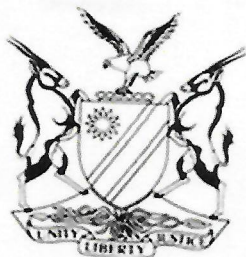


**REPUBLIC OF NAMIBIA**



**PUBLIC PROCUREMENT REVIEW PANEL**

**Case number: RA/01-09/2025**

**ORDER**

In the matter between:

**SEBKE CIVIL CONTRACTORS CC**

**APPLICANT**

and

**DIVUDU VILLAGE COUNCIL**

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

**Citation:** *Sebke Civil Contractors cc v. Divudu Village Council (RA/01-09/2025)*

**Coram:** Ehrenfried Honga (Chairperson), Hendricus Beukes, Titus Kanyanda  
Isabella Nowases and Rosemary Tjombonde

**Heard: 15 October 2025**

**Decided: 15 October 2025**

**IN A REVIEW APPLICATION MADE IN TERMS OF SECTION 59 OF THE  
PUBLIC PROCUREMENT ACT, ACT NO 15 OF 2015, AS AMENDED**

[BID NUMBER: W/ONB/DVC-02/2024/25- FOR CONSTRUCTION OF STREETLIGHTS,  
GRAVEL ROADS, SEWER AND WATER SERVICES IN DIVUNDU]

**1. INTRODUCTION**

- 1.1 The Review Panel was constituted in terms of section 58(1) of the Public Procurement Act, 2015, as amended, to hear an application lodged by Sebke Civil Contractors cc (hereinafter referred to as the "Applicant"), against Divundu Village Council, a public entity (hereinafter referred to as the "1<sup>st</sup> Respondent").
- 1.2 Having read the respective applications 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.
- 1.3 During the hearing, The Applicant was represented by Martino Olivier Legal Practitioners and the First Responded was Represented by the Chief Executive Officer of the Divundu Town Council, Mr. AN Maghumbo.

**2. GROUNDS FOR REVIEW BY THE APPLICANTS**

- 2.1 The review application arises from a bid issued by the 1<sup>st</sup> Respondent for the *Construction of Streetlights, Gravel Roads, Sewer and Water Services in Divundu*. The Applicant lodged an application for review, challenging the 1<sup>st</sup> Respondent's decision to award the contract to Capital Technical Services CC.
- 2.2 The Applicant alleged, among others, that the 1<sup>st</sup> Respondent failed to comply with Section 55(4)(b) of the Public Procurement Act, 2015, as amended (the Act), thereby denying the Applicant an opportunity to request reconsideration within the standstill period. According to the Applicant, the 1<sup>st</sup> Respondent established the mode of communication with the bidders through electronic mail and was supposed to maintain that means of communication for all matters concerning the bid.
- 2.3 The Applicant pointed out that the email address used to notify itself and the other unsuccessful bidders of the Selection of Award was defective and therefore the emails were not delivered to the intended recipients. This resulted in the Applicant not receiving the notice within the required timeframes and therefore not being able to enter a request for reconsideration. The Applicant also alleged that they were not able to access any records on the Electronic Government Procurement (EGP) Portal.

- 2.4 The Applicant further alleged that the successful bidder failed to submit proof of financial availability in the required amount from a recognized financial institution, contrary to the bid specifications.
- 2.5 The final allegation by the Applicant was that the awarded bidder had incomplete or ongoing past projects, inconsistent with the requirement that bidders must have successfully completed similar projects.
- 2.6 The Applicant requested the Review Panel to correct or set aside the Respondent's decision in whole or in part.

### **3. POINT IN LIMINE**

- 3.1 The Review Panel first considered whether it possessed jurisdiction to entertain the review application, having regard to the timelines prescribed under Section 59(1) of the Act and Regulation 42(1) of the Public Procurement Regulations, 2017 (the Regulations). The question which the Review Panel sought to determine was on which date the Applicant could be said to have been notified of the decision or action of the Public Entity, i.e. when was the Applicant notified of the Selection of Award notice.
- 3.2 In determining this question, the Review Panel had particular regard to Regulation 38(5), which authorises a public entity to communicate a notice of selection for award by registered mail, email, fax, or *any other electronic means (our emphasis)* as determined by the Board or the procurement committee. In this instance, the 1<sup>st</sup> Respondent utilised the EGP Portal as its approved electronic means for the publication of procurement notices.
- 3.3 Evidence presented before the Review Panel confirmed that the Notice of Selection for Award was uploaded on the EGP portal on 20 August 2025. The Review Panel observed that once a notice is published on the portal, it becomes accessible to all bidders and constitutes effective service in terms of Regulation 38(5).
- 3.4 Accordingly, the Review Panel found that the Applicant ought reasonably to have been aware of the award decision from 20 August 2025, being the date of publication on the portal. The Applicant only lodged the present review on 26 September 2025, well outside the statutory period prescribed under Section 59(1) and Regulation 42(1) for the submission of an application for review.
- 3.5 The Review Panel therefore determined that the Applicant failed to comply with the mandatory time limitation, and as a result, the Review Panel lacked jurisdiction to entertain the matter on its merits.

---

## ORDER

---

1. The Review Panel finds that the application for review was lodged outside the prescribed period contemplated under Section 59(1) of the Act and Regulation 42(1).
2. The Review Panel accordingly lacks jurisdiction to entertain the matter on its merits. Therefore, dismisses the application in terms of section 60 (a) of the Act.
3. The Review Panel nonetheless directs the 1<sup>st</sup> Respondent to strengthen its internal controls relating to bidders' notification and record management, ensuring timely and verifiable publication of all procurement notices through appropriate and effective means in compliance with Regulation 38(5).
4. The effective date of this Order is 15 October 2025.

Seal

