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# LANDMARK VICTORY

**P1.5 BILLION+**

*Tender Value*

**92.9%**

*Our Client's Technical Evaluation Score*

**UNANIMOUS**

*Court of Appeal — All Three Justices*

## THE MATTER

The proceedings originate from a major public procurement initiative by the then Ministry of Lands and Water Affairs (now the Ministry of Water and Human Settlement). On **9 January 2024**, the Ministry floated Tender No. **POU/MLWA/DTS/NCOJANEWATERSUPPLYWORKS/0158/09102023**, fully titled "*A Works Contract for Detailed Designs and Construction of Ghanzi South and Kgalagadi North Villages Water Supply Project*", a sealed tender inviting offers for the provision of works for the detailed design and construction of water supply infrastructure across villages in the Kgalagadi Ghanzi South and Kgalagadi North districts.

The tender was awarded to Tawana JV at a value of **BWP 1,577,362,030.33 ( ONE BILLION, FIVE HUNDRED AND SEVENTY SEVEN MILLION, THREE HUNDRED AND SIXTY TWO THOUSAND AND THIRTY PULA AND THIRTY THREE THEBE )**

The design scope was extensive, covering boreholes, storage tanks, a water treatment plant, pumping stations, over 800km of pipework, access roads and ancillary works. The project duration was set at **36 months**, with a Defects Notification period of **18 months** thereafter.

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## WHAT HAPPENED

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Of ten initial bids, only two survived preliminary screening. Our client, **Tawana Joint Venture**, scored an **92.9%** in the technical evaluation, exceeding the minimum threshold in every category. The opposing joint venture, CCECC/ZGEC, failed the mandatory technical requirements, scoring below the imperative sub-minimum of 60% in the Project Management Plan and should have been disqualified before the financial stage was ever reached.

Despite this, the Accounting Officer overrode the independent evaluation committee **twice** — ultimately awarding the tender to the disqualified bidder. The Public Procurement Tribunal found the process riddled with “*patent legal and/or arithmetic/mathematical errors*”, described the Ministry’s conduct as “**egregious**”, and referred the matter to the **Directorate on Corruption and Economic Crime (DCEC)**. After much prevarication, the Accounting Officer himself ultimately admitted that the opposing bidder ought never to have proceeded to financial evaluation.

*“After much prevarication, evasiveness and outright falsehoods, the Accounting Officer finally admitted that [CCECC/ZGEC] ought never to have proceeded to the financial evaluation stage.”*

— Public Procurement Tribunal, as cited by the Court of Appeal

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## WHY THIS MATTERS

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This judgment is a precedent for integrity in public procurement, it affirms that procurement processes in Botswana must be conducted with **integrity, transparency, and strict adherence** to evaluation criteria. Accounting officers cannot override independent evaluation committees to favour a preferred bidder. **Contractors who qualify on merit will be protected.** No amount of procedural manipulation will be permitted to stand.

*This judgment sets a landmark precedent — affirming that integrity and merit must govern every stage of public procurement in Botswana. No procedural manipulation will be permitted to stand.*

***“The appeal is dismissed.”***

— Court of Appeal of Botswana · 27 March 2026

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