



REPUBLIC OF NAMIBIA

MINISTRY OF FINANCE

PUBLIC PROCUREMENT REVIEW PANEL

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**IN THE PUBLIC PROCUREMENT REVIEW
HELD ON 03 MARCH 2022**

IN THE MATTER BETWEEN

XACT PROPERTY SERVICES

APPLICANT

AND

OSHIKUKU TOWN COUNCIL

SEEDS PROPERTY SOLUTION

1st RESPONDENT

2nd RESPONDENT

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

**BID NO: CS/RP/OSHTC-03/2021/22-GENERAL VALUATION FOR ALL
PROPERTIES WITHIN THE LOCAL AUTHORITY AREA OF OSHIKUKU**

**Present: Donè Brinkman (Chairperson) Kenandei Tjivikua, Lukas Kudumo
Siremo, Rainer Trede and Hellen Amupolo.**

Heard: 03 March 2022

Decided: 03 March 2022

REVIEW PANEL ORDER

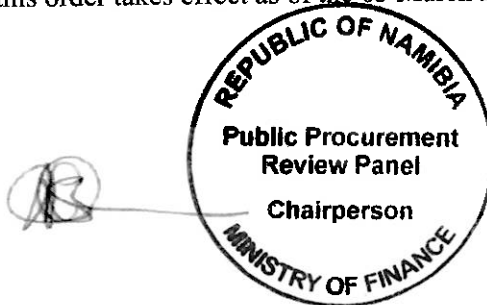
Having heard **Mr. Paul Andreki** for the Applicant, **Ms. Victoria Kalili** for the 1st Respondent, as well as other joined interested parties, respectively, and subsequently having read the application for review in terms of Section 59(1) read with Regulation 42 of the Public Procurement Act. No. 15 of 2015 and other documents filed of record, the Review Panel observed the following:

1. That the 1st Respondent acted contrary to Regulation 7(2) of the Public Procurement Act, Act 15 of 2015 (hereinafter referred to as "the Act") when it failed to commence to examine and evaluate the bids within five (5) days after the opening of bids;
2. The Panel further observed that the public entity violated Regulation 42 (4) of the Regulations to the Act, when it failed to file with the Review Panel a replying affidavit within two days after receipt of the Application for Review filed by the First Respondent;
3. In addition, the Panel observed that the public entity violated Section 55 (8) of the Act, read together with Regulation 39 (1) of the Regulations to the Act, when it published the Executive Summary together with the Notice for selection of award; and
4. The Review Panel further observed that the Public Entity violated Section 55 (4) (a) and (b) of the Act read with Regulation 38 (1) of the Regulations to the Act, in that its Notice of selection of award was not made in a form set out in annexure 5 of the aforesaid Regulations to the Act.

Notwithstanding the foresaid observations, the Review Panel found that the Application for Review herein relates to a bid that has exceeded its bid validity period in terms of Section 49(1) of the Act. The Review Panel noted that the First Respondent has failed to extend the bid validity as provided for in the Act. Regard had hereto the bid is therefore invalid *ex lege*.

As a result, the Review Panel hereby makes the following order:

1. That the BID NO: SC/RP/OSHTC-03/2021/22 - general valuation for all properties within the local authority area of Oshikuku , is non-existent by operation of law due to the fact that the bid is no longer valid;
2. That the Panel order that the procurement proceedings be terminated and start afresh in terms of Section 60 (f) of the Act; and
3. That this order takes effect as of the 03 March 2022.



DONÈ BRINKMAN
CHAIRPERSON: REVIEW PANEL (IRO THIS MATTER)