



**REPUBLIC OF NAMIBIA**

**MINISTRY OF FINANCE AND PUBLIC ENTERPRISES**

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**PUBLIC PROCUREMENT REVIEW PANEL**

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**IN THE PUBLIC PROCUREMENT REVIEW HEARING**

**HELD ON 21 February 2025**

**IN THE MATTER BETWEEN**

**SEBKE CIVIL CONTRACTS**

**APPLICANT**

**AND**

**OKONGO VILLAGE COUNCIL  
OTHERS**

**1<sup>st</sup> RESPONDENT &**

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

**BID NO: W/ONB/OKVC-01/2024/25 – PROCUREMENT OF THE CONSTRUCTION  
OF MUNICIPAL SERVICES (ROADS) IN OKONGO EXTENSION 1 & PROPER  
(PHASE 6)**

**Coram:** Paulina Kandali Iyambo (Chairperson), with Selma P. Utonih, Ehrenfried Honga , Tulimeyo Kaapanda and Gilbert Habimana.

**Heard:** 21 February 2025

**Decided:** 21 February 2025

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## ORDER

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### 1. INTRODUCTION:

- 1.1 A hybrid meeting was held, using both physical and virtual modes.
- 1.2 Having heard **Mr. Marthino Olivier**, for the Applicant, **Ms. Ndaendelao Sheetekela**, for the Respondent, and other interested parties who were joint in terms of sub-regulation 42(5)(a) of the Public Procurement Regulations (hereinafter referred to as “the Regulations”) to the Public Procurement Act, 2015 (Act No. 15 of 2015) (hereinafter referred to as “the Act”) and;

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 hereunder towards the end.

### 2. GROUNDS FOR THE REVIEW AS CONTAINED IN THE APPLICANT’S APPLICATION FOR REVIEW:

- 2.1 The Applicant stated in its application for review that it is currently have 35 years in the construction industry where it has mainly done projects which are civil construction projects.
- 2.2 The Applicant further submitted that it has received a letter dated 17 December 2024 in which the Applicant was notified that an arithmetical error was identified. In that the Applicant’s bid amount was actually N\$ 1 539.745.96 which the Applicant has requested details on and have received none to date.
- 2.3 The Applicant stated that it doesn’t agree with the process followed in that the respondent when identifying an error should not have done so during the bid evaluation as at that stage bidders have already submitted their bids. This was not procedurally done.

### 3. POINTS IN LIMINE:

- 3.1 The Chairperson requested the Parties to raise any points in *limine* which they may have before the merits of the matter are heard. The Applicant submitted that there is no Replying affidavit from the 1<sup>st</sup> Respondent, the Applicant was accorded an opportunity to peruse through the First Respondent's Replying affidavit. The 1<sup>st</sup> Respondent indicated that it has no preliminary points to raise. The Chairperson further explained the sequence of events by referring the Parties to Section 55 of the Public Procurement Act and specifically subsection 4A-4D and further explained that a bidder who is aggrieved by a decision or action of the public entity must exhaust remedies under this section before applying for review under Section 59(1) of the Public Procurement Act.
- 3.2 The Review Panel determined that the application for review was received on 10th February 2025, one day after the Applicant submitted its application for reconsideration. The Panel found that the application was premature and contrary to Section 55(4D) of the Act. Furthermore, the Review Panel concluded that the Applicant provided no substantial defense regarding the prematurity of its application.

#### 4. FINDINGS OF THE REVIEW PANEL

Having heard the Parties at the Review Panel Hearing, having read all documents and having considered the written submissions of the Parties, the Review Panel made the following findings:


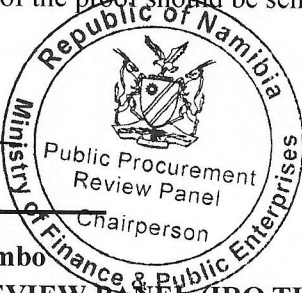
- 4.1 There was a violation of Section 55 (4D) of the Public Procurement Act, as the Applicant did not exhaust remedies under this section before applying for review under section 59 (1) of the Act.

#### 7. DECISIONS OF THE REVIEW PANEL:

Based on the above, the Review Panel orders the following:

Interms of Section 60 (a) of the Public Procurement Act, the Review Panel hereby dismiss the application

3. The Public Entity shall provide proof of implementation of this Order to the Procurement Policy Unit within thirty (30) days from receipt date of this Order. A copy of the proof should be send to the Review Panel Secretariat.

  
  
**Paulina Kandali Iyambo**  
**CHAIRPERSON: REVIEW PANEL (IRO THIS MATTER)**