



REPUBLIC OF NAMIBIA

MINISTRY OF FINANCE AND PUBLIC ENTERPRISES

PUBLIC PROCUREMENT REVIEW PANEL

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IN THE PUBLIC PROCUREMENT REVIEW HEARING

HELD ON 11 FEBRUARY 2025

IN THE MATTER BETWEEN

OTIKY INVESTMENT CC

APPLICANT

and

OMUSATI REGIONAL COUNCIL

1st RESPONDENT

AND OTHER RESPONDENTS

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

BID NO: NCS/RFQ/ORC-04/2024/2025 – REQUEST FOR SEALED QUOTATIONS TO TRANSPORT DROUGHT RELIEF FOOD IN OMUSATI REGION – TIME BASED

Coram: Kenandei Tjivikua (Chairperson), with Ehrenfried Honga, Fillemon Wise Immanuel, Hellen Amupolo and Selma-Penna Utonih

Heard: 11 February 2025

Decided: 11 February 2025

REVIEW PANEL ORDER

1. INTRODUCTION:

A hybrid meeting was held using both physical and virtual modes.

Having heard Mr. Manuel Kazondana for the Applicant, and Mr. Gervasius Kashindi for the 1st Respondent, and having read the applications for review in terms of Section 59(1) of the Public Procurement Act, 2015 (Act No.15 of 2015) as amended (hereinafter referred to as the “Act”), read with Regulation 42 of the Public Procurement Regulations: Public Procurement Act, 2015 (hereinafter referred to as the “Regulations”); and

Having read the applications for review and other relevant documents filed as part of the records, the Review Panel made the following findings and subsequent order with respect to the matter.

2. GROUNDS FOR THE REVIEW AS CONTAINED IN THE APPLICATION FOR REVIEW:

- 2.1 The Applicant received the executive summary on 9 December 2024 without the notice for the selection of the award in which they were deemed unsuccessful on the grounds of not meeting the requirements for emergency purposes (reserve truck) of similar capacity as specified in the bid document.
- 2.2 On 18 December 2024, the Applicant requested reconsideration on the reason for not being successful as it considered that it was compliant with the directive issued by the Office of the Prime Minister on 27 October 2024, which specified the number of 3 tons and above.
- 2.3 The Applicant further argued that they complied with the criteria by submitting a main truck with a carrying capacity of 7.2 tons, which exceeds the minimum requirement of 5 tons. The Applicant further submitted a vehicle, as a reserve truck for emergency purposes, with a carrying capacity of 3.6 tons, which falls outside the specified range of 5 tons and above as outlined in the bid document.

3. 1ST RESPONDENT’S SUBMISSIONS AT THE REVIEW PANEL HEARING:

- 3.1 As a point in *limine*, the 1st Respondent stated that the Applicant did not serve copies of the review application lodged with the Review Panel Secretariat on them.

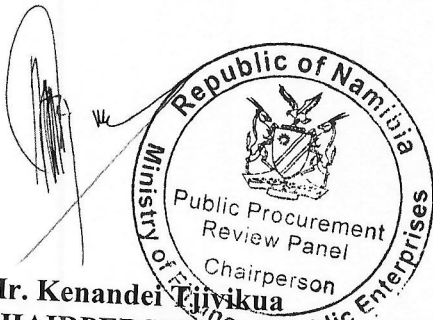
4. FINDINGS OF THE REVIEW PANEL:

- 4.1 At the hearing, the Review Panel requested the Applicant to provide proof that it served the 1st Respondent with a copy of the review application and, on the request of the Applicant, adjourned the hearing to give it time to consult and revert. After the resumption of the hearing, the Applicant could not provide proof.
- 4.2 Regulation 42(3) stipulates that: *“The supplier or bidder must lodge the review application with the Review Panel and serve copies of the review application on a public entity referred to in subregulation (1) and on any other interested person.*

5. DECISIONS OF THE REVIEW PANEL:

Having considered the above, the Review Panel makes the following order:

- 5.1 In terms of Section 60(a) of the Public Procurement Act, 2015, as amended, the application is dismissed.
- 5.2 In terms of Section 60(e), the decision of the 1st Respondent is confirmed.
- 5.3 The 1st Respondent must provide proof of implementation of this Order to the Public Procurement Policy unit within thirty (30) days from the receipt of this Order, with a copy of such a report sent to the Review Panel Secretariat.
- 5.4 The effective date of this Order is 11 February 2025.



Mr. Kenandei Tjivikua
CHAIRPERSON: REVIEW PANEL (for this matter)