

APPEALS REVIEWED BY THE AUTHORITY IN 2020

S/N	Procuring Entity	Tender No. and Title	Allegations	Date of Decision	Decision	Recommendations
1	National Road Fund Agency (NRFA)	Tender for the provision of cleaning, gardening and landscaping services in exchange for advertising space at Toll Stations - NRFA/ORD/411/2018	The appellant contested that it should be declared as the best evaluated bidder for the Michael Chilufya Sata and Edgar Chagwa Lungu Toll Plaza stations lots. Further, it was alleged that the cancellation of the procurement proceedings by NRFA was done in an unlawful manner.	22 Jan 2020	Appeal was dismissed	It was noted that the Solicitation Document (SD) used by NRFA was poorly done and the record of evaluation of bids contained some errors. NRFA was advised to ensure that all procurements were conducted in accordance with laid down procedures.
2	North-Western Province - Provincial Administration (NWPPA)	Tender for the proposed construction of five (5No) medium cot houses for Kalumbila Town Council in Kalumbila District	The Procuring Entity (PE) allegedly unfairly disqualified the appellants bid which was rejected on account of poor performance in other contracts and inability to comply with terms and conditions of contract agreements.	31 Jan 2020	Appeal ground was upheld but remedy sought to have the appellant awarded the contract could not be granted as the appellant's bid was non-responsive under technical evaluation	That the procurement process be terminated as the decision by the PE to reject the appellants' bid on poor performance was not in the SD and therefore was tantamount to introducing a new criterion contrary to section 50 (3) of the Public Procurement Act. No. 12 of 2008 (PPA).
3	Nkana Water and Sewerage Company	Tender for consulting services for the provision of external audit services on a three(3) year running contract	The appellant alleged that there was no sufficient time granted between the time the results were provided to the closing date to receive notice of contesting evaluation results. The appellant further alleged that its bid was unfairly evaluated on experience in auditing similar institutions.	28 Jan 2020	Appeal was upheld	Nkana Water and Sewerage Company was directed to proceed in a lawful manner by ensuring that the evaluation process was conducted in accordance with section 50 (3) of the PPA and in accordance with the criteria provided in the Request for Proposal (RFP).
4	Patents and Company Registration Agency (PACRA)	Tender for the provision of Audit services to Patents and Companies Registration Agency on a three year running contract	The appellant contested PACRA's decision to award the tender and that the evaluation was not conducted in accordance with the SD and PPA.	5 Feb 2020	Appeal was upheld in part	PACRA was directed to terminate the procurement proceedings in line with regulation 181(2)(d) of the Public Procurement Regulations, 2011 (PPR). PACRA was further advised to conduct all future procurement processes in line with the PPA and use the appropriate standard solicitation documents.
5	Electoral Commission of Zambia	Tender for the printing of ballot papers, posters, blind voter templates and announcement forms for the Electoral Commission of Zambia on a two year running contract - ECZ/ORD/030/2019	The appellant alleged that its bid was unfairly disqualified at evaluation for alleged non-compliance of samples.	13 Feb 2020	The appeal was dismissed	Appeal was dismissed in accordance with section 70(5)(a) of the PPA.
6	National Pension Scheme Authority (NAPSA)	Tender for the proposed construction of low cost housing units in Solwezi, Chitambo and Chinsali Districts - NAPSA/DI/26/19	Appellant alleged that NAPSA had wrongfully disqualified its bid at evaluation. It was further alleged that NAPSA requested the appellant to submit a decisive document during evaluation contrary to Regulation 68(1) and (3) of the PPR.	29 Jan 2020	Appeal was upheld	NAPSA was advised to re-evaluate all the bids received for the tender. Further, all decisive documents submitted after tender closing date should not be used in the re-evaluation process.

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7	ZESCO Limited	Tender for the provision of security services for ZESCO properties and installations on three (3) years running contract basis - ZESCO/084/2019	The appellant alleged that ZESCO Limited did not consider the fundamental principles of procurement in the evaluation process and award of contract.	6 Mar 2020	The appeal was rejected as the appellant did not demonstrate how the fundamental principles of public procurement were abrogated	The appellant was advised to report matters raised concerning non-compliance with minimum wage laws to the Labour Office through the Ministry of Labour and Social Security.
8	National Pensions Scheme Authority (NAPSA)	Tender for the proposed construction of low cost housing units in Solwezi, Chitambo and Chinsali Districts - NAPSA/DI/26/19 (Second Appeal)	Appellant alleged that NAPSA changed the evaluation criteria during the revaluation and was wrongfully disqualified.	1 Apr 2020	The appeal was dismissed	The appeal was dismissed, however, due to the numerous irregularities it was decided that the procurement proceedings be terminated in accordance with regulation 181 (2) (d) of the PPR.
9	National Savings and Credit Bank (NSCB)	Tender for the provision of sanitary and general cleaning services to the National Savings and Credit Bank on a one year running contract	Appellant alleged that NSCB had wrongfully disqualified its bid at evaluation and the process lacked transparency.	27 Mar 2020	The appeal was upheld in part	NSCB was directed to terminate the proceedings in accordance with regulation 181 (2) (d) of the PPR because the SD was not prepared in accordance with Regulation 52(2)(b) of the PPR.
10	Zambia Revenue Authority (ZRA)	Tender for the supply, delivery, installation, configuration, testing and commissioning of two Oracle Exadata Machines - ZRA/PSU/GDS/OICB/018/19	Appellant alleged that ZRA had wrongfully disqualified its bid at evaluation for submitting an alleged defective Power of Attorney. Further, the appellant alleged that seeking clarification during the evaluation process would not have been prejudicial to the Procuring Entity and the clarity would not have resulted in any change to the bid.	14 May 2020	The appeal was upheld in part	ZRA should: (i) ensure that contracts are not signed before conclusion of administrative review of a tender; (ii) ensure it provides all unsuccessful bidders with a debrief as to the reasons for the failure of their bids. This is in line with regulation 128(3) of the PPR; (iii) ensure that clarifications are sought were necessary be in line with Regulation 68 of the PPR; (iv) ensure that the Solicitation document issued to prospective bidders are consistent with all other accompanying documentation related to a tender; (v) ensure all unsuccessful procurements are reported to the Authority in line with the regulation 25 of the PPR; and (vi) conduct all future procurement processes in line with the PPA and PPR.

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11	Electoral Commission of Zambia	Tender for the supply and delivery of voter registration equipment and materials for the Electoral Commission of Zambia	The appellant alleged that it was the best evaluated bidder on price and there were pricing discrepancies impacting the clarity of information announced in bid opening against those announced at notice of best evaluated bidder.	11 May 2020	The appeal was upheld in part	The appeal was upheld in part in respect of the flawed price clarification process and correction of arithmetic errors. However, the remedies sought by the appellant to resubmit their financial offer and to have the pricing of the awarded bidder re-positioned against that of the appellant could not be granted as that was contrary to the provisions of the PPA. ECZ was directed to re-evaluate the tender and ensure that clarification and correction of arithmetic errors being taken into account was in accordance with Regulation 67 and 68 (3) of the PPR.
12	Disaster Management and Mitigation Unit (DMMU)	Tender for the supply and delivery IBR and corrugated roofing sheets – OVP/DMMU/OPS/2019 LOTS 1,2,3 and 4	The appellant alleged that the post qualification requirements used in the evaluation were unreasonable, discriminatory, unfair and restrictive. Further, the PE allegedly did not give the appellant reasons on where the bid had failed.	20 Jul 2020	The appeal was dismissed	DMMU should re-evaluate the bids taking into consideration the observation made from the procurement process and ensure that no methodology or criteria other than those stated in the SD are used during evaluation in accordance with Section 50 (3) of the PPA. Further, the post qualification requirement should be applied at the right stage in line with Regulation 73 (1) of the PPR.
13	Lusaka City Council (LCC)	Tender for the performance based management and maintenance of roads in Lusaka for 2020 to 2022 - LCC/PSU/OPRC-L/A-D/20 LOT 3 and 9	The appellant alleged that its bid was unfairly evaluated and failed as LCC introduced a new requirement for 'practicing licences' for proposed personnel when the solicitation document only requested for 'registered members'.	25 Sep 2020	The appeal was dismissed	LCC evaluated the appellants' bid in accordance with the criteria set in the SD and could proceed with the next stages in the procurement
14	Lusaka City Council (LCC)	Tender for the performance based management and maintenance of roads in Lusaka for 2020 to 2022 - LCC/PSU/OPRC-L/A-D/20 LOT 3, 8 and 13	The appellant alleged that its bid met all the criteria in the solicitation document and LCC did not comply with the evaluation criteria.	25 Sep 2020	The appeal was upheld	LCC was directed to re-evaluate the bids and ensure that the evaluation criteria set out in the SD was adhered to in accordance with the PPA, PPR and SD
15	Lusaka City Council (LCC)	Tender for the performance based management and maintenance of roads in Lusaka for 2020 to 2022 - LCC/PSU/OPRC-L/A-D/20 LOT 11 and 12	The appellant alleged that its bid was unfairly disqualified for submitting an alleged defective Power of Attorney in lots 11 and 12, when the same alleged defective document was considered responsive in lots 7 and 8.	25 Sep 2020	The appeal was upheld in part.	The appellant submitted a defective power of Attorney but LCC was not consistent in the application of the evaluation criteria in other lots where the appellant participated. therefore LCC was directed to re-evaluate the appellants' bids for lots 7 and 8 in accordance with the criteria set in the SD
16	Zambia Revenue Authority (ZRA)	Tender for the provision of security services on a one year contract period to ARM Safety Security Limited ZRA/PSU/NCS/016/20	The appellant alleged that their bid was disqualified for a criterion appearing in the preliminary stage, yet their bid went up to post-qualification.	18 Sep 2020	The appeal was dismissed	ZRA was however directed to re-evaluate the bids in strict adherence with all the requirements of the SD as some irregularities were found in the evaluation process.

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17	Higher Education Loans and Scholarships Board (HELBS)	Tender for the Supply, Delivery, Installation and Operationalisation of a Student Financing Management System - HELSB/C/01/2019	The appellant alleged that its bid was unfairly evaluated and that: 1. the procuring entity issued an erroneous Notice of Best Evaluated Bidder (NBEB); 2. its technical score was reduced based on a missing document in the copies of the bid and not the original; 3. There was unfair competition and the awarding of scores to the best evaluated bidder was not genuine; 4. There was irregular evaluation criteria in the tender which needed to be removed and re-evaluated; and 5. A wrong Solicitation Document was used.	5 Oct 2020	The appeal was dismissed	The error in the NBEB had no effect on the outcome of the procurement process but HELSB was advised to correct the error at the time of publishing the notice of contract award. HELBS was advised to proceed with the procurement process.
18	Workers' Compensation Fund Control Board (WCFCB)	Tender for the proposed renovation of stand No. 1193 Buteko House, Ndola- WCFCB/W/10601/2020	The appellant alleged that WCFCB evaluated its bid on a criterion that was not in the SD issued for the tender.	7 Oct 2020	The appeal was upheld	WCFCB was directed to proceed in a lawful manner and re-evaluate the tender in accordance with the criteria provided in the SD.
19	Mulonga Water Supply and Sanitation Company Limited (MWSSCL)	Tender for the Rehabilitation and Upgrade of water and Sewerage treatment facilities: Design and Build – ZWS2-C1XD-W-001	The Appellant alleged that one of the other bidders was evaluated in an untransparent manner and using criteria that was not part of the tendering process, hence placing its bid in an uncompetitive position.	15 Oct 2020	The appeal was dismissed	MWSSCL was advised to ensure all the SDs issued for all future procurements were clear and concise on all requirements in line with section 45 of the PPA and with a view to creating fair and open competition.
20	Electoral Commission of Zambia	Tender for the Supply and Delivery of COVID-19 Prevention Materials to Electoral Commission of Zambia - ECZ/ORD/013/20 (Lot 6)	The appellant alleged that it was unfairly disqualified at evaluation on post qualification criteria that was not part of the solicitation document	29 Oct 2020	The appeal was upheld	ECZ was directed to proceed in a lawful manner and re-evaluate the bids for lot 6 of the tender in accordance with the criteria provided in the SD as guided by the PPA and PPR.
21	Lusaka City Council (LCC)	Tender for the performance based management and maintenance of roads in Lusaka for 2020 to 2022 - LCC/PSU/OPRC-L/A-D/20 LOT 3, 6 and 12	The appellant alleged that its bid was wrongfully disqualified at evaluation due to part payment to of the practicing licence to the Engineering Institute of Zambia, by one of the proposed key staff to the contract.	19 Nov 2020	The appeal was dismissed	LCC evaluated the appellants bid in accordance with the provisions of the Solicitation Document as guided by the PPA and PPR