems (**the proposed awardee**).

On 21st July 2025, the respondent sent a Notice of Intention to award a contract to the proposed awardee through NeST informing the appellant of the award at a contract price of USD 90,000.00 (Ninety Thousand), exclusive of VAT, for a completion period of 1825 days. It further informed

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the appellant that its tender was disqualified due to non-compliance with the statement of requirements and that the contracts submitted to demonstrate experience did not meet the value requirements outlined in the tender document.

Dissatisfied with the reasons given for its disqualification, on 25th July 2025, the appellant applied for administrative review to the respondent. However, the respondent did not issue any decision on the complaint.

On 20th August 2025 the appellant filed an application to the Appeals Authority seeking extension of time to submit an appeal out of time, which was granted on 18th September 2025. Consequently, the appellant submitted this appeal to the Appeals Authority on 22nd September 2025.

When the matter came for hearing the following issues were framed for determination: -

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

2.0 What reliefs, if any, are the parties entitled to?

SUBMISSIONS BY THE APPELLANT

The appellant's submissions were made by Ms. Neha Kumari, the Company's Vice President, and Ms. Nivedita Tarau, the Company's Client Success Facilitator. Ms. Kumari began by outlining two primary reasons that led to the appellant's failure to disclose the total values of earnings from the relevant contracts.

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She submitted that the appellant entered zero values for individual contract amounts but provided justification for this decision. She explained that the appellant was bound by strict confidentiality obligations by non-disclosure agreements with its clients, which prohibited the disclosure of contract values.

To demonstrate their financial capacity, Ms. Kumari averred that the appellant submitted comprehensive financial documentation, including audited balance sheets and consolidated revenue statements. She highlighted that they also provided a detailed list of clients utilizing solutions similar to those required in the tender, specifically noting clients whose contract values exceeded the tender's quoted amount. She argued that the respondent should have considered the submitted audited financial statements to verify the appellant's capacity to execute the contract.

Ms. Kumari went on to clarify that the appellant had entered zero value in the procurement portal, which was accepted, leading them to believe that alternative forms of financial disclosure were permissible. She added that, based on their 15 years of experience handling multiple tenders with national carriers, they had never been required to disclose specific contract values in previous tendering processes.

Furthermore, Ms. Kumari contended that if the disclosure of contract values was indeed a critical requirement, the respondent should have provided an opportunity for clarification rather than proceeding directly with disqualification. She asserted that the appellant's financial capacity could have been adequately assessed through the comprehensive financial

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documentation already submitted, without the need for individual contract values disclosure.

Addressing the second ground of appeal concerning an incomplete statement of requirements, Ms. Kumari firmly denied that the compliance section had been left blank and presented several arguments to support this position. She stated that the procurement portal had validation mechanisms that prevented submission unless all mandatory fields were completed. Additionally, she explained that they had prepared a comprehensive excel file containing all compliance details, which were systematically transferred into the procurement portal. Therefore, she argued, it would have been technically impossible to submit the tender if any mandatory compliance fields were left blank.

Ms. Kumari concluded this point by referencing previous instances of technical issues, including a prior occurrence where a NeST glitch had affected their submission, suggesting a pattern of system unreliability.

Beyond contesting the specific grounds for disqualification, Ms. Kumari raised procedural concerns regarding the tender process, particularly the timing of the tender extension. She questioned the appropriateness of extending the submission deadline on the same day as the original deadline, after they had already submitted their bid.

In conclusion, Ms. Kumari prayed for a fair re-evaluation or re-tendering of the procurement process. If that was not feasible, she asked for an opportunity to present all necessary data to substantiate their compliance.



REPLY BY THE RESPONDENT

The respondents' submissions were made by Mr. Benedict Temba, Legal Officer assisted by Mr. Nkundwe Mwakyusa, a Procurement Officer. Mr. Temba commenced by adopting the statement of reply. He submitted that the appellant was disqualified due to its failure to disclose contract values, and also failure to complete the statement of compliance, which demonstrated conformity with the technical specifications provided by the respondent.

Regarding the non-disclosure of contract values, Mr. Temba averred that the requirement for disclosing contract values was explicitly outlined in the tender document. He further explained that all tenderers were subjected to the same requirement, and that other tenderers had successfully complied with it. He emphasized that the purpose of this criterion was to assess a tenderer's relevant experience, particularly in contracts of similar value and magnitude.

Mr. Temba elaborated that procurement regulations prohibit communication with tenderers during the evaluation stage, thus precluding the possibility of seeking clarification on the missing contract values. He added that if the appellant had concerns about confidentiality obligations, it ought to have sought clarification during the tender preparation period.

Regarding the compliance statement, Mr. Temba noted that the NeST system displayed blank fields in the compliance section of the appellant's submission. He pointed out that the spaces designated for indicating compliance were left empty, making it impossible for the respondent to

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ascertain whether the appellant met the technical requirements or could successfully execute the project. He emphasized that this criterion was essential for assessing a tenderer's compliance with the technical requirements set forth by the respondent. He also mentioned that other tenderers had complied by filling in the word "complied" to the response to the technical requirements.

Concerning system functionality, Mr. Temba suggested that the appellant might have failed to properly save its entries after completing the relevant fields in the system.

Addressing the communication of disqualification reasons, Mr. Temba stated that the reasons for the appellant's disqualification were duly communicated through the NeST platform.

In response to the appellant's claim of not being invited for negotiations, Mr. Temba explained that the appellant could not have been invited for negotiations as it was not the lowest evaluated tenderer. He cited Regulation 232(5) of the Regulations to support his argument.

Mr. Temba concluded his submission by praying that the Appeals Authority dismiss the appeal with costs due to its lack of merit.

ANALYSIS OF THE ISSUES

1.0 Whether the disqualification of the appellant's tender was justified

After hearing the parties, we considered the appellant's first complaint alleging that it was unfairly disqualified for not disclosing values of the

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attached contracts, despite adhering to non-disclosure obligations and its right to confidentiality. The appellant had provided alternative financial evidence, such as audited balance sheets. Conversely, the respondent argued that the appellant was disqualified for failing to indicate the values of the attached contracts, as required by the tender document.

To determine whether the appellant's disqualification was justified, we reviewed SECTION IV – "Qualification and Evaluation Criteria", specifically Item 1, which outlines requirements for specific experience, and general experience in key activities. We carefully examined each criterion that led to the appellant's disqualification, as detailed below.

"Specific Experience (SCORE: N/A)"

Specific and Contract Management Experience: A minimum number of similar contracts based on the physical size, complexity, methods/technology and/or other characteristics described in the PE Requirements on contracts that have been satisfactorily and substantially completed (substantial completion shall be based on 80% or more of completed assignments under the contract) as a prime contractor/supplier/service provider, joint venture member, management contractor/supplier/service provider or sub-contractor/supplier/service provider for mentioned duration. (In case of Joint Venture, compliance requirements are: All Parties – Must Meet requirements). In the case of JVCA, the value of contracts completed by its members shall not be aggregated to determine whether the requirement of the minimum value of a single contract has been met. Instead, each contract performed by each member shall satisfy the minimum value of a single contract as required for single entity. In determining whether the JVCA meets the requirement of total number of contracts, only the number of contracts

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completed by all members each of value equal or more than the minimum value required shall be aggregated.

<i>Specific Experience</i>	<i>Supply/Provision of Cargo Management System</i>
<i>Specific Experience Start Year</i>	<i>2018-01-01</i>
<i>Specific Experience End Year</i>	<i>2024-12-31</i>
<i>Number Specific Experience Contracts</i>	<i>3</i>
<i>Value of each Specific Experience Contract in the specified tender currency</i>	<i>300,000,000"</i>

(Emphasis added)

The above item specifies that tenderers must demonstrate their specific experience in cargo management system by submitting three contracts of similar nature and complexity. Each contract should have a value of TZS 300,000,000/- and should have been executed from 1st January 2018 to 31st December 2024.

We reviewed the appellant's tender submitted in NeST to determine its compliance with the specific experience requirement outlined in the tender document. We noted that the appellant attached a completion certificate for a cargo sales operation and CRA system contract issued by Garuda Indonesia, indicating that the contract commenced from January 2017 and is set to be finalized in February 2028. Additionally, the appellant included a completion certificate from Philippines Airline for a cargo sale, operation, TPS & CRA system contract executed from 7th September 2020 to January 2021. The appellant also provided a letter from Kenya Airways dated 2nd February 2021, confirming award of the tender to the appellant.



However, we observed that neither the completion certificates nor the award letters specified the contract value. The appellant had indicated "0" in the space designated for total contract value. Given these circumstances, we conclude that the appellant did not comply with the specific experience requirement due to its failure to disclose the contract value, contrary to the stipulation of the tender document.

Tenderers were also required to comply with the general experience criteria, as detailed below.

" General Experience (SCORE: N/A)

Tenderer should provide details of their previous and on-going contracts to evidence their general experience in supply of goods.

<i>General experience start date</i>	<i>2018-01-01</i>
<i>General experience end date</i>	<i>2024-12-31</i>
<i>Number of contracts</i>	<i>3</i>
<i>Contract value in the specified currency</i>	<i>100,000,000"</i>

(Emphasis added)

The above item specifies that tenderers must demonstrate their general experience by submitting three contracts valued at TZS 100,000,000/-each. To comply with this criterion, the appellant submitted two completion certificates and a letter from Kenya Airways, along with an award letter from Rwanda Airways dated 4th October 2024 and another award letter from Egypt Air dated 29th October 2023. However, none of these award letters and completion certificates indicated the required value of

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TZS 100,000,000/- as stipulated in the tender document. Consequently, the appellant failed to comply with this requirement.

The requirements for general experience in key activities are outlined below:

"General Experience in Key Activities (SCORE: N/A)

Experience in Key Activities: For any other contracts completed and/or under implementation as prime contractor/supplier/service provider, within the duration and with the minimum experience requested for the key activities. The minimum experience requirement for multiple contracts will be the sum of the minimum requirements for respective individual contracts, unless specified otherwise. (In case of Joint Venture, compliance requirements are: All Parties combined – Must Meet requirements and One Member - Must meet the requirements for the key activities listed and the corresponding minimum requirements).

<i>Employer's Name and Contact</i>	<i>Provide Employer name.</i>
<i>Project Description</i>	<i>Supply/Provision of Cargo Management System.</i>
<i>Project Amount</i>	<i>300,000,000</i>
<i>Project Start Date</i>	<i>2018-01-01</i>
<i>Project End Date</i>	<i>2024-12-31</i>
<i>Key Activities</i>	<i>Supply/Provision of Cargo Management System.</i>
<i>Roles in Contract</i>	<i>Supply/Provision of Cargo Management System.</i>
<i>Key Personnel.</i>	<i>Not Applicable"</i>

(Emphasis added)



According to the specified requirements, tenderers were obliged to provide the employer's name and contact information, a project description, their roles in the contract, project start and end dates, as well as the project amount of TZS 300,000,000.

To meet these criteria, the appellant submitted descriptions of three contracts and outlined key activities. However, the appellant did not include the employer's name or contact details. Additionally, in the section designated for the contract value, it wrote "0" instead of the required amount of TZS 300,000,000 as specified in the tender document. As a result, we find the appellant also failed to comply with the general experience requirements for key activities.

Based on these observations, we conclude that the appellant did not meet the experience criteria as outlined in the tender document. Consequently, we find that the respondent's decision to disqualify the appellant is in accordance with regulation 211 (2) (k) of the Regulations which reads as follows: -

"r. 211 (2) The following deviations from substantial commercial terms and conditions shall justify rejection of a tender:

(k) failure to submit major supporting documents to determine substantial responsiveness of a tender as stipulated in the tender documents."

(Emphasis supplied)

The above provision outlines circumstances under which a tender may be rejected. One reason for rejection is the failure to submit a crucial



document required by the tender document to assess the substantial responsiveness of a tender.

We also considered the appellant's contention that confidentiality agreements barred them from disclosing the specific contract values for their existing clients. We disagree with this assertion, as the disclosure of contract values was a mandatory requirement outlined in the tender document. If the appellant had any concern regarding this requirement, it should have sought clarification from the respondent in accordance with clause 8.1 of the Instructions to Tenderers (ITT) prior to submitting its tender. We view the appellant's concern raised after disqualification as an afterthought and unacceptable. The appellant was obligated to comply fully with the criteria set forth in the tender document.

Regarding the appellant's assertion that it did not receive specific feedback on areas of non-compliance, we reviewed the notice of intention to award dated 21st July 2025. We noted that paragraph 3 of the notice identified two reasons for non-consideration of the appellant's tender: failure to comply with the statement of requirements and the absence of contract values in the experience documentation, contrary to the tender document's requirements. Therefore, we conclude that the areas for non-compliance were clearly indicated by the respondent in the notice of intention issued to the appellant, rendering the appellant's claim unfounded.

Concerning the appellant's argument that the proposed awardee initially quoted USD 110,400 but ultimately negotiated the price to the same amount, the appellant believes that had it been invited to negotiate, it

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could have reduced its price to USD 60,000 exclusive of VAT. We revisited regulation 232 (5) of the Regulations which reads as follows: -

*"r. 232 (5) **Negotiations shall only be held with the lowest evaluated tenderer** for goods, services or works, or the highest evaluated tenderer for revenue collection for national and international competitive tendering".*

(Emphasis supplied)

In terms of the provision, negotiations are conducted with the tenderer determined to be the lowest evaluated. According to the evaluation report, the appellant was not the lowest evaluated tenderer and therefore could not be invited for negotiations. The appellant was disqualified during the technical evaluation due to non-compliance with the experience requirements outlined above, preventing it from reaching the final stage where its quoted price could be compared with other tenderers to identify the lowest evaluated bidder eligible for negotiation under the cited provision of the law. Consequently, the appellant's argument lacks merit.

Regarding the second ground to wit; the appellant's failure to comply with the statement of requirements as specified in the tender document, we reviewed SECTION VI - Schedule of Requirements, specifically Item 3 – Technical Specifications, GFS Code: 31122103 on page 51 to 54 of the tender document. We observed that tenderers were required to provide a statement of compliance with technical requirements indicated in the table.

To determine whether the appellant met the above criterion, we examined the tender submitted in the NeST and found that in the section where

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tenderers were required to provide a statement of compliance, the appellant left the space blank without inserting any statement.

We also reviewed the tender from the proposed awardee to ensure the same criterion was applied. The proposed awardee filled in "Complied" in the slots designated for compliance with the technical specifications outlined in the tender document.

In response to the appellant's complaint that tender submission was technically impossible without completing all mandatory fields, citing prior technical glitches and system unreliability, we decided to revisit the system. We confirm that indeed, technical specifications are mandatory requirements. Therefore, the appellant could not have proceeded to the next stage of tendering without fully completing the required technical specifications. Based on these findings, we allow this ground and find that the appellant's disqualification on this criterion was unjustified.

In view of the above findings, we conclude that the appellant's disqualification based on technical compliance was improper. However, its disqualification due to non-disclosure of contract values was appropriate and it thus suffices to form the basis for our affirmative conclusion that the disqualification of the appellant's tender was justified.

2.0 What reliefs, if any, are the parties entitled to?

Considering the findings above, we hereby dismiss the appeal for lack of merit. We hereby order the respondent to proceed with the tender process in accordance with the law. We make no order as to costs.

It is so ordered.

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

The Right of Judicial Review, as outlined in section 125 of the Act has been explained to the parties.

This decision is delivered in the presence of the respondent and in the appellant's virtual presence via a video conference on this 10th day of October 2025.

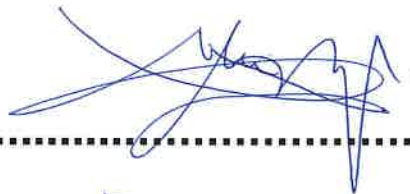
HON. JUDGE (rtd) AWADH BAWAZIR



CHAIRPERSON

MEMBERS: -

1. DR. WILLIAM KAZUNGU



2. MS. FLORENTINA SUMAWE

