



REPUBLIC OF NAMIBIA
MINISTRY OF FINANCE

PUBLIC PROCUREMENT REVIEW PANEL

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IN THE PUBLIC PROCUREMENT REVIEW
HELD ON 16 FEBRUARY 2021
IN THE MATTER BETWEEN

DCS RAA

APPLICANT

AND

OFFICE OF THE AUDITOR-GENERAL
FH TJIVAU & PARTNERS
BDO NAMIBIA
GRAND NAMIBIA

1st RESPONDENT
2nd RESPONDENT
3rd RESPONDENT
4rd RESPONDENT

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

**BID NO: AUDIT OF THE MVA FUND 2019/2020 FINANCIAL YEAR BID NO.
W/RB/04-06/2019.**

**Present : Paulina Kandali Iyambo (Chairperson) with Brownly Mutrifa, Amon
Ngavetene, Selma-Penna Utonih and Dr.Petrina Johannes concurring.**

Heard : 16 February 2021

Decided : 24 February 2021

REVIEW PANEL ORDER

Having heard Ms. Alvine Samuel representing DCS Registered Accountants & Auditors (the Applicant), Mr. Goms Manette on behalf of 1st Respondent, as well as other joined interested parties, and other documents filed of record, the Review Panel observed the following:

1. *That the 1st Respondent acted contrary to Section 47 (1) of the Act read with Regulation 35 when it set a deadline for the submission of bids, which is less than 30 days from the date of publication of such invitation;*
2. *Further that there was non-compliance by the 1st Respondent with Regulation 7 (2) when it failed to commence with the process of examination and evaluation of bids within 5 days after the opening of bids.*
3. *That the 1st Respondent acted contrary to Regulation 42 (4) when it fails to submit a Replying Affidavit to the allegations made by a bidder, within five days upon being served with the copies of review application.*
4. *That the respondent contradicted themselves by indicating that their internal policy does not allow for consecutive re-appointment of consultants for purposes of providing consultancy services, yet in this case went against their own internal policy when they approached the previous successful bidder to perform the same functions on behalf of their client MVA fund.*
5. *That the 1st respondent acted contrary to Section 25 (4) (a) and (b) of the Act which relates to the initial stages in the procurement process commencing with need identification followed by the certification of availability of funds before the commencement of each procurement process; The Panel noted that due diligence lacked on the part of the respondent when they signed a contract and later discovered there were no funds for the performance of the contract.*

Notwithstanding the anomalies observed above, which occurred during the procurement process that led to the contract cancellation of the bid concerned herein, the Review Panel noted that the respondent after termination of the contract in terms of Section 63 of the Act, re-assigned the same assignment to the previous service provider, which hampers the Review

Panel's ability to offer an effective remedy against the actions of the respondent, despite the fact that the applicant may have a valid case.

6. This matter is therefore to be elevated to the Public Procurement Policy Unit for purposes of rendering further guidance on the matter.

In the premises, the Review Panel make the following order:

1. Dismiss the Application, in terms of Section 60 (a) of the Act,
2. The matter to be brought to the attention of the Public Procurement Policy Unit



MS. Paulina-Kandali Iyambo

CHAIRPERSON: REVIEW PANEL (Chairperson)

