

A QUEST TOWARDS JUSTICE

“In that aspect, my friend the court will not be in your favor trust me!” that is what Mr. Mashindano was hearing when he was discussing the matter with his colleague. He well understood that he was in trouble when his company failed to win a tender that was submitted to Mji Mwema Council. The tender was advertised nationally by the Mji Mwema Council that attracted the wide interest of various consulting firms from several areas within the country. The tender called the attention of interested firms for the provision of consultancy services for the proposed renovation of existing administration building of Mji Mwema Council.

The consultant selection procedure was in place as specified in the World Bank Guidelines as well as the Public Procurement Act No. 7 of 2011, as amended. After successful response from interested firms, Mji Mwema Council invited qualified firms to submit their proposals simultaneously in separate envelopes but sealed in a single envelope. One among lots of technical proposals that were opened first was that of Mr. Mashindano’s company, on the other hand financial proposals remained sealed.

The appointed evaluation committee of Mji Mwema Council arranged the evaluated technical proposals in the order of their merits and financial proposals for firms that scored above the tolerable minimum score were opened, examined and corrections on the arithmetic errors were carefully made. Since Mji Mwema Council focused on the consulting firm with low cost that might perform the assignment at the wanted level of satisfaction, the lowest financial proposal scored 100%, while the remaining other proposals were reduced proportionally.

Scores obtained after being weighted as specified in the request for proposal and the combined value of the technical and financial proposals were calculated for each consulting firm. After combining and sorting them the consulting firm that obtained highest score was invited for negotiation. Fortunately, that firm was that of Mr. Mashindano, and during negotiation a firm agreed to perform the intended task at the contract price of TZS 247,292,520.00 /= which was found to be reasonable due to the nature of the assignment. On his side, he thought about doing the task at the highest level of integrity so as to establish his company’s name on the consulting industry at the same time, the handsome profit that will be awesome for the advancement of his company in terms of business.

After all legal arrangements were successful done in accordance to public procurement law and regulations, the assignment was expected to start as soon as possible but it took longer than expected. After making official follow-ups it was revealed that the award decision was revoked and evinced with the formal letter that was sent to Mr. Mashindano's company. The ground for revoking the award to Mr. Mashindano's company was believed to be false representation about his qualifications during procurement proceedings. Funny enough, this is among the reason that a firm may be debarred and blacklisted from participating in public procurement or disposal proceedings.

This was not good news to be heard by the management of Mr. Mashindano's company as if the company is going to be blacklisted from participating in procurement affairs within and outside the country, the company will vanish. He was not satisfied with the decision made though he acknowledged the receipt of that letter when confronted. The administrative review was applied by Mr. Mashindano but the accounting officer of Mji Mwema Council did not provide the decision of the matter on time.

As he is aware of his right to appeal, he wanted to address the matter to the Appeals Authority so as to handle the issue. Documents that he had concerning procurement proceedings were in place ready to conquer the appeal sessions. When asked about what he will do when the appeal results are not on his favor since the results will be final in accordance to the public procurement law, he told his friend that he will take the matter to the court as he is aware of the right of judicial review as per section 101 of the PPA No. 7 of 2011 as amended.

Finally, his colleague supported his decision and also added that if his company is going to be blacklisted from participating in procurement proceedings, he can appeal against that in the Appeals Authority. His friend further joked that if the appeal results on that aspect are not going to be on his favor it is possible to take the matter to the court for judicial review. Though the management of Mji Mwema Council was right on the matter, it was obvious that Mr. Mashindano was aware of various matters related to public procurement management and his knowledge made him comfortable enough to face the challenge.