

**IN THE
PUBLIC PROCUREMENT APPEALS AUTHORITY**

AT DAR ES SALAAM.

APPEAL CASE NO. 04 OF 2015-16

BETWEEN

**M/S CAPITAL SHELTERWORKS LTD IN
ASSOCIATION WITH M/S TOUCH GEOMATICSAPPELLANT**

AND

MINISTRY OF FINANCE..... RESPONDENT

DECISION

CORAM

- | | |
|-------------------------------------|------------|
| 1. Hon. Vincent K.D Lyimo, J. (rtd) | -Chairman |
| 2. Eng. Francis T. Marmo | -Member |
| 3. Eng. Aloys J. Mwamanga | -Member |
| 4. Mr. Louis P. Accaro | -Member |
| 5. Mr Ole-Mbille Kissioki | -Secretary |

SECRETARIAT

- | | |
|---------------------------|--------------------------|
| 1. Toni S. Mbilinyi | -Principal Legal Officer |
| 2. Ms. Florida R. Mapunda | -Senior Legal Officer |
| 3. Ms. Violet S. Limilabo | -Legal Officer |
| 4. Mr. Hamisi O. Tika | -Legal Officer |

THE APPELLANT.

- 1. Mr. T. E. I. Rutatinisibwa -Director – Capital Shelterworks Ltd
- 2. Mr. Fulgence C. R. - Director

FOR THE RESPONDENT.

- 1. Mr. Iddi T. Lemmah - Director -Procurement Management Unit – Ministry of Finance (MOF)
- 2. Ms. Neema Luanga - Senior Stock Verifier (MOF)
- 3. Mr. Happygod Longino - Stock Verifier I
- 4. Ms. Florentina Masuruli - Supplies Officer
- 4. Ms. Catherine Chilewa - Legal Officer

FOR THE OBSERVER

- 1. Prof. Evaristo Liwa -Land Surveyor
- 2. Ms. Elizabeth S. Tom -Valuer
- 3. Dr. Medard Geho -Valuer, Ardhi University

This decision was scheduled for delivery today 9th September 2015, and we proceed to deliver it.

This Appeal was lodged by M/s Capital Shelterworks Ltd in association with M/S Touch Geomatics (hereinafter referred to as "the Appellant" against the Ministry of Finance (hereinafter called "the Respondent").

The said Appeal is in respect of Tender NO. ME/004/2014-15/HQ/C/04 for Provision of Consultancy Services for Valuation of Government Assets for the Ministry of Finance (Vote 50) - Package No. 2 - Valuation of 40 MDA's Assets (hereinafter referred to as "the tender").

According to the documents submitted to the Public Procurement Appeals Authority (hereinafter called "the Appeals Authority"), as well as oral submissions by the parties during the hearing, the facts of the Appeal may be summarized as follows:

On 5th March 2015, the Respondent issued a Request for Proposal (hereinafter called "RFP") and invited eleven (11) short listed consultancy firms to submit their technical and financial proposals for the above tender.

The deadline for the submission of Proposals was 8th April 2015, whereby nine proposals were received from the following consultancy firms:

1. M/s Land Value Consult and Management Services;
2. M/s Ardhi University;
3. M/s Proper Consult (T) Ltd in Association with M/s Consultants Ltd;
4. M/s Property Market Consult Ltd;
5. Capital Shelterworks Ltd in association with M/s Touch Geomatics Ltd;

6. M/s Land Master Combine Ltd;
7. M/s Let Consultants Ltd;
8. M/s Majengo Estate Developers Ltd in association with M/s EY & Real Estate Surveyors & Associates;
9. M/s Joronsa Property Consultants (T) Ltd in association with Geo network Ltd.

The Technical Proposals were consequently subjected to evaluation which was conducted in two stages namely; preliminary and detailed evaluation. At the preliminary evaluation, four (4) proposals were found to be non-responsive for failure to comply with the requirements of the RFP. The remaining five (5) proposals were subjected to detailed evaluation.

During the detailed evaluation stage, all consultant firms were found to be in compliance with the RFP by scoring above the Minimum score, which was 70 points. Therefore, the Evaluation Committee recommended all five firms to be invited for the opening of their respective Financial Proposals.

The opening of the Financial Proposals took place on the 8th May 2015, and the read out prices were as follows:

S/No.	Consultancy name	Quoted price in TZS (VAT Exclusive)	Local Taxes in TZS
1.	M/s Proper Consult (T) Ltd in association with M/s Geohdro Consultants Ltd	Lot No.1 - 207,793,400.00	37,402,812.00
		Lot No.2 - 160,873,400.00	28,957,212.00
		Lot No.3 - 157,636,600.00	28,374,588.00
		Lot No.4 - 204,175,800.00	36,751,644.00
		Lot No.5 - 220,359,800.00	39,664,884.00

2.	M/s Capital Shelterworks Ltd in association with M/s Touch Geomatics Ltd	774,393,800.00	139,390,884.00
3.	M/s Land Masters Combine Ltd	1,308,000,000.00	235,440,000.00
4.	M/s Majengo Estate Developers Ltd in association with M/s Real Estate Surveyoys & Association Ltd	Lot No.1 - 422,292,500.00 Lot No.2 - 234,708,750.00 Lot No.3 - 152,278,750.00 Lot No.4 - 215,303,750.00 Lot No.5 - 442,072,500.00	76,372,560.00 42,247,575.00 27,410,175.00 38,754,675.00 79,573,050.00
5.	M/s Property Market Consult Ltd	Lot No.1 - 174,480,000.00 Lot No.2 - 148,850,000.00 Lot No.3 - 148,850,000.00 Lot No.4 - 174,480,000.00 Lot No.5 - 225,011,000.00	31,406,400.00 26,793,000.00 26,793,500.00 31,406,400.00 40,501,980.00

The Financial Proposals were found to be in compliance with the RFP and were therefore subjected to evaluation. Then followed the correction of arithmetical errors on all financial proposals, whereby proposals submitted by three consultants were found to have arithmetical errors. Those were corrected and the consultants were notified accordingly. Finally, the Evaluation Committee ranked the proposals in accordance with the total weights of their technical and financial scores as follows-

Consultancy name	Technical Scores	Weight Score S(t)xT	Financial Score S(f)	Weight Score S(f)xF	Score T+f	Ranking
M/s Proper Consult (T) Ltd in association with M/s Geohydro Consultants Ltd	80.8	56.56	81.4	24.42	80.98	4
M/s Capital Shelterworks Ltd in association with M/s Touch Geomatics Ltd	79.9	55.93	100.00	30.00	85.93	2
M/s Land Masters Combine Ltd	83.4	58.38	59.2	17.76	76.14	5
M/s Majengo Estate Developers Ltd	97.4	68.18	52.7	15.81	83.99	3

in association with M/s Real Estate Surveyoys & Association Ltd						
M/s Property Market Consult Ltd	89.3	62.51	80.4	24.12	86.63	1

After completion of the evaluation process, the Evaluation Committee recommended award of the tender to M/s Property Market Consult Ltd with a combined score of 86.63 at a contract price of TZS. 962,171,000.00 including local taxes amounting to TZS. 190,780.00, subject to successful negotiations.

The Respondent's Tender Board through Circular Resolution No. 81 of 2014/2015 approved the recommendations of the Evaluation Committee and as a result, on 16th June 2015 negotiations were conducted with the proposed successful bidder. Following successful negotiations, the Respondent's Tender Board through Circular Resolution No. 87 of 2014/2015 dated 17th June 2015, approved the award of the tender to M/s Property Market Consult Ltd.

The Respondent through its letter Ref: No. ME/004/2014-15/HQ/C/04/65 dated 17th June 2015, informed all tenderers including the Appellant of its intention to award the tender to M/s Property Market Consult Ltd. At the same time, the Respondent informed the Appellant reasons for its

disqualification; that its proposal had scored 80.98 on its combined technical and financial proposal which was below that of the first ranked bidder who had scored 86.63 points.

Dissatisfied, the Appellant applied for administrative review by its letter Ref. No. CSL/MOF/001/6/15/FCR dated 30th June 2015. The Appellant asserted that the Respondent in its workings favoured the proposed successful tenderer. However, on 9th July 2015 the Respondent issued its decision by dismissing the Appellant's complaint in its entirety for lack of merits.

Aggrieved by the decision, on 30th July 2015 the Appellant filed his Appeal to this Appeals Authority.

SUBMISSIONS BY THE APPELLANT

In this Appeal, the Appellant raised four (4) grounds which may be summarised as follows:-

- i. That, the tender had two distinct and mutually exclusive tasks namely; land valuation and land surveying for titling purposes. The proposed successful tenderer lacked experience in land survey matters.
- ii. That, since the proposed successful bidder lacked experience in land surveying; the Respondent favoured the said bidder by ranking and giving it a score mark above 7.5 which is equivalent to 50% of the total marks provided under Clause 2 of the Information to

Consultants (hereinafter called "ITC") and Clause 36.2(i) of the Proposal Data Sheet ("PDS").

- iii. That, since the proposed successful tenderer lacks the prerequisite experience in land surveying and titling, it consequently lacks the methodology to perform the works to deserve more than 12.5 marks as per Section 2 of the ITC and Clause 36.2 (ii) of the PDS.
- iv. That, there was arbitrary award of score points or marks contrary to Section 2 of the ITC and Clause 36.2 (iii) of the PDS. The marks given for key personnel were neither quantifiable nor verifiable as there was no breakdown for each criterion and sub-criterion.

During the hearing of the appeal, the Appellant informed this Appeals Authority that when it sought for the reasons for its disqualification, the Respondent gave out the details of the evaluation process and that is how it came to know about the ranking and marking of the prospective bidders.

He pointed out that the Respondent had wrongly marked and ranked the proposed successful bidder on two main areas. First, it is in respect to the scope of works. The Appellant argued that the scope of works indicated that there were two mutually exclusive activities to be performed by the consultants i.e. land valuation and land surveying and titling. He complained that the successful bidder did not have any experience in land surveying and titling. Further to that, due to lack of experience, the said bidder could not have been elaborate on the methodology to a successful performance of the works. In that regard, the Appellant argued that there

was no justification for the high score marks which the Respondent gave to the said bidder who under the circumstances, should not have been ranked the first.

Second, the Appellant informed the Members of the Authority that from the Respondent's PDS Clause 36.2 thereof, the document was open-ended. The said Clause does not provide the criterion for the allocation of marks for key personnel, i.e. the team leader and his supporting staff. The Appellant argued that the omission to specify the criterion for award of marks on this aspect facilitated the award of marks arbitrarily because there was no specific marking schedule. Under the circumstances, the marks earmarked for key personnel and which were subsequently awarded were not quantified for lack of the specific breakdown for each of the category of employees. He concluded by stating that while the prospective bidder had been awarded 44.4 marks out of 45 marks, the Appellant has been awarded 31.3 making a glaring difference of 13.1 marks, notwithstanding the fact that the Appellant's Technical Proposal complied with Section 2 of the ITC and Clause 17.5 of the PDS.

The Appellant pointed out that the only justifiable deviation to his technical proposal was that it had substituted the redundant Finance Expert with the Registered Land Surveyor whom the Respondent had unfortunately failed to earmark.

Finally the Appellant prayed for the following reliefs:-

- i. Order the Respondent to suspend the procurement process in compliance with Regulation 106 (1) (a) and (b) of Public Procurement

Regulations of 2013 (hereinafter referred to as "GN No. 446 of 2013")

- ii. To review and determine if M/s Property Consult had the required experience and capacity to be awarded the tender.
- iii. In case the 1st and 2nd prayers fail then to be compensated 20 % of quoted price in package 2 for loss of potential increase of the cost that would have been accrued had it been awarded the tender.
- iv. Cost of the appeal; and
- v. Any other reliefs the Appeals Authority deems fit to grant.

REPLIES BY THE RESPONDENT

The Respondent's replies were as follows:-

- i. That, the tender did not have two distinct and mutually exclusive tasks as disputed by the Appellant, rather they depended on each other, as the TOR stated clearly that the main objective was to conduct survey, value, code, label and register the Government Lands & Buildings for 40 MDA's which comprise twenty two (22) Ministries, Nine (9) Regional Secretariats and nine (9) Independent Departments. The Respondent submitted further that, the Valuation of Assets was divided into five lots of different Ministries, Regional Secretariat and Independent Departments. Furthermore, the purpose of the project was to get necessary information to be included in the Government Fixed Asset Register particularly for Lands and Buildings. Thus, the Respondent needed to have all lands and Buildings surveyed, valued, coded, labeled and registered.

- ii. That, Clause 36.2 (i) of the PDS provided for the evaluation criteria and the number of points to be given to each criterion. It was further submitted that M/s Property Market Consult Ltd had complied with Firms General Experience, reputation and experience in works of similar nature as it was attached at page 6-13 of its technical proposal. Hence the successful bidder scored 11.8 while the Appellant had scored 10.3.
- iii. That, Clause 36.2 (ii) of the PDS provided for Understanding of the Terms of Reference, Methodology and the Overall Quality of the Proposal and the points given under this criterion is 25 points. The Appellant scored 23.3 points while M/s Property Market Consult Ltd scored 18.1 points.
- iv. That, Clause 36.2 (iii) of the PDS provided for Qualification of Key Personnel and the points given under this criterion was 45 points and the minimum qualification and experience were provided under Clause 17.5. The Appellant was disqualified for failure to meet the requirement on team leader.
- v. That, the Evaluation Committee adhered to the criteria of the RFP in the evaluation process.

Finally the Respondent prayed for the dismissal of the Appeal for lack of merits.

ANALYSIS BY THE APPEALS AUTHORITY

In determining this appeal, the Appeal Authority is of the view that there are two triable issues namely;

1.0 Whether the evaluation process was properly conducted in accordance with the law; and

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

Having identified the issues the Appeals Authority proceeded to determine them as follows:-

1.0 Whether the evaluation process was properly conducted in accordance with the law;

In resolving this issue the Appeals Authority considered the Appellant's contentions that the Respondent had favoured the proposed successful tenderer who lacked requisite experience on land surveying and titling contrary to the PDS and RFP. To resolve this issue the Appeals Authority deemed it necessary to frame two sub-issues namely;

a. Whether the Appellant was fairly disqualified

b. Whether the proposed award to the successful tenderer was proper at law.

First, in order to resolve the above contentions, the Appeals Authority reviewed the RFP in the light of the Evaluation Report. It has been observed that Clauses 36, 38 and 40, provide for the various stages of evaluation of the proposals; technical, financial and combined technical and financial proposals. According to the ITC, Clause 36 formed the basis

for Technical Proposal evaluation and Clause 38 was the basis for Financial Proposal evaluation while Clause 40 was the basis for the combined Technical and Financial Proposal evaluation.

The Appeals Authority revisited the Evaluation Report and noted that, during the detailed evaluation stage, technical proposals were given scores for each criteria indicated in the PDS. The Appeals Authority has noted that the Technical proposal by the Appellant scored 79.9 points while the Technical proposal by the successful tenderer scored 89.3. It was further observed that, the Appellant's Technical proposal scored 10.3 marks while that of the proposed successful bidder scored 11.8 marks on general experience in works of similar nature. In order to satisfy itself on the allegations of the Appellant regarding unfair marking on experience criterion, the Appeals Authority deemed it proper to reproduce Clause 15.1 (e) of the PDS, Clause 36.1, 32.2 of ITC and Clause 32.2 (i) of the PDS.

PDS Clause 15.1 reads;

(e) "Other documents required to be submitted with the proposal are:

- Firms profile
- Documents to detail legal status of the business and their ability to undertake consultancy work within the United Republic of Tanzania
- **Firms experience of similar assignments in the last 3 years.**" (emphasis added)

PDS Clause 32.2 states; (i) firms general experience, reputation and experience in previous similar assignments.

In addition, ITC Clause 36.1 provides:-

“The Procuring Entity 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 Sub-Clause 2.

36.2 Technical Proposals shall be evaluated and ranked applying the evaluation criteria, sub criteria and points system specified in the PDS. Each responsive Technical Proposal will be given a technical score (St). A Technical Proposal shall be rejected if it does not respond to important aspects of the RFP, and particularly the Terms of Reference or if it fails to achieve the minimum technical score indicated in the PDS.”

The Appeals Authority revisited the Appellant’s Technical proposal to satisfy itself if they had complied with the above requirements and observed that the Appellant attached to his bid, a long list of previous works as evidence of executed projects in relation to valuation, survey and processing of titles. For ease of reference, the same is reproduced hereunder as follows-

- a) “Valuation of Ex-Champs Mulji Enterprises for Capital Gains Tax purposes. Assets included factory building along Bagamoyo Road- Tanzania Investment Bank- July, 1993.

- b) Dar es Salaam Rating Project (phase 1). This involved the valuation of 4,576 houses in rating area designated Dar es Salaam-North covering Masaki, Oysterbay, Regent Estate Ada Estate and Eastern Kinondoni area- Tanzania Government, Office of the Prime Ministers and first Vice President- February, 1993.
- c) Valuation of National Milling Corporation wheat milling complex at Kurasin for divestiture purpose - Parastatal Sector Reform Commission- May, 1998.
- d) Valuation of all Buildings in mainland Tanzania for Accounting purpose. Prepared building Assets Register - Tanzania Electric Supply Company Ltd – December,2003.
- e) Re-Surveying, Best use planning and valuation of National Agricultural Foods Corporation's Poultry Farm at Kigamboni for privatization - Parastatal Sector Reform Commission - October 1994.
- f) Surveying Titling and transfer of Ex-tanzania, Tobacco Board landed properties and other assets to tanzania Leaf Tobacco Ltd.- Parastatal Sector Reform Commission – September, 1998.
- g) Land Acquisition, Surveying and preparation of title for Chunya Airstrip - Tanzania Leaf Tobacco Co. Ltd. July, 2009.
- h) Census Survey and Valuation of assets for compensation of the affected population to be relocated from the project area at the proposed Kabanga Nicel Mining Ltd at Kabanga, Ngara District,

Kagera Region - rePlan inc, 317 Adelaide Street West, Toronto
Canada - June 2012-February 2013.”

Based on the above facts, the Appeals Authority is of the settled view that the Appellant indeed complied with experience criterion by showing the executed projects of a similar nature as required by the Procuring Entity.

On the other hand, when the Respondent was asked whether the proposed successful bidder had complied with the requirements of Clauses 15. 1 (e) and 36.2 (i) of the PDS which required evidence of three (3) works of similar nature, the Respondent simply and without ado, answered that the proposed bidder had complied with the above Clauses.

Next, the Appeals Authority considered the contentions by the Appellant that the Scope of Works contained two segments which were mutually exclusive, a matter which the Respondent denied. The Appeals Authority revisited the RFP at Page 83 and observed that paragraph 3.0 thereof provides for scope of work. The said paragraph reads as hereunder-

“3.0 SCOPE OF WORK

The Consultant shall survey, value and process ownership/title deeds for all lands and buildings in twenty two (22) Ministries, Nine (9) Regional Secretariats and Nine (9) Independent Departments as detailed in Annex “A”.

From the above quoted extract, it is clear that the consultants were required to survey, value and process ownership of lands and buildings of the mentioned institutions by showing their experience in compliance with

Clauses 15.1 (i) and 36.2 (i) of the PDS. Land valuation and land survey and titling are two separate professions. The experience shown by the proposed successful bidder in its Technical proposal shows that the company has experience on land valuation and not land surveying and title processing contrary to the requirement of the RFP. The successful tenderer has experience on land valuation from the following institutions-

- a) Valuation of Government Fixed Asset for five Ministries - President's Office, Ministry of Finance and Economic Planning
- b) Up-dating Government Assets Register for four Ministries - Ministry of Finance and Economic Affairs
- c) Core property data collection for all properties located at Mbeya city and Mtwara-Mikindani-Municipality - Prime Minister's Office Regional Administration and Local Government
- d) Valuation of Government Assets for four Ministries- ministry of Finance and Economic Affairs
- e) Valuation and Registration of fixed Assets for Forest and Beekeeping Division- Ministry of Natural Resources and Tourism
- f) Valuation for rating purposes for Temeke Municipality "Zone B" covering more than 84,000 properties.

From the above, there is no doubt that the proposed bidder is conversant and has the necessary expertise in valuation matters only. On that basis, the said bidder did not deserve to be given score marks above those of the Appellant. The Respondent's decision of awarding more points to M/s

Property Market Consult Ltd who did not comply with criterion set out in the RFP and the PDS goes contrary to Regulations 297 (5) and 299 (10) of the Public Procurement Regulations GN. No. 446 of 2013 (hereinafter referred to as GN No. 446/2013).

Furthermore, the Appeals Authority considered the Appellant's assertions that the ranking and marking on key personnel were not quantified. Initially, the Appellant was asked if he had sought for clarification on that criterion. The Appellant replied that, he had believed reasonably that marks would be distributed equally under such criterion but as it turned out, the Respondent had lumped total 45 marks on the team leader, leaving out the rest. The marking was thus arbitrary. On the other hand, the Respondent submitted that marks were given for team leader alone as he was the overall in charge of the project.

In resolving the parties' arguments in this regard, the Appeals Authority revisited the RFP and noted that Clauses 17.5 provide for minimum qualification and 36.2 (iii) provide for the required personnel and their experience with a pass mark of 45 points.

Clause 17.5 states:-

"The minimum required qualification and experience of professional staff are as follows;

(i) Team Leader

The team leader should have at least Master Degree in either Property Management or Building/ Land Economy with minimum of seven years (7) on

similar assignments and must be registered with relevant professional body.

(ii) Other Consultants

- The Proposed team members should have at least first degree and has to include professionals in the field of Property Management, valuation, finance, Computer Science and/or any other related field with a minimum of 5 years experience in similar assignments
- All proposed members should be registered with the relevant professionals body
-N/A”

To ascertain if the Appellant complied with the above requirement, the Appeals Authority revisited the Appellant’s Technical proposal and observed that his team leader one Mr. Theonest E. I. Rutatinisibwa had an advanced Diploma in Land Management and Valuation from Ardhi University. Therefore, the Respondent was correct to award them low marks for failure to comply with the requirement of Clause 17.5 (i) of the PDS.

With regard to Clause 36.2 (iii) which reads;

“Qualification of key personnel

The number of points to be given under each evaluation sub criteria for qualification of staff are;.....45”

The Appeals Authority observed that, Regulation 289 (2) (c) of GN No.446/2013 requires the ITC to provide for technical evaluation criteria and weight to be given for each criterion. Moreover, the Standard Request for Proposal, Selection and Employment of Consultants issued by the Public Procurement Regulatory Authority requires the procuring entity to insert points for each criterion and sub criterion in the PDS. The Appeals Authority observed from the record that, the RFP issued by the Respondent was not quantified in order to ascertain the total marks for the particular criterion. It was therefore difficult to ascertain the marks allotted to each sub-criterion. The Respondent was therefore wrong to allot a total marks of 45 points to a team leader while other consultants were left out. Further, there was no break down of points on the sub criteria apart from the total points which appear to have been issued contrary to Regulation 289 (2) (c) of GN No. 446/2013. For easy of reference the said Regulation is reproduced hereunder;

Reg. 289 (2) The instructions to consultants shall include the following aspects of the assignment:

(c) details of the selection procedure to be followed including:

(i) a listing of the technical evaluation criteria and weight given to each criterion. "
(Emphasis Added)

From the above, the Appeals Authority is of the firm view that the Respondent had failed to provide the quantified points for criteria and sub-criteria to guide the evaluation process. Accordingly it is impossible to ascertain whether Appellant's disqualification was fair under the circumstances.

b. Whether the proposed award to the successful tenderer was proper at law.

In resolving this issue the Appeals Authority took cognizance of its findings in the first sub-issue that, award of points to the respective bidders was more arbitrary than based on specific benchmarks. Therefore, the decision to award the tender to the proposed successful bidder cannot be equally supported under the circumstance.

Accordingly, the Appeals Authority's conclusion with regard to the first issue is that the evaluation process was not conducted in accordance with the law.

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

Having analyzed the contentious issues in dispute, the Appeals Authority finds it prudent to consider prayers by the parties.

To start with the Appeals Authority considered the Appellant's first prayer to order for suspension of the procurement process. The Appeals Authority

observed that, the procurement process was suspended by the Respondent upon being notified of this Appeal.

Second, with regard to the second prayer to determine if M/s Property Market Consult Ltd has the required experience and capacity to execute the contract, the Appeals Authority is of the considered view that the anomalies noted under the first sub-issue on the technical proposal could not be cured without amending the RFP to quantify the points for criteria and sub-criteria for purpose of having a proper technical evaluation of consulting firms.

With regard to the third prayer for compensation of 20% in case the 1st and 2nd prayers fail, this prayer cannot issue. In this case, the Respondent will re-tender and the Appellant has the opportunity to participate in the process if he so wishes.

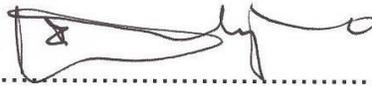
With regard to the Appellant's prayer for costs of the appeal, the Appeals Authority issues the following order - the Respondent to compensate the Appellant a sum of TZS. 200,000.00 being Appeal filing fees.

From the above findings and conclusions, the Appeals Authority nullifies the tender process and orders the Respondent to issue a new RFP with a quantified criteria and sub-criteria and thereafter to re-start tendering process afresh.

The decision of this Authority is binding upon the parties and may be executed in any court of competent jurisdiction in terms of Section 97(8) of the Act of 2011.

Right of Judicial Review as per Section 101 of the Act of 2011 explained to Parties.

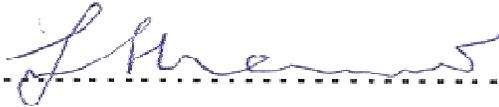
This Decision is delivered in the presence of the Appellant and the Respondent this 9th September, 2015.



JUDGE (rtd) V.K.D. LYIMO
CHAIRMAN

MEMBERS:

1. ENG. F. T. MARMO



2. ENG. A. J. MWAMANGA



3. MR. L. P. ACCARO

