REPUBLIC OF NAMIBIA

MINISTRY OF FINANCE AND PUBLIC ENTERPRISES

PUBLIC PROCUREMENT REVIEW PANEL

Tel. : (00 264 61) 209 9017

Head Office,
Moltke Street,
Private Bag 13295
Windhoek
Namibia

Enquiries: **H. Klukowski**

IN THE PUBLIC PROCUREMENT REVIEW HEARING

HELD ON 07 JULY 2023

IN THE MATTER BETWEEN

BERTHA SECURITY SERVICES CC	**APPLICANT**
AND	
NAMIBIA POWER CORPORATION (PTY) LTD AND OTHERS	**1ST RESPONDENT**

HJ

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

BID NO: NCS/OAB/NPWR/03/2023- PROVISION OF SECURITY SERVICES TO NAMPOWER PROPERTIES COUNTRY WIDE FOR A THREE-YEAR PERIOD

Present: Gilbert Habimana (Chairperson), with Ehrenfried Honga, Browny Mutrifa, concurring. Selma-Penna Utonih and Mekondjo Katunga

Heard : 07 July 2023 (the date above is indicating the 23 June and this one is 7 July)
Decided : 07 July 2023

REVIEW PANEL ORDER

---

1. INTRODUCTION

A hybrid meeting was held, using both physical and virtual modes.
Having heard **Mr. N. Ndaitwah** representing the Applicant, and **Mr. V. Gabriel** representing the 1st 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 of the Public Procurement Act, 2015 (hereinafter referred to as the "Regulations").

Having read the application for review and other documents filed as part of the record, the Review Panel made the following findings and subsequent order.

2. Points *in limine* raised on 07 July 2023 by the Chairperson

At the commencement of the review proceedings, the Chairperson enquired on whether the Applicant served the application for review on the First Respondent and whether the applicant had submitted their bid to the Respondent.

3. Applicant's response to the points *in limine*

The Applicant responded that the application for review was not served on the respondent but Applicant wanted to bring to the attention of the review panel their understanding of the definition of a bidder. According to the Applicant, they considered themselves as a bidder because they bought the bidding documents advertised by the Respondent, with the intention to partake in the bidding process but applicant was late for submission.

4. RESPONDENT'S response to at the *point in limine*

4.1 The respondent stated that the applicant has not submitted any bid to the Respondent because they were late.

4.2 The Respondent also noted that the Applicant attempted to submit their documents but they were late. Therefore the applicant's assertion that they were prevented from submitting their bid because of the clarifications of 08 June 2023 is fallacious. The Applicant missed the deadline of submitting their bid.

5. FINDINGS OF THE REVIEW PANEL

5.1 The Review Panel found that in terms of section 1 of the Act, Applicant's review application is based on a non-existent bid.

5.2 Therefore, the application for review is not properly before the Review Panel.

6. DECISIONS OF THE REVIEW PANEL

In the premise, the Review Panel makes the following order:

6.1 That the review application filed by the Applicant in respect of **BID NO: NCS/OAB/NPWR-03/2023** – Provision of Security Services to Nampower Properties (Countrywide) for a three (3) year period, is dismissed in terms of section 60 (a) the Act.

6.2 The effective date of this Order is 07 July 2023.

REPUBLIC OF NAMIBIA
Public Procurement Review Panel
Chairperson
MINISTRY OF FINANCE

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