

**IN THE PUBLIC PROCUREMENT APPEALS AUTHORITY**

**APPEAL CASE NO. 23 OF 2025-2026**

**BETWEEN**

**M/S BISECH INVESTMENTS COMPANY LIMITED.....APPELLANT**

**AND**

**TANZANIA AIRPORTS AUTHORITY (KIA).....RESPONDENT**

**M/S HEXA TRAVEL LIMITED.....INTERESTED PARTY**

**DECISION**

**CORAM**

- |                                   |               |
|-----------------------------------|---------------|
| 1. Hon. Judge (Rtd) 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. Eva Tunduru | - Managing Director |
|--------------------|---------------------|



2. Mr. Ambroce Nkwera

– Advocate, Obligados  
Advocates

### **FOR THE RESPONDENT**

1. Mr. Amos Kinyunyu

- Ag. Head of Procurement  
Management Unit

2. Mr. Mustafa Hashim

- Legal Officer

### **FOR THE INTERESTED PARTY**

1. Mr. Penningtone Paschal

- Advocate, Clarion Advisory

2. Mr. Conrad Leo

- Managing Director

This appeal, lodged by **M/S Bisech Investments Company Limited** (hereinafter referred to as "**the appellant**") against **Tanzania Airports Authority (KIA)** (hereinafter referred to as "**the respondent**"), concerns tender No. TR169/2025/2026/NC/55 for Provision of Staff Transport Services at the Kilimanjaro International Airport (KIA) (hereinafter referred to as "**the tender**").

Upon becoming aware of this appeal, **M/S Hexa Travel Limited** (hereinafter referred to as "**the interested party**") opted to join the proceedings pursuant to regulation 16 of the Public Procurement Appeals Regulations, GN No. 65 of 2025.

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**").

According to the record of appeal, this appeal follows PPAA Appeal Case No. 17 of 2025-2026 involving the same parties. In that appeal, the appellant challenged the award made to the proposed awardee (now the interested party) on the grounds that it failed to meet a specific experience criterion stipulated in the tender document. After hearing the parties' arguments, the Appeals Authority found that neither the appellant nor the proposed awardee complied with the tender requirements. Consequently, the respondent was ordered to re-start the tender process in accordance with the law.

In observance of the Appeals Authority's directive, on 10<sup>th</sup> December 2025, the respondent, through the National e-Procurement System of Tanzania (**NeST**), invited eligible tenderers to participate in the tender, setting the submission deadline for 17<sup>th</sup> December 2025. By the deadline, seven tenders, including the appellant's, were received and subjected to evaluation. Subsequently, the award was proposed to the interested party.

On 29<sup>th</sup> December 2025, the respondent, through NeST, issued a Notice of Intention to Award, informing the appellant that the tender was intended to be awarded to the interested party at a contract price of Tanzania

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Shillings Six Hundred Fifty-Six Million Six Hundred Forty Thousand (TZS 656,640,000.00), VAT exclusive, for a completion period of 1095 days.

The Notice further stated that the appellant's tender was not considered for award due to failure to meet the specific experience requirement set out in the tender document. Dissatisfied with this explanation, on 30<sup>th</sup> December 2025, the appellant applied for an administrative review to the respondent. The respondent rejected the application by a decision dated 31<sup>st</sup> December 2025. Further aggrieved, the appellant lodged the present appeal before the Appeals Authority on 2<sup>nd</sup> January 2026.

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

- 1.0 Whether award of the tender to the interested party was proper in law**
- 2.0 Whether the disqualification of the appellant's tender was justified; and**
- 3.0 What reliefs, if any, are the parties entitled to.**

### **SUBMISSIONS BY THE APPELLANT**

The appellant's submissions were made by Mr. Ambroce Nkwera, learned counsel. In addressing the first issue, he contended that the respondent erred in law by intending to award the tender to the interested party for two principal reasons: the firm failed to comply with the specific experience criterion, and it quoted a higher, unrealistic price.



Regarding the failure to comply with the specific experience criterion, the learned counsel submitted that Item 2 of Section IV – Qualification and Evaluation Criteria (specific experience) requires tenderers to submit evidence of two contracts executed between 1<sup>st</sup> January 2022 to 30<sup>th</sup> November 2025 to demonstrate their specific experience. Among these contracts, at least one must have been executed with an airport in Tanzania. He averred that the interested party presented only one contract executed with Dodoma Airport. Furthermore, the interested party's statement of joining this appeal clearly indicates that the contract was for one year, commencing in May 2025.

He argued that by the tender submission deadline, the contract had been in effect for less than one year, as it was due to end in May 2026. Therefore, the interested party failed to satisfy the specific experience requirement, and its tender should have been disqualified.

The learned counsel further submitted that the price quoted by the interested party was higher and unrealistic compared to the prevailing market rates. He cited clauses 31.1 and 31.2 of the Instructions to Tenderers (ITT), which guide tender evaluation. The provisions require the respondent to award the contract to the most advantageous tender, particularly the one with the lowest evaluated cost. Since the interested party's quoted price of TZS 656,640,000 exceeded those of other tenderers, it should not have been proposed for award.

Additionally, the learned counsel pointed out that the Statement of Requirements and Price Schedule required the unit prices to be quoted

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monthly. Contrary to this, the interested party quoted an annual price of TZS 656,640,000 instead of a monthly unit price. He argued that under regulation 212(b) of the Regulations which requires prices to be quoted as specified in the tender documents, the interested party's tender was non-compliant and should have been disqualified.

Addressing the second issue, the learned counsel submitted that the respondent erred in law by disqualifying the appellant's tender for failure to comply with the specific experience criterion. He stated that the appellant possesses relevant experience in providing staff transport services, having executed several contracts. Notably, the appellant had a contract executed with the Tanzania Civil Aviation Authority (TCAA) for providing transport services to TCAA staff at the Julius Nyerere International Airport (JNIA). He argued that since TCAA is the regulatory authority for airports in Tanzania, including the respondent, its staff transport needs are equivalent to those of airport staff.

Given the appellant's experience, the learned counsel asserted that the respondent's decision to disqualify the appellant and proposed award to the interested party contravened the law. It was his view that the interested party should have been disqualified as non-responsive, and the award should have been made to the appellant, who complied with the tender requirements.

The learned counsel further alleged that the respondent's conduct clearly indicates an intention to award the tender to the proposed interested party despite its non-compliance. In light of this, he urged the Appeals Authority



to notify investigative authorities such as the Prevention and Combating of Corruption Bureau (PCCB) to take appropriate action against the respondent's employees.

In conclusion, the learned counsel prayed for the following orders: -

- i) The appeal be allowed
- ii) The respondent be ordered to award the tender to the appellant
- iii) The respondent be ordered to bare costs of this appeal
- iv) Any other relief, the Appeals Authority may deem fit to grant

### **SUBMISSIONS BY THE RESPONDENT**

The respondent's submissions were made by Mr. Mustafa Hashim, Legal Officer assisted by Mr. Amos Kinyunyu, Acting Head of Procurement Unit. Mr. Hashim began by asserting that the appellant was fairly disqualified from the tender process for failing to meet the specific experience criterion. He said the appellant submitted several contracts, including one executed with TCAA, claiming that transporting TCAA staff to JNIA was equivalent to providing transport services to an airport.

Mr. Hashim rebutted this assertion, explaining that TCAA and Tanzania Airports Authority are distinct entities, each established under separate legislation and vested with different mandates. He clarified that TCAA is established under the Civil Aviation Act, Cap. 80, while the respondent is established under the Executive Agencies Act. Although staff from both institutions may be present at the airport, their roles and responsibilities differ, including their working hours and shift patterns – the respondent's employees work in shifts, whereas the TCAA's staff do not. Therefore, the



appellant cannot equate working experience with TCAA to working experience with an airport authority.

Rebutting the appellant's claim that the interested party lacked the requisite experience, Mr. Hashim submitted that this argument was incorrect. He explained that the tender document required tenderers to demonstrate specific experience by submitting two contracts, one of which must have been executed with an airport in Tanzania. The interested party complied by attaching a one-year contract with Dodoma Airport, effective from May 2025 to May 2026. Since the contract was ongoing at the tender submission deadline, it was his argument that the interested party demonstrated compliance with the specific experience criterion.

Mr. Kinyunyu added that although the required contracts for demonstrating experience were those executed between 1<sup>st</sup> January 2022 to 30<sup>th</sup> November 2025, none of the tenderers fully complied with this requirement. The interested party's qualifications were deemed closely related to the tender requirements. Consequently, the specific experience criterion was waived and the interested party's tender was accepted for award.

He further explained that the waiver was granted in good faith and followed all required procedures. The waiver was necessary because none of the tenderers had a one year working experience with airports in Tanzania and their contracts values were below the TZS 500,000,000.00 threshold specified in the tender document. To avoid delays in procuring



staff transport services, the respondent exercised discretion to waive the specific experience criterion.

When prompted by the Appeals Authority to consider regulation 120(3) of the Regulations, Mr. Kinyunyu acknowledged that, legally, the respondent should not have granted a waiver on the experience requirement.

Regarding the appellant's contention that the interested party's price was higher, unrealistic and quoted contrary to the tender document's guidance, Mr. Hashim submitted that the interested party's price was not higher as alleged. The interested party was the only tenderer found to have the lowest evaluated price and was recommended for award. He said, although the interested party quoted an annual price instead of a monthly unit price, this discrepancy was rectified by dividing the total annual price of TZS 656,640,000.00 by twelve to obtain the monthly unit price.

Concerning the appellant's claim that the quoted price exceeded the prevailing market price, Mr. Hashim argued that the appellant failed to provide the Appeals Authority with any evidence or report substantiating the actual market price. Without such documentary evidence, the Appeals Authority lacked a proper basis to assess the claim, leaving the appellant's argument unsubstantiated and the burden of proof unmet.

Based on these submissions, Mr. Hashim prayed for the appeal be dismissed for lack of merit.

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## **SUBMISSIONS BY THE INTERESTED PARTY**

The interested party's submissions were made by Mr. Penningtone Paschal, learned counsel. He began by adopting respondent's submissions, particularly regarding the specific experience requirement. Mr. Paschal asserted that the interested party possessed the requisite specific experience, having executed a contract with Dodoma Airport. He further noted that the appellant had executed several contracts of a similar nature with various entities other than airports.

On the question of quoting a higher price, Mr. Paschal submitted that the sum of TZS 656,640,000 covered a cumulative period of 1095 days, equivalent to three (3) years, and therefore could not be deemed excessive. He explained that when this amount is apportioned over the contract period, the corresponding monthly unit price is affordable and does not materially deviate from the tender requirements.

Mr. Paschal also contended that the appellant misled the Appeals Authority by asserting that TCAA and the Tanzania Airports Authority perform the same functions. He emphasized that the two entities have distinct mandates and cannot be considered identical.

Based on these submissions, Mr. Paschal prayed that the appeal be dismissed, on the ground that the interested party complied fully with the tender requirements.

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## **REJOINDER BY THE APPELLANT**

In his brief rejoinder, Mr. Nkwera reiterated that the tender document clearly specified the period for assessing the specific experience criterion as from 1<sup>st</sup> January 2022 to 30<sup>th</sup> November 2025. He stressed that contracts submitted to demonstrate the specific experience must fall within this timeframe. Consequently, the interested party's submission of an ongoing contract with less than one year of execution at the tender deadline clearly failed to meet the tender requirements.

Mr. Nkwera therefore reaffirmed his earlier submission that the interested party did not comply with the tender conditions and that its tender should have been disqualified.

## **ANALYSIS BY THE APPEALS AUTHORITY**

### **1.0 Whether award of the tender to the interested party was proper in law;**

The appellant challenges the award of the tender to the interested party, contending that the latter failed to meet the specific experience criterion set out in the tender document. The appellant argued that the contract with Dodoma Airport submitted by the interested party did not satisfy the tender requirements, as it covered less than one year and therefore violated the stipulated specific experience period, running from 01<sup>st</sup> January 2022 to 30<sup>th</sup> November 2025.

Conversely, the respondent maintained that the interested party qualifies for the tender award despite minor irregularities in fulfilling the specific experience requirements outlined in the tender document.



To evaluate these competing claims, we examined Item 2 of Section IV – Qualification and Evaluation Criteria (specific experience), which states as follows: -

***"Specific Experience (SCORE: Comply/Not Comply to specified minimum requirements)***

*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, 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*

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*JVCA meets the requirement of total number of contracts, only the number of contracts completed by all members each of value equal or more than the minimum value required shall be aggregated.*

<i>Specific Experience</i>	<b><i>A tenderer are (sic) required to submit at least one or more contracts valued at a minimum of TZS 500,000,000 for the provision of staff transport and/or vehicle leasing of the related activities. The attached contract should cover a duration of no (sic) less than one year, and at least one of the contract must be entered with any airport in Tanzania.</i></b>
<i>Specific Experience Start Year</i>	2022-01-01
<i>Specific Experience End Year</i>	2025-11-30
<i>Number of Specific Experience Contracts</i>	2
<i>Value of each specific experience contract in the specified tender</i>	<b><i>500000000"</i></b>

(Emphasis Added)

The above clause states that to satisfy the specific experience criterion, tenderers were required to submit two contracts executed from 1<sup>st</sup> January 2022 to 30<sup>th</sup> November 2025, each with a minimum value of TZS 500,000,000.00. Additionally, at least one of these contracts must have been with an airport in Tanzania.

To determine whether the interested party complied with this requirement, we reviewed its tender submitted in NeST. We observed that it attached the following documents:-

- a) A Local Purchase Order (LPO) Agreement for Provision of Staff Transport Services at Dodoma Airport signed on May 2025 between the interested party and Tanzania Airports Authority (TAA) for a consideration of Tanzanian Shillings Two Hundred Twenty-Nine Million One Hundred Thirty-Two Thousand Four Hundred Only (TZS 229,132,400) VAT Exclusive. The contract duration was for 365 days from the date of the LPO. The contract had missing pages.
- b) A Local Purchase Order (LPO) Agreement for Motor Vehicle Hiring Services for Specific Routes other than Normal Operational Routes between the interested party and the Tanzania Commercial Bank Company Ltd (TCB) for a consideration of Tanzanian Shillings Twenty – Two Thousand Five Hundred Only (TZS 22,500.00) VAT exclusive. The contract duration was for 365 days from the date of the LPO.
- c) Contract for Vehicle Leasing Services Agreement between the interested party and Bank of Africa Tanzania Limited for a duration of



one year from 1<sup>st</sup> August 2024 to 30<sup>th</sup> July 2025. The contract value was not stated.

- d) A Contract for Vehicle Leasing Services Agreement between the interested party and AGRA entered on 2<sup>nd</sup> January 2024 for a duration of one year. The contract value not stated.
- e) Letter of acceptance for car hire and leasing services between the interested party and Garda World dated 1<sup>st</sup> March 2023.
- f) A contract for Staff Transport Services between the interested party and DP World Dar es Salaam Ltd (DP World) entered on 24<sup>th</sup> April 2025. The contract duration was for three years and the value was not disclosed.

After reviewing the above documents submitted by the interested party to demonstrate compliance with the specific experience criterion, we observed that the DP World contract relied upon by the interested party to have complied with the specific experience criterion, did not indicate the value and therefore failed to substantiate the interested party's claim on this point. Furthermore, this contract was entered on 24<sup>th</sup> April 2025 to 23<sup>rd</sup> April 2028. Based on this fact, it is clear that the completion date exceeds the period specified in the tender document, i.e 30<sup>th</sup> November 2025.

Additionally, we noted that the interested party attached a contract for the provision of staff transport services between itself and Tanzania Airports Authority at Dodoma Airport in May 2025. Although this contract had a duration of one year, its value was TZS 229,132,400.00, which is below the minimum threshold of TZS 500,000,000.00 specified in the tender

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document. Furthermore, the completion date for this contract also exceeds the period specified in the tender document.

A further review revealed that the contract with the Tanzania Commercial Bank Limited has a value of TZS 22,500.00, which again is significantly below the threshold specified in the tender document. Additionally, the specific commencement date was not identified, although the stated contract duration was 365 days.

The contract with the Bank of Africa Tanzania Limited falls within the specified duration; however, the contract sum was not mentioned. A contract with AGRA falls within the required period, but the contract amount was not provided. The interested party also submitted a letter of acceptance from Garda World, which does not constitute a legally binding contract.

In light of these observations, we are of the firm view that the interested party has not met the specific experience requirements outlined in the tender document.

Regarding the appellant's assertion that the interested party's price quotation violated the statement of requirements - which requires unit prices to be on a monthly basis - the interested party allegedly submitted a sum price covering all the 1095 days, asserting that the monthly price could be derived by dividing the total by three years. Upon reviewing the Price Activity Schedule in NeST, it was confirmed that tenderers were required to quote unit prices on a monthly basis. To the contrary, the interested party submitted a lump sum price. Therefore, the interested

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party failed to comply with price quotation requirements specified in the tender document.

Under the circumstances, the respondent's intention to award the tender to the interested party contravened regulation 213(2), which reads as follows:-

***"r. 213 (2) Where a tender is not responsive to the tender document, it shall be rejected by the procuring entity, and may not subsequently be made responsive by correction or withdrawal of the deviation."***

(Emphasis supplied)

We also considered the respondent's assertion regarding the waiver of a specific experience criterion on the grounds that none of the tenderers met this requirement. To determine whether the waiver was lawful, we reviewed regulation 120(3), 211(2)(f) of the Regulations which read as follows: -

***"r.120(3) Notwithstanding the provisions of subregulation (1), the procuring entity shall not revise requirements establishing the tenderer's experience in carrying out assignments of similar nature and his capability to finance the assignment"***



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

*(f) **failure to comply with minimum experience criteria as specified in the tender documents**".*

(Emphasis added)

According to these provisions, a procuring entity is prohibited from revising or waiving a tender requirement that establishes a tenderer's experience in performing assignment of a similar nature. If a tenderer fails to meet the minimum experience specified in the tender document, its tender must be disqualified.

Applying these provisions to the facts of this appeal, the respondent was not entitled to waive the experience criterion. Instead, the respondent was obligated to disqualify the interested party's tender in accordance with regulation 211(2)(f) for failure to meet the specific experience requirement.

Given these findings we conclude the first issue that the proposed award of the tender to the interested party was not justified.

## **2.0 Whether the disqualification of the appellant's tender was justified**

In considering this issue, we examined the parties' arguments. The appellant challenged its disqualification on the basis of the alleged compliance with the specific experience requirement, claiming it submitted a contract entered with TCAA for provision of staff transport services at

JNIA. The respondent countered this claim, arguing that the submitted contract did not pertain to transport services for airport staff but rather involved transportation of TCAA staff whose activities were distinct from those of airport staff. The interested party supported the respondent's position on this point.

To determine whether the appellant complied with the specific experience criterion as outlined in Item 2 of Section IV – Qualification and Evaluation Criteria, we reviewed the appellant's tender submission in NeST and observed the following documents: -

- a) A Local Purchase Order (LPO) for Provision of Staff Transport Services between the appellant and Tanzania Civil Aviation Authority (TCAA) signed on 5<sup>th</sup> September 2022 for a consideration of Tanzania Shillings Sixty-One Million Five Hundred Ninety-Six Thousand Only (TZS 61,596,000.00) VAT inclusive. The contract duration was for 12 months from the date of the LPO.
- b) A letter of Acceptance for the Provision of Staff Transport Services issued by the Tanzania Civil Aviation Authority (TCAA) to the appellant on 26<sup>th</sup> August 2022 for a consideration of Tanzania Shillings Sixty-One Million Five Hundred Ninety-Six Thousand Only (TZS 61,596,000.00) VAT inclusive.
- c) An invoice issued by the appellant to Regional Secretary CPA – Africa for vehicle hiring costs dated 3<sup>rd</sup> February 2023. It has the sum of Tanzania Shillings Four Million Three Hundred Eighty-Nine Thousand and Six Hundred (TZS 4,389,600.00) VAT inclusive.



- d) An invoice issued by the appellant to Commonwealth Parliamentary Africa Regional Secretariat for vehicle hiring costs dated 30<sup>th</sup> March 2022. It has the sum of Tanzania Shillings Seven Million Four Hundred and Thirty – Four Thousand (TZS 7,434,000.00) VAT inclusive.
- e) An invoice issued by the appellant to Commonwealth Parliament Association, Africa Region Secretariat for vehicle hiring costs dated 24<sup>th</sup> October 2022. It has the sum of Tanzania Shillings Five Million Nine Hundred Thousand (TZS 5,900,000.00) VAT inclusive.
- f) A notification of Award of Contract for Hiring of Private Vehicles between the appellant and the Parliament of Tanzania dated 11<sup>th</sup> December 2023 for a consideration of Tanzania Shillings Seven Hundred and Fifty Thousand (TZS 750,000) VAT exclusive.
- g) A notification of Award of Contract for Provision of Car Rental Services between the appellant and Tanzania Tourist Board dated 7<sup>th</sup> November 2024, for a consideration of Tanzania Shillings Forty-Seven Million Two Hundred Fifty Thousand (TZS 47,250,000) VAT exclusive.
- h) A Service Agreement between the appellant and National Bank of Commerce Limited, which did not state amount and has missing pages.
- i) A Local Purchase Order (LPO) for Provision of Car Hiring Services between the appellant and Energy and Water Utilities Regulatory Authority (EWURA) signed on 13<sup>th</sup> May 2024 for a consideration of



Tanzania Shillings One Million One Hundred and Eighty Thousand Only (TZS 1,180,000.00) VAT exclusive. The contract duration was for one year from the date of the LPO. The LPO had missing pages.

- j) A Notification of Award of Contract for Provision of Car Hire Services between the appellant and Tanzania Social Action Fund (TASAF) dated 21<sup>st</sup> November 2024 for a consideration of Tanzania Shillings Two Hundred Four Million Two Hundred Thirty Thousand Forty (TZS 204,230,040) VAT exclusive.
- k) A Contract for Provision of Transport Services (Car Rental) for TADB Offices entered between the appellant and the Tanzania Agriculture Development Bank (TADB). The contract lacks consideration and has missing pages.
- l) First Addendum to the Contract for Provision of Transport Services (Car Rental) between TADB and the appellant dated 20<sup>th</sup> May 2025. The addendum has missing pages and lacked consideration.
- m) An Air Ticketing Agreement between the appellant and Wegmar Limited signed on 1<sup>st</sup> January 2023. The agreement lacks consideration and has missing pages. The contract duration was for two years from the date of the signing of the contract.
- n) A Contract for Car Rental for HOS Energy Summit Conference 2025 between the appellant and the Ministry of Energy signed on 19<sup>th</sup> January 2025 for a consideration of Tanzania Shillings Eighty – Five Million Five Hundred Thousand Only (TZS 85,500,000.00) VAT exclusive. Contract duration not stated.



- o) A Local Purchase Order (LPO) for Provision of Cars Hiring for CHAN 2025 between the appellant and National Sports Council for a consideration of Tanzania Shillings Two Hundred Forty – Two Million Six Hundred Thousand Only (TZS 242,600,000.00) VAT exclusive. The LPO has some missing pages. The contract duration stated was within 30 days from the date of the LPO.
- p) A Recommendation letter from the Tanzania People's Defence Forces (TPDF) dated 16<sup>th</sup> January 2022 indicating that the appellant successfully executed the contract. However, the contract was not attached.

We reviewed the TCAA contract relied upon by the appellant to substantiate compliance with the specific experience requirement and observed that the contract was not executed with the airport authority as mandated by the tender document. The appellant contended that transporting TCAA staff to JNIA is analogous to transporting airport staff. However, since the mandates and functions of the two institutions differ based on their establishing laws, we agree with the respondent and the interested party that the TCAA contract does not satisfy the specific experience required for this tender. We therefore reject the appellant's contention in this regard.

A further examination of the appellant's submitted documents revealed that many were letters of acceptance, invoices, notification of award and a letter of recommendation. None of these constitute contracts as defined

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under Section 69(8) of the Act, and thus they cannot be considered as evidence of compliance with the specific experience criterion.

Contracts with the National Bank of Commerce Ltd, EWURA, TADB, Wegmar Ltd, the Ministry of Energy and the National Sports Council, all failed to meet the minimum contract value of TZS 500,000,000.00 required to demonstrate the specific experience criterion. Consequently, these contracts are irrelevant to the tender requirements.

This position is supported by the Latin maxim *expressio unius est exclusio alterius*, meaning "the express mention of one thing implies the exclusion of others." The Court of Appeal of Tanzania affirmed this principle in **Nasser E. Mwakamboja v Arthur Alfred Mambeta and Another**, Civil Appeal No. 47 of 2008, where it upheld a preliminary objection on the ground that the order challenged was not expressly provided for by law and was therefore excluded. In applying this principle to the facts of the instant appeal, it is evident that the tender document expressly stipulated requirements for specific experience and therefore contracts which falls beyond the stipulated period, with lesser value and documents which are not contract are excluded from consideration.

Given these findings, we find the appellant's disqualification justified and in accordance with regulation 213 (2) of the Regulations cited above.

Since the findings clearly show that the appellant was fairly disqualified and the interested party should have been disqualified from the tender process, we find no need to address the appellant's argument alleging that the





respondent intends to award the tender to a tenderer with the highest price, as the arguments are rendered moot by the above conclusions.

Under these circumstances, we conclude affirmatively the second issue that the appellant's disqualification was justified.

### **3.0 What reliefs, if any, are the parties entitled to**

After careful consideration of the findings on the first and second issues, we hereby partly allow this appeal to the extent that the award of the tender to the interested party was not proper in law. We also partly dismiss the appeal on the ground that the appellant's disqualification was justified. The respondent is hereby ordered to restart the tender process in compliance 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 parties have been informed of their right to Judicial Review pursuant to Section 125 of the Act.

This decision is delivered in the virtual presence of all parties this 23<sup>rd</sup> January 2026.

**HON. JUDGE (rtd) AWADH BAWAZIR**



.....  
**CHAIRPERSON**

**MEMBERS: -**

**1. DR WILLIAM KAZUNGU**



**2. MS. FLORENTINA SUMAWE**

