

IN THE PUBLIC PROCUREMENT APPEALS AUTHORITY

APPEAL CASE NO. 38 OF 2025-2026

BETWEEN

M/S STET INTERNATIONAL (T) LIMITED..... APPELLANT

AND

GOVERNMENT PROCUREMENT SERVICE AGENCY.....RESPONDENT

M/S EPCM TANZANIA (PTY) LIMITED.....INTERESTED PARTY

DECISION

CORAM

- | | |
|--------------------------|-------------------|
| 1. Ms. Florentina Sumawe | - Ag. 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. Violet Limilabo | - Senior Legal Officer |
| 3. Mr. Venance Mkonongo | - Legal Officer |

FOR THE APPELLANT

- | | |
|-------------------------|---|
| 1. Mr. Shedrack Willilo | - Managing Director |
| 2. Mr. Aziz Kilonge | - Procurement Expert |
| 3. Happiness Kategile | - Director of Corporate
Intelligence and
Sustainability |



FOR THE RESPONDENT

- | | |
|------------------------|--------------------------------------|
| 1. Mr. Allen Kasamala | - Head of Legal Services Unit |
| 2. Ms. Liipu Rweyemamu | - Director Procurement
Management |
| 3. Mr. David Nganila | - Manager Procurement |
| 4. Mr. Honest Kahumba | - Estates Manager |

FOR THE INTERESTED PARTY

- | | |
|----------------------|--------------------|
| 1. Ms. Erica Wilfred | - Process Engineer |
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This appeal lodged by **M/S STET International (T) Ltd** (hereinafter referred to as "the appellant") against **Government Procurement Service Agency**, abbreviated as "**GPSA**" (hereinafter referred to as "**the respondent**"), concerning Proposal No. TR58/2025/2026/C/20 for Provision of Consultancy Services of Feasibility Study for Construction of CNG Filling Stations at GPSA Dar es Salaam, Dodoma and Morogoro (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 30th January 2026, the respondent, through the National e-Procurement System of Tanzania (NeST), invited eligible consultants to submit technical and financial proposals. By the submission deadline of 20th February 2026, ten proposals were received, including that of the appellant and subjected to evaluation. Upon completion, the Evaluation Committee recommended award of the tender to M/S EPCM Tanzania (PTY) Ltd (hereinafter referred to as "**the interested party**").

On 20th May 2026, the respondent issued a Notice of Intention to award, informing the appellant of its intention to award the tender to the interested party at a contract price of Tanzania Shillings Six Hundred Twenty-Two Million Two Hundred Thirty-Nine Thousand Three Hundred Nineteen and Fifty-Nine Cents only (TZS 622,239,319.59) VAT Exclusive, for 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 tender at the financial evaluation stage.

Dissatisfied with the reason given for its disqualification, on 25th May 2026, the appellant applied for administrative review to the respondent. On 26th May 2026, the respondent dismissed the appellant's application. Aggrieved further, the appellant filed this appeal to the Appeals Authority on the same date.

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

- 1. Whether the disqualification of the appellant's tender was justified; and**
- 2. What reliefs, if any, are the parties entitled to?**



SUBMISSIONS BY THE APPELLANT

The appellant's submissions were made by Mr. Aziz Kilonge, Procurement Expert, who challenged the respondent's decision to disqualify the appellant's proposal on the grounds that the evaluation process contravened the criteria provided in the Request For Proposal document **(RFP)**.

Mr. Kilonge argued that clause 18.1 of the Instruction to Consultants (ITC), as modified by clause 18 of the Proposal Data Sheet (PDS), prescribe a maximum technical score of 80 points. However, the respondent's reply to the appeal indicated that the interested party scored 102.75 while the appellant scored 88.99 in technical. He contended that awarding scores beyond the prescribed maximum score contravened the requirement of the RFP.

He further submitted that the RFP allocated 80 score points across methodology and work plan (25), firm experience (10), team qualifications (40) and knowledge transfer (5). Thus, awarding score above 80 score points was unlawful.

Mr. Kilonge also referred to clause 41.1 of the ITC, as modified by clause 31 of the PDS, which specified the weighting of technical 80 and financial 20 scores and provided the formula for combining them. He argued that the respondent failed to apply this formula, instead it used its own methodology, thereby contravening the requirements provided in the RFP.

He further noted that although the appellant's financial proposal was the lowest and awarded 100 marks, the respondent's act of ranking it the



second demonstrated inconsistency and non-compliance with RFP. This, he argued, undermined the integrity and accuracy of the evaluation process.

Mr. Kilonge contended that the evaluation was marred with irregularities, contrary to legal requirements and principles of natural justice. He averred that the respondent failed to apply the QCBS formulas prescribed under clause 41.1 of the ITC and clauses 18 and 31 of the PDS, instead it adopted its own scoring methodology which was neither provided for in the RFP nor by the law. He argued that the respondent's act contravened regulation 289(5), 290(1), (3), (4), (8), (11), and 295(3) of the Regulations, which require strict adherence to the criteria, numerical ratings, weighting system, and methodology provided for in the RFP.

Additionally, he challenged deductions made in the technical evaluation under the criteria of "Local Firms Participation" and "Knowledge of the Country". He emphasized that the appellant is a locally owned and registered Tanzanian company with Tanzanian experts and extensive local experience and therefore deserved full marks under both criteria. The deductions of 3.2 and 0.2 marks respectively, were, in his view, unjustified.

Mr. Kilonge further argued that the Notice of Intention to Award contained a misleading reason for disqualification, stating that the appellant's proposal was not considered for award as it was not the lowest evaluated tender at the financial evaluation stage. Yet, in its reply to the appeal, the respondent gave different reason that the appellant ranked the second after combining technical and financial scores. This inconsistency denied the appellant a fair opportunity to understand the true basis for his



disqualification and to exercise its right to administrative review. He submitted that the respondent's conduct violated the principles of transparency, accountability, fairness, integrity, and equity enshrined in section 5(2) and (3) of the Act.

In conclusion, Mr. Kilonge prayed for the following reliefs:

- a) An order for re-evaluation of the tender.
- b) An order annulling the tender process and directing the respondent to re-start it afresh in accordance with the law.
- c) The respondent be ordered to pay Tanzania Shillings Sixteen Million Four Hundred Thousand (TZS 16,400,000) as follows:
 - Appeal filing fees – Five Hundred Thousand (TZS 500,000).
 - Legal consultation fees - Fifteen Million Nine Hundred Thousand (TZS 15,900,000).

REPLY BY THE RESPONDENT

The respondent's submissions were made by Mr. Allen Kasamala, State Attorney, assisted by Mr. Honest Massawe Kahumba, Estates Manager.

Mr. Kasamala explained that the tender was floated on 30th January 2026, and by the submission deadline of 20th February 2026, ten firms submitted proposals. The QCBS method was applied, with technical evaluation weighted at 80 points and financial evaluation at 20 points. Firms scoring at least 75% in technical evaluation qualified for financial proposals opening, which took place on 4th May 2026.



Out of ten firms, only two proceeded to financial evaluation stage. After combining technical and financial scores, the interested party was ranked first and was recommended for award, while the appellant was ranked the second. He emphasized that the evaluation was conducted in accordance with the law.

Mr. Kahumba elaborated that technical evaluation criteria included:

- Overall firm experience (15 score) which was further assessed under three sub-components, namely: reputation (10%), general experience (25%), and similar experience (40%).
- Local firm participation which carried 15 Score.
- Participation of local experts which carried 10 score.
- Qualification of key personnel (30 score) which included experience in the region and language (10%), adequacy (50%), and general qualification (20%).
- Knowledge of the country which carried 10 score.
- Understanding of the Terms of Reference, Methodology and proposal quality of the assignment (30 score), which was assessed under Understanding of Terms of Reference (30%), approach/methodology (30%), and compliance with environmental issues (10%).

After completion of evaluation at this stage, the appellant scored 88.99 technical points, and the interested party scored 102.75 points. The weighted scores were 71.19 for the appellant and 82.2 for the interested party. Both qualified for financial proposal opening.

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Financially, the appellant quoted Tanzania Shillings Six Hundred Sixteen Million Four Hundred Thirty Two Thousand (TZS 616,432,000), earning 100 points (20 marks), while the interested party quoted Tanzania Shillings Six Hundred Twenty Two Million Two Hundred Thirty Nine Thousand Three Hundred Nineteen and Fifty Nine Cents (TZS 622,239,319.59), earning 99.07 (19.8 marks). When combined, the appellant scored 188.99 points (ranked second), while the interested party scored 201.82 points (ranked first). Mr. Kahumba stressed that award was based on combined scores, not the lowest price.

On the appellant's argument regarding local firm participation and knowledge of the country criteria, Mr. Kahumba acknowledged the appellant's local ownership. He added that the appellant's company is registered by the Engineers Registration Board (ERB) under the category of civil and water works, demonstrating its experience in those categories. However, he argued that it lacked company-level experience in CNG-related works, which was critical for the project. He further noted that under environmental compliance, the appellant submitted only a Code of Conduct without substantive elaboration, justifying lower marks.

Regarding financial comparison, he explained that NeST computed scores automatically using the prescribed formulas, combining technical and financial results, which led to the appellant being ranked the second. He maintained that the evaluation process complied with the law.

Based on the foregoing submissions, Mr. Kasamala prayed for the following orders:

- i) The status quo of the tender be maintained.

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- ii) Appeal be dismissed.
- iii) The appellant be ordered to pay costs of this appeal.

REPLY BY THE INTERESTED PARTY

The interested party, represented by Ms. Erica Wilfred, a Process Engineer, supported the respondent's submissions. She stated that the interested party joined the proceedings to safeguard its interests following the appellant's challenge to the award decision.

REJOINDER BY THE APPELLANT

In his brief rejoinder, Mr. Kilonge reiterated his submission in chief and added that the respondent should not rely on the system that it calculated the scores as calculations of scores should be in accordance with criteria provided in the RFP.

ANALYSIS BY THE APPEALS AUTHORITY

1. Whether the disqualification of the appellant's tender was justified.

In determining this issue, the Appeals Authority considered the parties' opposing arguments. The appellant contended that the respondent's evaluation process contravened clauses 18 and 31 of the PDS, arguing that the technical scores awarded exceeded the prescribed maximum of 80 points when computed against the 110 technical scores under Section IV – Qualification and Evaluation Criteria – Technical Evaluation criteria. The respondent, however, maintained that the evaluation process was conducted in accordance with the criteria set out in the RFP.



Upon review, the Appeals Authority observed that if the appellant believed clauses 18 and 31 of the PDS conflicted with Section IV - Qualification and Evaluation Criteria, it ought to have sought for clarification in accordance with clause 9.1 of the ITC and regulation 12 of the Regulations which provide as follows:

"r.12 (1) A tenderer may request clarification of the tender documents from the procuring entity, provided that such request is submitted to the procuring entity at least-

(a) In case of competitive tendering methods, three days prior to the deadline for submission of tenders; and

(b) In the case of non-competitive tendering methods, two days prior to the deadline for submission of the tenders.

ITC.9.1 A prospective Consultant requiring any clarification of the RFP may notify the PE through NeST at least three (3) days for open competitive selections and two (2) days in the case of restricted selections prior to the submission of Proposals".

The above provisions allow a tenderer to seek clarification from the procuring entity within the prescribed timelines before the submission deadline. In this appeal, the appellant, having observed what it now alleges to be an anomaly in the scoring system, ought to have sought clarification from the respondent within the stipulated period. Instead, it proceeded to submit its proposal based on the criteria stipulated in NeST,



thereby signifying its acceptance to be bound by the terms and conditions of the RFP. Consequently, having failed to seek clarification at the appropriate time, the appellant is estopped from challenging the scoring criteria at this stage.

We further considered parties' arguments. The appellant alleged that there were irregularities in the evaluation process, while the respondent maintained that the evaluation was conducted in accordance with RFP. To substantiate these rival positions, we examined clauses 36.1, 36.2, 38.3, and 41.1 of the ITC, together with clauses 18 and 31 of the PDS, which provide as follows:

"Clause 36.1 The PE shall evaluate and rank the Technical Proposals on the basis of their responsiveness to the Terms of Reference, applying the evaluation criteria, sub criteria, and points system specified in ITC 36.2.

*36.2 Technical Proposals shall be evaluated and ranked applying the evaluation criteria, sub criteria, and point system indicated in Section IV [**Qualification and Evaluation Criteria**].*

38.3 In case of QCBS, the lowest evaluated Financial Proposal (Fm) will be given a financial score (Sf) of 100 points. The financial scores (Sf) of the other Financial Proposals will be computed as indicated as follows:

$$**Sf** = 100 \times Fm / F,$$

in which

Sf - is the financial score;

Fm - is the lowest price; and

F- the price of the proposal under consideration.



41.1 In QCBS the Proposals will be ranked according to their combined technical (St) and financial (Sf) scores using the weights (T = the weight given to the Technical Proposal; P = the weight given to the Financial Proposal; T + P = 1) indicated in the PDS: $S = St \times T\% + Sf \times P\%$. The firm achieving the highest combined technical and financial score will be invited for negotiation under ITC 50 [Proposal Negotiation].

PDS 18. Additional information on methodology, staffing and monitoring of training includes;

i. Technical Proposal – 80 points Methodology and Work Plan (25), Firm Experience (10), Team Qualifications (40), Knowledge Transfer (5).

PDS 31. Weight given to Technical and Financial proposals are:

Technical: 80

Financial: 20”.

(Emphasis supplied)

The above provisions clearly outline how technical and financial proposals should be evaluated, providing specific formulas for computing weighted score and combining them to determine the highest-ranked tenderer.

In reviewing whether the evaluation process was conducted in accordance with the RFP, we examined in the NeST and noted that the evaluation process comprised three stages: commercial, technical and financial evaluation. During commercial evaluation, eight tenderers were disqualified



as non-responsive. The remaining two tenderers, the appellant and the interested party, proceeded to technical evaluation. At this stage, tenderers were assessed against the criteria in the RFP to determine if they met the minimum qualifying mark. The evaluation report indicates that both the appellant and the interested party part complied with minimum qualifying mark and were therefore subjected to financial evaluation.

We noted that the appellant quoted Tanzania Shillings Six Hundred Sixteen Million Four Hundred Thirty Two Thousand (TZS 616,432,000), earning 100 points (20 marks), while the interested party quoted Tanzania Shillings Six Hundred Twenty Two Million Two Hundred Thirty Nine Thousand Three Hundred Nineteen and Fifty Nine Cents (TZS 622,239,319.59), earning 99.07 points (19.8 mark). The financial scores were combined with those of technical score and the interested party emerged to be the first ranked and the appellant was ranked the second. In view of this observation, we find the respondent to have conducted the evaluation process in accordance with the RFP.

Regarding the appellant's contention that it deserved full mark under the local firm participation and knowledge of the country criteria, we observed that awarding full marks lies in the respondent's discretion after verifying compliance with RFP requirement.

On the appellant's claim that it should have been ranked first by virtue of quoting the lowest price, we reviewed the record of appeal and noted that the appellant was awarded a financial score of 100 (20 marks) for its lowest price. The combined score was computed using the formula under clause 41.1 of the ITC: $S = (St \times 80\%) + (Sf \times 20\%)$



This resulted in a total of 91.19 score for the appellant, compared to 102.01 score for the interested party. The higher combined score rightly placed the interested party the first.

In view of the formulas provided in the RFP, the appellant could not have been ranked the first despite quoting the lowest price. Ranking is determined by the combined technical and financial scores. Accordingly, the appellant's proposition is rejected.

We reviewed regulations 289 (3) (5) and 295(5) of the Regulations which provide:

"r.289- (3) The evaluation of the proposals shall comprise of the quality and the cost stages.

(5) The evaluation shall be carried out in full conformity with the provisions of the request for proposals".

*r.295(5) The proposed weightings for technical and financial proposals shall be specified in the request for proposals **and the consultancy firm obtaining the highest total score shall be recommended for contract award and invited for negotiations".***

[Emphasis added]

These provisions require evaluation to be carried out in two stages, quality and costs, and strict in accordance with the criteria outlined in the RFP.

Applying these provisions to the facts of this appeal, we observed that the evaluation process was conducted in line with the RFP, and the interested party obtained the highest combined score. Accordingly, the respondent's



recommendation to award the interested party was proper and lawful. We therefore find the evaluation process compliant with regulations 289(3) and (5) as well as 295(5).

Regarding the appellant's contention that the Notice of Intention to Award contained misleading reasons for disqualification, we reviewed the Notice and noted that it stated the appellant's tender was disqualified for not being the lowest evaluated in terms of financial evaluation stage. However, we examined the evaluation report, it shows that the appellant was ranked second after combining technical and financial scores, which was the actual basis for non-award.

We further examine regulation 238(2) and (3) of the Regulations which provide:

"r. 238 (2) Upon decision of awarding tender in accordance with sub regulation (1), the accounting officer shall satisfy himself that, proper procedures have been followed and within three days, issue a notice of intention to award the contract to all tenderers who participated in the tender in question giving them five working days within which to submit a complaint, if any.

(3) The notice referred to in sub regulation (2) shall contain-

(a) the name of the successful tenderer;

(b) the total contract cost and the completion or delivery time; and

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(c) the reasons for the unsuccessful tenderers failure according to the evaluation report.

(Emphasis Added)

The above provisions clearly require that a Notice of Intention to Award be issued to all tenderers who participated in the tender giving them five working days to submit complaint, if any. The notice must also include the name of the successful tenderer, contract sum, completion period and reasons for disqualification as per the evaluation report.

Applying these provisions to this appeal, we observed that the reason for the appellant's disqualification stated in the Notice of Intention to Award differed from that in the evaluation report. The notice indicated that the appellant was not the lowest evaluated tender at the financial stage, while evaluation report shows that the appellant was ranked the second after combining technical and financial scores. This inconsistency contravened regulation 238(3)(c) of the Regulations. The respondent is therefore reminded to ensure that the Notice of Intention to Award contains the actual reason as in the evaluation report.

Nevertheless, we are satisfied that the respondent's decision to issue the Notice of Intention to Award in favour of the interested party was lawful and in accordance with the Act and Regulations.

Accordingly, the first issue is answered in the affirmative that the disqualification of the appellant's tender was justified.



2. What reliefs, if any, are the parties entitled to?

In light of the above findings, the appeal is hereby dismissed with no order as to costs.

It is so ordered.

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 virtual presence of the appellant and the interested party and physical presence of the respondent this 17th day of June 2026.

MS. FLORENTINA SUMAWE



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Ag. CHAIRPERSON

MEMBERS:

1. DR. WILLIAM KAZUNGU

2. MR. RAPHAEL MAGANGA