



REPUBLIC OF NAMIBIA

MINISTRY OF FINANCE

PUBLIC PROCUREMENT REVIEW PANEL

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IN THE PUBLIC PROCUREMENT REVIEW

HELD ON 18 FEBRUARY 2021

IN THE MATTER BETWEEN

LESEDI NUCLEAR SERVICES (PTY) LTD &

OTESA CIVIL ENGINEERING (PTY) LTD

AND

CENTRAL PROCUREMENT BOARD OF NAMIBIA

NAMIBIA POWER CORPORATION (NAMPOWER)

APPLICANT

1ST RESPONDENT

2ND RESPONDENT

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

BID NO: W/EOI/CPBN-01/2020: PRE-QUALIFICATION OF A CONTRACTOR FOR THE ENGINEERING PROCUREMENT & CONSTRUCTION (EPC) OF THE ANIXAS II POWER STATION.

Present: Mekondjo Nghipandulwa (Chairperson) with Tulimeyo Kaapanda, Michael Gaweseb, Ono-Robby Nangolo and Dr. Petrina Johannes concurring.

Heard : 18 February 2021

Decided : 24 February 2021

REVIEW PANEL ORDER

Having heard Mr. Trevor Brockerhof on behalf of the Applicant, Mr. Festus Hamukwaya 1st Respondent (Central Procurement Board of Namibia) other interested parties who attended the hearing. Having read the Application for Review and other documents filed as part of the record, the Review Panel subsequently find the following:

1. That the applicant acted contrary to the provisions of ITA 5.5 read with Section 50 of the Act, when they failed to submit original or certified copies of mandatory documents.
2. That the Respondent acted contrary to the Provisions of Section 76 of the Act when the Bid Evaluation Committee failed to state that they were unable to declare interest in regards to the applicant's bid whose hard copy had a missing founding statement.
3. That the Respondent applied the evaluation criteria partially and selectively as one of the bidders Sinohydro Corporation Limited did not comply with the full mandatory documents provision, yet was selected for award.
4. That the Respondent had an Instructions to Applicants (ITA 22.1) bid condition contrary to procurement norms and in contravention of Section 2 of the Act, which allowed submission of missing documents after the closure of the bid, an action that compromised the integrity of the procurement process.
5. The Review Panel observed that there are discrepancies between the softcopy submitted by the Applicant and Respondent to the Review Panel, due to the handling of evidence relating to the software discrepancies. The Review Panel is not in the

position to admit such evidence and conclusively express itself, in a satisfactory manner and as a result, do not express itself with regards to such discrepancies.

Having due regard to the anomalies characterised above, which occurred during the procurement process that led to the notice for selection for award of the bid concerned herein, the Review Panel resolved as appearing below.

In the result the Review Panel make the following order:

1. That the application against the Respondents is upheld.
2. In the premise and in accordance with Section 60(f) the Review Panel ordered that the procurement proceedings be terminated and start afresh.



MEKONDJO NGHIPANDULWA
CHAIRPERSON: REVIEW PANEL (IRO THIS MATTER)

