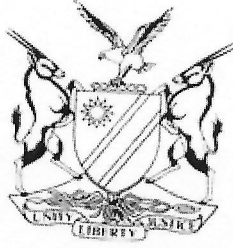


REPUBLIC OF NAMIBIA



PUBLIC PROCUREMENT REVIEW PANEL

Case number: RA/01-065/2026

ORDER

In the matter between:

TJITEMISA & ASSOCIATES

APPLICANT

and

GOBABIS MUNICIPALITY

1ST RESPONDENT

KATJAERUA INCORPORATE

2ND RESPONDENT

SHIKALE & ASSOCIATES INCORPORATED

3RD RESPONDENT

SHIKONGO LAW CHAMBERS

4TH RESPONDENT

HENRY SHIMUTWIKENI

5TH RESPONDENT

KAANGUEEHI & KAVENDJII INCORPORATED

6TH RESPONDENT

SISA NAMANDJE & CO. INCORPORATED

7TH RESPONDENT

AND 22 OTHERS

Citation: *Tjitemisa & Associates v Gobabis Municipality and Others (RA/01-065/2026)*

Coram: Rosemary Tjombonde (Chairperson), Martha Haipinge, Hendricus Beukes, Hilka Alberto, and Titus Kanyanda.

Heard: 12 February 2026

Decided: 12 February 2026

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

*[BID NUMBER: CS/RFP/GM-04/2025 – PROVISION OF LEGAL SERVICES FOR
GOBABIS MUNICIPALITY FOR A PERIOD OF 36 MONTHS ON “As and When” Required
Basis]*

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 Tjitemisa & Associates (hereinafter referred to as the “Applicant”), against Gobabis Municipality (hereinafter referred to as the “1st Respondent”).
- 1.2 Having joined the Applicant and the 1st Respondent and other interested parties in terms of Regulation 42(5)(a) of the Public Procurement Regulations (hereinafter referred to as the “Regulations”) of the Public Procurement Act No. 15 of 2015 as amended (hereinafter referred to as the “Act”); and
- 1.3 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. POINT IN LIMINE

Alleged incompetence of the Review Application

- 2.1 In its replying papers, the 1st Respondent objected that the Applicant's reconsideration application was filed beyond the prescribed timeline and that, as a result, the present review application was incompetent and not properly before the Review Panel.
- 2.2 The 1st Respondent contended that the Notice of Selection of Award was transmitted to the Applicant on 18 December 2025, thereby triggering the standstill period and the applicable timeframe within which a reconsideration request was required to be lodged. It was submitted that the Applicant did not file its reconsideration request within the period contemplated under the

procurement framework and that the reconsideration application was therefore out of time.

2.3 The 1st Respondent further submitted that the Applicant had provided more than one email address within its bid submission. According to the 1st Respondent, the email address used for transmitting the Notice of Selection of Award appeared in the Applicant's bid documents and formed part of the submission. The 1st Respondent argued that it was entitled to rely on any email address reflected in the bid submission and that it was not restricted to using only the email address provided on the first page of the bidding document.

2.4 It was further submitted that the cover letter formed part of the bid documentation and that the contact details reflected therein were valid for communication purposes. On that basis, the 1st Respondent maintained that proper notice had been given and that the standstill and reconsideration periods were triggered on 18 December 2025.

2.5 Consequently, the 1st Respondent argued that the Applicant's reconsideration request, having been filed outside the prescribed timeframe, rendered the present review application incompetent.

Submissions by the Applicant on the Preliminary Issue

2.6 The Applicant submitted that it did not receive the Notice of Selection of Award during the standstill period and only became aware of the award decision after making enquiries with the 1st Respondent.

2.7 It argued that the bidding document expressly provided, on the first page thereof, for bidders to indicate their primary contact details, including an email address, for purposes of communication during the procurement process. The Applicant submitted that it duly completed that section of the bidding document and provided a specific email address as required.

2.8 The Applicant contended that it was aware that the procurement process would coincide with the festive season period, during which most law firms close or operate with limited staff, and that the email address provided in the

prescribed section was the only address that would be actively monitored during that period.

2.9 The Applicant argued that the 1st Respondent nevertheless transmitted the Notice of Selection of Award to an email address appearing elsewhere in the bid submission and not to the email address provided in the designated contact details section of the bidding document.

2.10 The Applicant maintained that the reconsideration period could only commence once proper notice of the award decision had been communicated to it. The Applicant further submitted that upon becoming aware of the award decision, it acted promptly and filed its reconsideration request without undue delay.

3. FINDINGS ON THE PRELIMINARY ISSUE

3.1 The Review Panel considered the objection raised by the 1st Respondent that the review application was incompetent due to the Applicant's alleged failure to file its reconsideration request within the prescribed timeline. The record reflects that the bidding document expressly provided on the first page for bidders to provide their primary contact details, including an email address, for communication during the bidding process.

3.2 The Applicant duly completed that section of the bidding document and provided an email address as required. The 1st Respondent confirmed during the proceedings that the purpose of requiring bidders to provide such contact details was to ensure that those details would be used for communication in relation to the procurement process.

3.3 Notwithstanding this provision, the 1st Respondent elected to transmit the Notice of Selection of Award to an email address appearing elsewhere in the bid submission, and not to the email address provided in the designated contact-details section of the bidding document. The Panel finds that where a bidding document expressly requires bidders to provide a specific email address for purposes of communication, the procuring entity is obliged to utilise

that designated address for official notifications, including the Notice of Selection of Award.

3.4 In the absence of proper communication to the designated contact address, the reconsideration timeline could not be said to have been properly triggered. The Review Panel is therefore satisfied that the Applicant's reconsideration request cannot be regarded as having been filed out of time. Accordingly, the Review Panel finds that it has jurisdiction to determine the present review application.

Submissions by the Applicant on the Merits

3.5 The Applicant submitted that it was unlawfully disqualified at the technical evaluation stage of the procurement process. The Applicant contended that the bidding document required bidders to demonstrate a minimum of five (5) years' experience in the provision of legal services. It was submitted that the bidding document did not require such experience to be proven by registration with the Business and Intellectual Property Authority (BIPA), nor did it state that the calculation of years of experience would be based on the date of BIPA registration.

3.6 The Applicant argued that it has been in operation as a law firm since 2002 and submitted multiple Fidelity Fund Certificates issued by the Law Society of Namibia as proof of its years of practice. The Applicant submitted that Fidelity Fund Certificates are issued annually to practising legal practitioners and law firms and serve as proof that the firm is duly authorised to practise law during the relevant period.

3.7 It was contended that the submission of Fidelity Fund Certificates spanning several years constituted sufficient and objective proof that the firm has been in continuous operation for well in excess of five (5) years. The Applicant argued that the 1st Respondent disqualified it on the basis that its BIPA registration reflected a more recent date and that the 1st Respondent therefore concluded that the firm only had three (3) years' experience.

3.8 The Applicant argued that the 1st Respondent's interpretation of the experience requirement was unreasonable and resulted in the exclusion of a bidder that

had demonstrated more than five (5) years of professional practice. The Applicant submitted that its disqualification materially affected its technical score and prevented it from proceeding beyond the 80% technical threshold required under the evaluation criteria.

3.9 On that basis, the Applicant requested that the decision to disqualify it be set aside and that the matter be referred back for re-evaluation in accordance with the bidding document.

4. Submissions by the 1st Respondent on the Merits

4.1 The 1st Respondent opposed the review application and submitted that the Applicant was lawfully disqualified at the technical evaluation stage. The 1st Respondent submitted that the bidding document required bidders to demonstrate that the legal firm had a minimum of five (5) years' experience. It was contended that during the technical evaluation, the evaluation committee considered the documentation submitted by the Applicant in support of its claimed years of experience.

4.1 The 1st Respondent submitted that the proof of registration provided by the Applicant reflected that the legal firm was registered with the Business and Intellectual Property Authority (BIPA) in 2022. On that basis, the 1st Respondent concluded that the firm had only been in existence for three (3) years at the time of evaluation.

4.2 The 1st Respondent argued that the requirement related to the experience of the legal firm as an entity and not to the personal experience of individual legal practitioners. It was submitted that, for purposes of assessing compliance with the minimum five-year requirement, the relevant consideration was the period during which the legal entity had been registered and operating as a firm.

4.3 The 1st Respondent maintained that the Applicant failed to provide proof that the legal firm itself had more than five (5) years' experience. Consequently, the 1st Respondent submitted that the Applicant did not meet a mandatory technical requirement and was correctly found to be non-responsive at the technical evaluation stage.

5. FINDINGS OF THE REVIEW PANEL

The Review Panel carefully reviewed the application, documentary evidence, and oral submissions and made the following findings:

- 5.1 The Review Panel notes that the bidding document did not prescribe that the five-year experience requirement was to be calculated from the date of registration with the Business and Intellectual Property Authority (BIPA), nor did it state that BIPA registration would constitute the sole proof of experience.
- 5.2 The 1st Respondent relied exclusively on the Applicant's BIPA registration date (2022) to conclude that the Applicant had only about three (3) years' experience and was therefore non-responsive. However, this method of calculating experience was not expressly stated in the bidding document.
- 5.3 The Applicant submitted Fidelity Fund Certificates issued by the Law Society of Namibia reflecting that it has been authorised to practise as a legal firm since 2002. These certificates constitute official documentary proof that the firm has been operational and practising for a period exceeding five (5) years.
- 5.4 The Review Panel finds that the requirement in the bidding document was framed generally as "five (5) years' experience" and did not limit the proof of such experience to a particular form of registration. The Fidelity Fund Certificates therefore constitute relevant and objective evidence of the Applicant's years of practice.
- 5.5 The Applicant was found non-responsive at the technical evaluation stage on the basis of the five-year experience requirement. Given that the evaluation approach adopted by the 1st Respondent was not contained in the bidding document, the resulting disqualification was not conducted in strict accordance with section 52(9) of the Public Procurement Act.

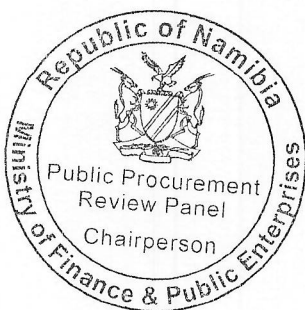
5.6 The Review Panel further finds that this irregularity was material, as it directly affected the Applicant's technical responsiveness and its ability to proceed further in the procurement process.

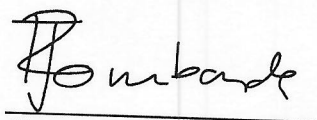
ORDER

In the result, the following order is made:

1. In terms of section 60(c) of the Act, the decision of the 1st Respondent is hereby set aside in whole.
2. The matter is referred back to the 1st Respondent to re-evaluate the Applicant's bid strictly in accordance with the criteria and methodology set out in the bidding document and in compliance with section 52(9) of the Act.
3. That the public entity must provide proof of implementation of this Order to the Procurement Policy Unit within thirty (30) days of receipt of this Order, with a copy of such a report sent to the Review Panel Secretariat.
4. The effective date of this Order is 12 February 2026.

Seal




Rosemary Tjombonde
Chairperson