



**REPUBLIC OF NAMIBIA**  
**MINISTRY OF FINANCE**

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**PUBLIC PROCUREMENT REVIEW PANEL**

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**IN THE PUBLIC PROCUREMENT REVIEW HEARING**  
**HELD ON 14 APRIL 2021**

**IN THE MATTER BETWEEN**

**SHIKUVULE TRADING CC**

**T/A SHIKUVULE SECURITY SERVICES**

**ONYEKA PROTECTION SERVICES**

**1<sup>ST</sup> APPLICANT**

**2<sup>ND</sup> APPLICANT**

**AND**

**OSHANA REGIONAL COUNCIL**

**RESPONDENT**

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

**BID NO:** NCS/ONB/ONARC-DEAC-022/2020/2021: PROVISION OF SECURITY SERVICES FOR OSHANA REGIONAL COUNCIL DIRECTORATE OF EDUCATION, ARTS AND CULTURE.

**Present** Kenandei Tjivikua (Chairperson) with Brownly Mutrifa, Tulimeyo Kaapanda, Mekondjo Nghipandulwa and Hellen Amupolo concurring.

**Heard** : 14 April 2021

**Decided** : 15 April 2021

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**REVIEW PANEL ORDER**

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Having heard Mr. Jekonia Nekoto on behalf of the 1<sup>st</sup> Applicant, Mr. Ashley Brendell on behalf of the 2<sup>nd</sup> Applicant, Ms. Theopolina Mbangula for the Respondent, and other interested parties who attended the hybrid physical and virtual Review Hearing proceedings;

Further having read the Application for Review and other documents filed as part of the record, the Public Procurement Review Panel subsequently finds the following:

**GROUNDINGS FOR REVIEW**

- 1) The 1<sup>st</sup> Applicant stated that it is very disappointing to hear that it did not attached some documents while they are 100% sure that they have attached their 3 (three) vehicle registration certificates. In this instance, they requested the Review Panel to verify its bid document because the bid summary provided by the Respondent, under column 14, indicates that it did not attach its vehicle registration certificates.
- 2) The 2<sup>nd</sup> Applicant alleged that it has learned on 6 April 2021 that the selection for award was already done but that the Respondent failed to inform it in violation of Section 55(4) of the Public Procurement Act, Act 15 of 2015 (hereinafter referred to as the “Public Procurement Act” read with Regulation 38(1).
- 3) The 2<sup>nd</sup> Applicant alleged that the Respondent violated Regulation 33(1)(d) since there was no mention of mandatory documents in their bid document and by this further violated the Order issued by the Review Panel Order on 27 October 2020.

- 4) The 2<sup>nd</sup> Applicant further alleged that the Respondent violated Regulation 38(2)(d) as bidders were not given the full 7 (seven) days stand still period to launch their objections with the public entity and further violated the item 3 of Order issued by the Review Panel Order on 2 October 2020 as they only learned on 6 April 2021 that the selection for award was already done and they did not receive any notification.

#### **RELIEF SOUGHT FROM THE REVIEW PANEL**

- 5) The 1<sup>st</sup> Applicant requested the Review Panel to verify its bidding document.
- 6) The 2<sup>nd</sup> Applicant requested the Review Panel to set aside this procurement and order the Respondent to start afresh.

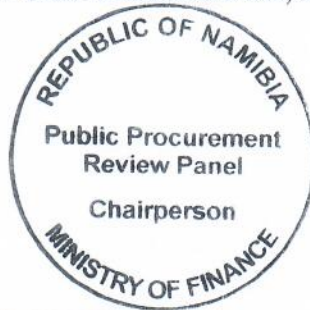
#### **FINDINGS OF THE REVIEW PANEL**

- 7) The Review Panel established that there was no violation of Regulation 33(1)(d) as it was a requirement in terms of the Instruction to Bidders (ITB) 13.1 (d), page 25, to submit proof of roadworthiness of vehicles assigned as an emergency. It became transparent during the Hearing that the 1<sup>st</sup> Applicant was under the impression that “proof of roadworthiness” was same as “proof of ownership” and did not submitted proof of roadworthiness of vehicles.
- 8) The Review Panel could not find any evidence of the violation of Regulation 38(2) (d) because the proof of their notice in terms of Section 55 (4) (b) of the Public Procurement Act carried such a notice.
- 9) The Review Panel found that the requested documents were sufficient to derive the required information in order to arrive at the scores.
- 10) The Review Panel established that the awarded bidder has complied with requirement to sign an undertaking to pay minimum wages in terms of Labour Act 33 (138). How the awarded bidder will remunerate its workers is not disputed and if it does not honour that obligation than the relevant Act has provisions to enforce compliance.

## **DECISION OF THE REVIEW PANEL**

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

Applications for Review lodged with the Review Panel on April 2021 are dismissed in terms of Section 60(a) of the Public Procurement Act, 2015 (Act No. 15 of 2015).



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**Kenandei Tjivikua**

**CHAIRPERSON: PUBLIC PROCUREMENT REVIEW PANEL (i.r.o. this matter)**