REPUBLIC OF NAMIBIA

MINISTRY OF FINANCE

PUBLIC PROCUREMENT REVIEW PANEL

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IN THE PUBLIC PROCUREMENT REVIEW

HELD ON 26 APRIL 2022

IN THE MATTER BETWEEN

Bizzarro Trading Enterprise cc	**1st Applicant**
AND	
Hardap Regional Council	**1st Respondent**
Papiers Trading Enterprise cc	**2nd Respondent**
Wilvi Trading Enterprise cc	**3rd Respondent**
Windhoek Security Services	**4th Respondent**
Umunee Investments cc	**5th Respondent**
O Six Three Investments cc	**6th Respondent**
Apehe Security Services	**7th Respondent**
P.I.S Security cc	**8th Respondent**
EASS Investment cc	**9th Respondent**
Reflector Trading Enterprise cc	**10th Respondent**
Tsara Trading Enterprise cc	**11th Respondent**
LJN Investment cc	**12th Respondent**

Nozipo Trading Enterprise cc	**13th Respondent**
Shikuvule Trading Enterprise cc	**14th Respondent**
E.Kuhlman Investment	**15th Respondent**
Kasawa Legacy Investment cc	**16th Respondent**
Quiver Engineering Service cc	**17th Respondent**
Sarlen Investment cc	**18th Respondent**
Leku Investment cc	**19th Respondent**
Tonschida Trading cc	**20th Respondent**
Shihepo George Investment cc	**21st Respondent**
Amica investment cc	**22nd Respondent**
Leebro Trading Enterprise cc	**23rd Respondent**
AZ Trading cc	**24th Respondent**
Shafi's Investment cc	**25th Respondent**
Dawerob Investment cc	**26th Respondent**
Hutes !Hoas Trading Enterprise cc	**27th Respondent**
!Khawagas Investment cc	**28th Respondent**
Naikaku Trading cc	**29th Respondent**
IMC Investment cc	**30th Respondent**
Hoa-/Hoa Trading cc	**31st Respondent**
Royalty Trading cc	**32nd Respondent**
Goter Investment cc	**33rd Respondent**
Villa's Trading Enterprises	**34th Respondent**
Trustline Trading cc	**35th Respondent**
Thomas Gariseb Sec. Services	**36th Respondent**
PBM Trading Enterprises cc	**37th Respondent**
Khaxatsus Watch Security Services	**38th Respondent**
Lawra Trading Enterprise cc	**39th Respondent**
Cluetrane Trading Enterprise cc	**40th Respondent**
Gotty's Investment cc	**41st Respondent**

Stefmory Investment cc	**42nd Respondent**
Mendu Trading Enterprises cc	**43rd Respondent**
Masgold Security Services cc	**44th Respondent**
Khalah Investment cc	**45th Respondent**
Variant Trading Enterprise cc	**46th Respondent**
Keramens Trading Enterprise cc	**47th Respondent**
Mngola Trading Enterprises cc	**48th Respondent**
Digsa & Cole Trading Enterprise cc	**49th Respondent**
Sanduand Natu Trading cc	**50th Respondent**
Ludeke Investment cc	**51st Respondent**
Namaland Investment	**52nd Respondent**
C.I. S Security Services cc	**53rd Respondent**
Ulie's Trading Enterprises cc	**54th Respondent**
Alnel Trading cc	**55th Respondent**
Tikhoes Trading Enterprises cc	**56th Respondent**
Randicha Investment cc	**57th Respondent**
Doezmahn Investments cc	**58th Respondent**
Desbom Construction cc	**59th Respondent**
K-Hapu Investment cc	**60th Respondent**
Buruxas Trading Enterprises cc	**61st Respondent**
//Gowaseb Enterprise cc	**62nd Respondent**
Kangaru Trading Express cc	**63rd Respondent**
Tomilo Security and Cleaning Services	**64th Respondent**
Gotty Duasab Trading cc	**65th Respondent**
Ndeunyema Investment cc	**66th Respondent**
Namibia Protection Services	**67th Respondent**
Marimulti Investment cc	**68th Respondent**
Xun Xun Investment cc	**69th Respondent**
Des Protection Services cc	**70th Respondent**

Future Reigns Investment cc	**71st Respondent**
Deshen Investments cc	**72nd Respondent**
Fanos Investment cc	**73rd Respondent**
Zayal's Crown Investment cc	**74th Respondent**
Omeya Investment cc	**75th Respondent**
Akuku Investment cc	**76th Respondent**
Chief Nangolo Security Services cc	**77th Respondent**
Wise Choice Investment cc	**78th Respondent**
Six Thousand Security Services cc	**79th Respondent**
Erdav Trading Enterprises cc	**80th Respondent**
JJ Stonebridge Investments cc	**81st Respondent**
Bertha Security Services cc	**82nd Respondent**
Omar Jnr Investment cc	**83rd Respondent**
PK Empire Investment cc	**84th Respondent**
Royal Security Services cc	**85th Respondent**
Gillix Investment cc	**86th Respondent**
CSH Investment cc	**87th Respondent**
KJKTVGMT Trading cc	**88th Respondent**
HR Angels Trading cc	**89th Respondent**
Gracy Trading cc	**90th Respondent**
Security Training College of Namibia	**91st Respondent**
Nau-Aib Investment	**92nd Respondent**
Junior Jonatha Trading cc	**93rd Respondent**
Peaceful Trading Enterprise cc	**94th Respondent**
Snovensski Investment cc	**95th Respondent**
AB Construction & Investment cc	**96th Respondent**
Rotmen Investment cc	**97th Respondent**
Nas Engineering & Construction cc	**98th Respondent**
Sky High Trading Enterprise cc	**99th Respondent**

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

BID NO: NCS/ONB/HRC-001/2021: PROVISION OF SECURITY SERVICES TO HARDAP REGIONAL COUNCIL (DIRECTORAT OF EDUCATION, ARTS AND CULTURE) FOR TWENTY-FOUR (24) MONTHS

Present: **Gilbert Habimana (Chairperson) with Browny Mutrifa, Dr. Trede Reiner, Tulimeyo Kaapanda, Mekondjo Katunga.**

1	**Heard**	**:**	**26 April 2022**
2	**Decided**	**:**	**26 April 2022**

REVIEW PANEL ORDER

Having heard **Mr. Patrick Witbooi** for the Applicant, **Mr. Gerhard Ndafenongo** for the First Respondent, and other interested parties who were joined in terms of Regulation 42(5) (a) of the Public Procurement Regulations (hereinafter referred to as the "Regulations") of the Public Procurement Act , No. 15 of 2015 (hereinafter referred to as the "Public Procurement Act") and having read the application for Review and other documents filed as part of the record, the Review Panel made the following findings and made the subsequent order hereunder towards the end.

1. GROUNDS OF THE REVIEW APPLICATION

The Applicant stated that his company was disqualified on the first evaluation because he scored below 60% on the technical evaluation. The Applicant further stated that in the ~~second~~ re-evaluation he was disqualified because he did not attached the municipality water bill which he confirmed that he submitted it with the bidding document.

The Applicant urged that Umunee Investment cc has entered a wrong contract duration on page 10 according to the previous evaluation report but with the new re-evaluation Umunee Investment went through to be one of the selected bidder while his company failed at the technical evaluation on the first evaluation.

2. RESPONDENT

The Respondent stated that the new Bid Evaluation Committee used a new technical evaluation sheet according to the criteria in the bidding document when they did the re-evaluation.

The Respondent confirmed that the Applicant's Municipality water bill was attached and that was the error made by the Procurement Committee (PC). The Respondent stated that the Applicant was not disqualified because of the water bill as mentioned in the Executive Summary of the Bid Evaluation Report, but he was disqualified because of not scoring the required 60% on the technical evaluation.

3. FINDINGS OF THE REVIEW PANEL

The Review Panel found that:

- The Public Entity misdirect itself by disqualifying the Applicant based on the water bill that was attached in the bidding document.

1. According to the record at hand, out of 101 bidders, only seven bidders responded to the Public Entity's letter of bid validity period extension, with six bidders consenting to the extension of the bid period and one not consenting From the twelve selected bidders only four agreed in writing to extend the bid validity period. This is violation of Section 49 (2) and (3) of the Public Procurement Act, 2015 and led the whole subsequent process of selection for award to be flawed.
2. The Public Entity erred in running a bidding process of a non-consultancy services procurement which is above their threshold as prescribed by Section 8 (a) of the Procurement Act read with Regulation 2.
3. The Public Entity used again criteria and methodology that were not made known to the bidders in the bidding document, specifically technical criteria.
4. The Public Entity awarded to a bidder of their choice a site which was not advertised;
5. Public Entity decided to award a site which was not responsive to the criteria set in the bidding documents and thus was not on BEC compliance list;
6. The Notice for Selection of Award does not cover seven days as per Regulation 38 (2) (d) but ten days.

4. DECISION OF THE REVIEW PANEL

In the result, the Review Panel order that:

1. The application is upheld.
2. In terms of Section 60 (c) of the Public Procurement Act, 2015, the bidding process in question here is set aside in whole with the following instruction:
   The Public Entity must refer this tender to the Central Procurement Board of Namibia for processing as required by Section 8(a) of the Public Procurement Act, 2015 and Regulation 2, Annexure 1 of the Regulations.
3. This Order is effective 26 April 2022.

REPUBLIC OF NAMIBIA
Public Procurement Review Panel
Chairperson
MINISTRY OF FINANCE

GILBERT HABIMANA
CHAIRPERSON: REVIEW PANEL (i.r.o. this matter)