



REPUBLIC OF NAMIBIA
MINISTRY OF FINANCE

PUBLIC PROCUREMENT REVIEW PANEL

Tel. : (00 264 61) 209 2319

Fax : (00 264 61) 236454

Head Office,
Moltke Street,
Private Bag 13295,
Windhoek

Enquiries: M. R. Jonga

IN THE PUBLIC PROCUREMENT REVIEW
HELD ON 09 FEBRUARY 2021, IN WINDHOEK, NAMIBIA

IN THE MATTER BETWEEN

**BICON NAMIBIA CONSULTING ENGINEERS &
PROJECT MANAGERS (PTY) LTD**

APPLICANT

AND

NAMIBIA POWER CORPORATION (PTY) LTD

RESPONDENT

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

BID NO: SC/RP/NPWR-06/2021: PROVISION OF ENGINEERING CONSULTANCY
SERVICES FOR NAMPOWER RURAL ELECTRIFICATION FOR A THREE (3) YEAR
PERIOD.

Present: Michael Gaweseb (Chairperson) with Kenandei Tjivikua, Mekondjo
Nghipandulwa, Tulimeyo Kaapanda and Done Brinkman concurring.

Heard : 09 February 2021

Decided : 09 February 2021

REVIEW PANEL ORDER

Having heard Mr. Angula Nashandi for the Applicant, and Mr. Kahenge S. Haulofu for the Respondent, and other interested parties who attended the physical and virtual hearing proceedings; and further having read the Application for Review and other documents filed as part of the record, the Public Procurement Review Panel subsequently found the following:

The following two grounds formed the basis of the Review Application;

1. *Failure by the Applicant to submit audited financial statements as per Instructions to Bidders 5.2 (a) Table 1. (12) which states the following:*

Submit copies of the Annual Financial Statements or its equivalent for close corporations for the last three (3) years. In the event that the preceding financial year financial statements is not out, then the last 3 years. At least two of the Financial Statements must be duly signed off by an auditing firm or a managing member.

2. *Failure by the applicant to provide relevant reference letters as per Instructions to Bidders ITB 5.2 (a) (14 which reads:*

Submit at least reference letters from clients which serve as proof (reference letters from previous clients) of past successful rendered work in respect of Rural Electrification Consultancy Services in the last 3 years. (Track record of past projects) The track record must indicate the bidder has successfully completed a minimum of three reference projects in the last 3 years. Letters must indicate where work was done, list the project scope and cost and whether satisfactorily completed and attach a copy of a duly certified completion certificate. The reference letter must also indicate who the project manager was for the client with the full name and position.

The Review Panel having scrutinized the summarised financial statements as well as the reference letters, noted the following:

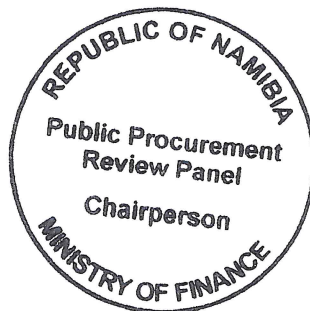
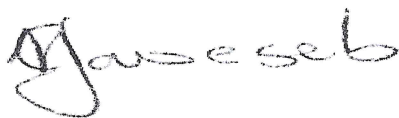
- a. Financial statements comprises of five components which are Statement of Comprehensive Income, Statement of Financial Position, Statement of Profit and Loss, Cash Flow Statement and Notes to Financial Statements. The Applicant submitted a summary of financial statements, which does not satisfy the provisions of ITB 5.2 (a) (12) as a result the bidder is non-responsive to this ITB.

The Review Panel has established that the Applicant has submitted three reference letters for electrical related work done in what the Applicant considers as "rural areas".

The Review Panel took note of the fact that both the Applicant and Respondent had different understanding of the word "rural" and the ITB may have created ambiguity in the absence of a formally gazette definition of "rural" in the context of rural electrification. Given the above, the Review Panel noted that there was room for various interpretations, thus the Review Panel concurred in regards to violation of Section 52 (9) which requires bids to be evaluated according to the criteria and methodology set out in the bidding document.

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

1. The Review Panel upheld the decision of the Respondent.
2. The Application is dismissed in terms of Section 60 (a).



MR. MICHAEL GAWESEB
CHAIRPERSON: PUBLIC PROCUREMENT REVIEW PANEL (i.r.o. this matter)