



REPUBLIC OF NAMIBIA

MINISTRY OF FINANCE AND PUBLIC ENTERPRISES

PUBLIC PROCUREMENT REVIEW PANEL SECRETARIAT

Tel.: (00 264 61) 209 9017

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 14 FEBRUARY 2023

IN THE MATTER BETWEEN

WINDHOEK SECURITY SERVICERS CC

APPLICANT

AND

CENTRAL PROCURMENT BOARD OF NAMIBIA

1ST RESPONDENT

KIMPERT INVESTMENT CC

2ND RESPONDENT

ONYEKA PROTECTION SERVICES CC

3RD RESPONDENT

OMEYA INVESTMENT CC

4TH RESPONDENT

OMLE SECURITY SERVICES CC

5TH RESPONDENT

SHIKUVULE TRADING CC

6TH RESPONDENT

NAHOLE SECURITY SERVICES AND DEBTS COLLECTION CC

7TH RESPONDENT

NAMIBIAN PROTECTION SERVICES CC

8TH RESPONDENT

SIRKA INVESTMENT CC

9TH RESPONDENT

NGATUKONDJE TRADING CC	10TH RESPONDENT
EXTRA DEFENCE PROTECTION SERVICES CC	11TH RESPONDENT
SIX THOUSAND SECURITY SERVICE CC	12TH RESPONDENT
DEGRANDE INVESTMENT CC	13TH RESPONDENT
TUVINA INVESTMENTS (PTY) LTD	14TH RESPONDENT
PIS SECURITY SERVICES CC	15TH RESPONDENT
INDEPENDENCE SERCURITY SERVICES CC	16TH RESPONDENT
SHINE TECHNOLOGY SOLUTIONS (PTY) LTD	17TH RESPONDENT
CHIEF NANAGOLO SECURITY SERVICES CC	18TH RESPONDENT
TORRA INVESTMENTS CC	19TH RESPONDENT
AMON SN INVESTMENTS CC	20TH RESPONDENT
TRIPPLE ONE INVESTMENTS CC	21ST RESPONDENT
CHIPPA TRADING ENTERPRISES CC	22ND RESPONDENT
BERTHA SECURITY SERVICES CC	23RD RESPONDENT
MAYFIELD PROCTECTION SERVICES CC	24TH RESPONDENT
OMAMBUDU SECURITY SERVICES CC	25TH RESPONDENT
EWERENST TRADING CC	26TH RESPONDENT
NALKAL SECURITY SERVICES CC	27TH RESPONDENT
ROYAL SECURITY FAMILY INVESTMENT CC	28TH RESPONDENT
RUBICON SECURITY SERVICE	29TH RESPONDENT
SECURITY TRAINING COLLEGE OF NAMIBIA CC	30TH RESPONDENT



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

BID NO: NCS/OAB/CPBN-05/2022 – PROVIDING OF SECURITY AND CASH-in-TRANSIT SERVICES TO TELECOM NAMIBIA FOR 36 MONTHS

Present: Michael Gaweseb (Chairperson), with Ehrenfried Honga, Helen Amupolo, Paulina Iyambo and Selma-Penna Utonih concurring.

Heard : 14 February 2023

Decided : 14 February 2023

REVIEW PANEL ORDER

The meeting took place using both physical and virtual modes.

Having heard Mr. Hafeni Hamunyela representing the Applicant, and Ms. N. Davids representing the Respondent, and having read the application for review in terms of Section 59(1) of the Public Procurement Act, 2015 (Act No.15 of 2015) (hereinafter referred to as the "Act"), read with Regulation 42 of the Public Procurement Regulations: 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. BACKGROUND

- 1.1 The First Respondent published on 25 August 2022 the invitation for bids with a closing date of 07 October 2022. On the closing day 14 October 2022 bids were opened. The evaluation commenced on 17 October 2022 until 01 December 2022.
- 1.2 The First Respondent informed the successful and unsuccessful bidders on 11 January 2023 by notice for selection of award. The reason for disqualifying the Applicant was that the Applicant did not initial the table of content, list of towns where services were rendered and one testimonial letter.
- 1.3 The Applicant requested the First Respondent to reconsider the decision on 19 January 2023 and received the final response on 30 January 2023 confirming the decision.
- 1.4 On 1 February 2023 the Applicant applied for review at the Review Panel Secretariat.

2. APPLICANT'S GROUNDS FOR REVIEW

- 2.1 The Applicant stated that they were unlawfully disqualified for not providing signed or initialed documents listed as the Table of Content, List of Towns where services were rendered and a Testimonial Letter.
- 2.2 The Applicant indicated possible collusion amongst bidders, whereby according to the notice of selection of award that Bidder No.3 Bidder No. 7, Bidder No. 12 and Bidder No. 18 appear to operate from the same office address or complex listed as Sun Square Mall Ondangwa.
- 2.3 The Applicant further narrated that Bidder No. 3 and Bidder No. 18 appear to share the same office or Unit and appear to have a relationship with each other directly or through sharing the same offices that puts them in a position to access or influence each other's bids in terms of clause 6.1(d) of the ITB narrated by the Applicant. However, the Applicant did not expand on the latter matters during hearing deliberations.

3. RESPONDENT'S RESPONSE TO THE APPLICATION FOR REVIEW

- 3.1 The First Respondent stated that the disqualification is provided for by Preliminary/Administrative Requirement Item 2.2 (ITB 19.2) on page 29 of the bidding document. The ITB requires that all the pages of the bid should be signed and /or initialed by the person or persons authorized on behalf of the bidder which the Applicant failed to do.
- 3.2 The First Respondent further stated that the bolded note on page 30 of the bidding document, just under the Preliminary/Administration Requirement Table is important, which states that a bidder's bid will be deemed non-responsive and excluded from further evaluation if it was found to be non-responsive to any of the administrative requirements.

4. FINDINGS OF THE REVIEW PANEL

- 4.1 The Applicant failed to initial the required pages as per ITB 19.2, Item 2.2 on page 29 of the bidding document. The ITB requires that all the pages of the bid be signed and/or initialed which the applicant failed to do.
- 4.2 The First Respondent violated Regulation 7(3) of the Public Procurement Act, Act 15 of 2015 by starting with the evaluation period 17 October 2022 until 01 December 2022, however the Respondent provided proof with the extension letter dated 15 November 2021 signed by the Minister of Finance that extension was granted up to 120 days from the date after the opening of the bids.


5. DECISIONS OF THE REVIEW PANEL

The findings of the Review Panel lead to the following decision:

5.1 In terms of Section 60 (e) of the Public Procurement Act 15 of 2015, the Review Panel confirm the decision of the First Respondent (Board).

5.2 The effective date of this Order is 14 February 2023.

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Public Procurement
Review Panel
MICHAEL GA WESEB
Chairperson
CHAIRPERSON: REVIEW PANEL (I.R.O. THIS MATTER)

The seal is circular with the text "REPUBLIC OF NAMIBIA" at the top and "MINISTRY OF FINANCE" at the bottom. In the center, it reads "Public Procurement Review Panel" and "Chairperson". A signature is written over the seal.