



REPUBLIC OF NAMIBIA
MINISTRY OF FINANCE

PUBLIC PROCUREMENT REVIEW PANEL

Tel. : (00 264 61) 209 2319
Fax : (00 264 61) 236454

Head Office,
Moltke Street,
Private Bag 13295
Windhoek
Namibia

Enquiries: **H. Klukowski**

IN THE PUBLIC PROCUREMENT REVIEW HEARING

HELD ON 27 OCTOBER 2022

IN THE MATTER BETWEEN

MAXES OFFICE MACHINES (PTY) LTD

APPLICANT

AND

**MINISTRY OF HOME AFFAIRS, IMMIGRATION, SAFETY
AND SECURITY
AMANA ASSET AUDITORS
BPI TECHNOLOGIES
GEE AND SONS TRADING
SHINE TECHNOLOGIES**

**1ST RESPONDENT
2ND RESPONDENT
3RD RESPONDENT
4TH RESPONDENT
5TH RESPONDENT**

SCHOEMANS TECHNOLOGIES	6TH RESPONDENT
BONISWA TELECOMMUNICATIONS CC	7TH RESPONDENT
STARS YAMBOME INVESTMENT CC	8TH RESPONDENT
OTIS TRADING ENTERPRISES	9TH RESPONDENT
BLUE SKY TECHNOLOGIES	10TH RESPONDENT
PRESTIGE COMPUTERS	11TH RESPONDENT
SIMS TECHNOLOGIES	12TH RESPONDENT
SYNTEX TECHNOLOGIES CC	13TH RESPONDENT
WISEMAN ANYALA TRADING	14THRESPONDENT
OLDUVAI INVESTMENT CC	15TH RESPONDENT
BLACK FOREST TRADING ENTERPRISCS CC	16TH RESPONDENT
EDUSOL CC	17TH RESPONDENT
AFRICA SOLUTIONS ENTERPRISES	18TH RESPONDENT
OAK INVESTMENTS CC	19TH RESPONDENT
NAMIBIA TECHNOLOGIES SOLUTIONS	20TH RESPONDENT
TEKMEK INVESTMENTS CC	21ST RESPONDENT
NANGU-LINE TRADING	22ND RESPONDENT
GREEN ENTERPRISES SOLUTIONS (PTY) LTD	23RD RESPONDENT
KEMO ESTABLISHMENT CC	24TH RESPONDENT
AVA INVESTMENTS	25TH RESPONDENT
OUTOKELO INVESTMENT CC	26TH RESPONDENT
TMU SUPPLY & DELIVERY SERVICES	27TH RESPONDENT
ADVANCE-PRO TECHNOLOGY & INVESTMENT	28TH RESPONDENT
WALTONS NAMIBIA (PTY) LTD	29TH RESPONDENT
SHAFI TRADING	30TH RESPONDENT
XN INFORMATION TECHNOLOGY CC	31ST RESPONDENT
G MOBILITY INVESTMENTS & TECHNOLOG CC	32ND RESPONDENT
GON INVESTMENTS CC	33RD RESPONDENT
SIRKA INVESTMENTS CC	34TH RESPONDENT
S & S CONSULTING SERVICES	35TH RESPONDENT
NEPTUNE INFORMATION TECHNOLOGY CC	36TH RESPONDENT
WADILONA CYBER SECURITIES CC	37TH RESPONDENT
UTOPIA INVESTMENTS CC	38TH RESPONDENT
PERFORMANCE DEVELOPMENT CENTRE	39TH RESPONDENT

IN A REVIEW APPLICATION MADE IN TERMS OF SECTION 59 OF THE PUBLIC PROCUREMENT ACT, 2015 (ACT 15 OF 2015)

BID NO: G/ONB/39-04/2022 – SUPPLY AND DELIVERY OF COMPUTERS, SCANNERS AND LAPTOPS TO THE NAMIBIAN POLICE FORCE FOR THE PERIOD OF THREE YEARS

Present: Brown Mutrifa (Chairperson) with Ehrenfried Honga, Gilbert Habimana, Paulina Kandali Iyambo and Mekondjo Katunga.

Heard : 27 October 2022

Decided : 27 October 2022

REVIEW PANEL ORDER

The meeting took place using both physical and virtual modes.

Having heard Mr. Frank Snyman representing the Applicant and Mr. Etienne Maritz representing the Respondent and having read the application for review in terms of Section 59(1) of the Public Procurement Act, 15 of 2015 (hereinafter referred to as the “Act”), read with Regulation 42 of the Public Procurement Regulations of the Public Procurement Act, 2015, (hereinafter referred to as the “Regulations”), and other documents filed as part of the records, the Public Procurement Review Panel made the following findings and subsequently made the following order.

1. GROUNDS FOR THE REVIEW APPLICATION

THE APPLICANT

- 1.1 The Applicant state that their bid was responsive however declared non-responsive because the entire bid document was not initialized by the power of attorney.
- 1.2 The applicant also submitted that the late filing is because he was waiting for a reply from the Public Entity, and when no response was forthcoming they decided to file late with the review panel.

2. RESPONDENT’S RESPONSE TO THE APPLICANT’S GROUNDS

- 2.1 The Respondent state that the Bid Evaluation Committee compared the signature on the Identity document of the person who signed the bidding documents against signature and initials in the bidding documents and came to the conclusion that the two signatures were not the same, leading to a finding that the person who signed the bidding document is not the same the person and thus did not have the power of attorney to sign the document.

2.2 The Respondent conceded that they have disqualified the Applicant erroneously and offered to re-evaluate the bids.

3. FINDINGS OF THE PUBLIC PROCUREMENT REVIEW PANEL

The Review Panel found that:

- 3.1 The bid was cancelled by the Respondent on 14 September 2022 because all bidders were non-responsive.
- 3.2 The opening of the bids was on 01 August 2022 and validity of the bid was 60 days only. The application was received by the Review Panel Secretariat on the 12 October 2022 as a result of the advice of the public entity that an inquiry be lodged with the public entity, hence the late filing of the review application beyond the bid validity period.
- 3.3 It was noted that the Applicant indeed signed the entire bidding documents, albeit as stated by the Respondent that the Bid Evaluation Committee compared the signature on the Identity document of the person who signed the bidding documents against signature and initials in the bidding documents and came to the conclusion that the two signatures were not the same, leading to a finding that the person who signed the bidding document is not the same the person and thus did not have the power of attorney to sign the document. The matter of the Power of Attorney was further established as none matter as the applicant had the necessary authority to sign the documents.
- 3.4 The Respondent attention was drawn to the fact that the bid has lapsed and their suggestion to re-evaluate will be legal challenge.
- 3.5 In line with the Objects of the Act, especially fair dealing, legality and integrity of the procurement, despite admittance of unfair dealing by the public entity, the bid validity lapse reigns supreme, constraining the applicant to receive any positive remedy in his application, even if the public entity proposed reconsideration.

4. DECISION OF THE REVIEW PANEL

In the premise of the above, the Review Panel decided that:

- 4.1 In respect of bid number G/ONB/39-04/2022, we order that the application be dismissed in terms Section 60 (a) of the Act, as the bid is none-existence.
- 4.2 The effective date of this decision is 27 October 2022.


Chairperson
BROWNY MUTRIFA
CHAIRPERSON: REVIEW PANEL (I.R.O. THIS MATTER)

(Note: A circular stamp of the Public Procurement Review Panel is visible behind the signature, containing the text 'REPUBLIC OF NAMIBIA' and 'MINISTRY OF FINANCE').