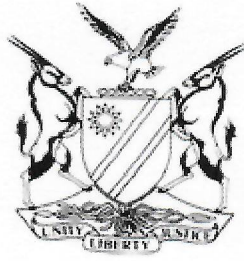


REPUBLIC OF NAMIBIA



PUBLIC PROCUREMENT REVIEW PANEL

Case number: RA/03-09/2026 & RA/03-10/2026

ORDER

In the matter between:

NOKAGALO TRADING CC

1st APPLICANT

OMLE SECURITY SERVICES CC

2nd APPLICANT

And

OTJOZONDJUPA REGIONAL COUNCIL

1ST RESPONDENT

AND 34 OTHER

RESPONDENTS

Citation: *Nokagalo Trading CC & Oml Security Services CC v. Otjozondjupa Regional Council & Others* (RA/03-09/2026 & RA/03-10/2026)

Coram: Martins Kambulu (Chairperson), Effaishe Nghiidipaa, Martha Haipinge, Hannu Shipena and Hendricus Beukes.

Heard: 21 April 2026

Decided: 21 April 2026

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

[BID NO: NCS/ONB/OTRCED-04/2025/2026 – *(THE PROVISION OF SECURITY SERVICES TO DIRECTORATE OF EDUCATION, INNOVATION, YOUTH, SPORTS, ARTS & CULTURE REGIONAL OFFICE, SCHOOL, HOSTELS, COMMUNITY LIBRARIES, CIRCUIT OFFICES, CLDC, TEACHERS RESOURCE CENTRE & MUSEUM WITHIN THE OTJOZONDJUPA REGION FOR A PERIOD 3 YEARS)*]

1. INTRODUCTION

1.1 The Review Panel was constituted in terms of section 58 (1) of the Public Procurement Act 2015 (Act 15 of 2015) as amended, the “Act”, to hear an application lodged by Nokagalo Trading CC, hereinafter referred to as the “1st Applicant”, and Omle Security Services CC, hereinafter referred to as the “2nd Applicant”, respectively, against the Otjozondjupa Regional Council, a public entity, (hereinafter referred to as the “Respondent”).

1.2 Having joined the Applicants 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 as amended.

1.3 It is noted for the record that, despite having been duly notified of the set down, the 1st Applicant failed to attend the proceedings. The matter accordingly proceeded in its absence.

1.4 Having read the applications for review and other documents filed as part of the record, the Review Panel made the following findings and subsequent order contained herein.

2. POINT IN LIMINE

2.1 The 1st Respondent submitted that, following complaints received from bidders, it undertook an internal review of the procurement process and subsequently resolved to cancel the bid.

2.2 In support of this position, the 1st Respondent submitted that it received a request for reconsideration on 17 March 2026 from Omambudu Security Services, alleging that its bid had been wrongly disqualified despite the submission of all required compliance documents.

2.3 The 1st Respondent acknowledged that the disqualification of the said bidder was unjustified. However, it submitted that due to the impending expiry of the bid validity period on or about 2 April 2026, it was not feasible to rectify the process within the remaining time, which necessitated the cancellation of the procurement.

2.4 The 1st Respondent further submitted that the bid validity period was calculated based on working days. It stated that the Procurement Committee recommended the cancellation of the bid on 25 March 2026, which recommendation was approved by the Accounting Officer on 30 March 2026 and subsequently communicated to bidders on 16 April 2026.

3. SUBMISSION BY THE 2ND APPLICANT ON POINT *IN LIMINE*

3.1 The 2nd Applicant submitted that it lodged a request for reconsideration with the 1st Respondent on 17 March 2026, to which the 1st Respondent failed to respond.

3.2 The 2nd Applicant further argued that the bid was still extant at the time it filed the review application on 27 March 2026, and that the application was therefore properly before the Review Panel.

3.3 The 2nd Applicant submitted that the decision by the 1st Respondent to cancel the procurement was taken after the Review Panel had already been seized with the matter. It was contended that such conduct was unreasonable and unfair, and in violation of Article 18 of the Namibian Constitution.

3.4 The 2nd Applicant accordingly argued that the Review Panel should consider the matter as it stood at the time the application was lodged, when the bid was still valid, and should proceed to determine the merits of the application.

4. SUBMISSION BY INTERESTED PARTY ON POINT *IN LIMINE* (Non-Service of the Review Application)

4.1 An interested party (Khaibasen Security Services cc) the selected bidder, submitted that it had not been served with the review application as required by Regulation 42 (3) of the Regulations and was therefore prejudiced in its ability to respond.

4.2 The 2nd Applicant did not dispute that service may not have reached all bidders but contended that it relied on the email addresses provided by the 1st Respondent when it effected service.

5. FINDINGS OF THE REVIEW PANEL

Having considered the evidence and submissions before it, the Review Panel determines the two preliminary issues jointly as follows:

5.1 The Review Panel first considered the issue of non-service of the review application, which was raised by an interested party. The evidence before the Panel establishes that the selected bidder was not served with the review application and only became aware of the proceedings through a third party. This position was not satisfactorily disputed by the 2nd Applicant.

5.2 The Review Panel emphasises that the onus to effect proper service of a review application on all bidders and interested parties lies squarely with the Applicant, in compliance with Regulation 42 of the Public Procurement Regulations. This obligation is not dependent on the completeness or accuracy of information provided by the Respondent, and the Applicant bears the responsibility to ensure that all affected parties are duly notified.

5.3 Furthermore, the requirement of service in terms of Regulation 42 (3) of the Regulations is fundamental, as it ensures that all affected parties are afforded an opportunity to be heard in accordance with the principles of fairness and *audi alteram partem*. The failure by the Applicant to serve all interested parties constitutes a material procedural irregularity.

5.4 The Review Panel finds that such non-service is fatal to the application, as it renders the proceedings procedurally defective. On this basis alone, the application falls to be dismissed.

5.5 Notwithstanding the above, the Review Panel was inclined, for purposes of certainty and finality, to also pronounce itself on the issue of the bid validity period.

5.6 The evidence before the Panel indicates that the bid validity period expired on or about 2 April 2026 and was not extended in accordance with the provisions of the Act.

5.7 While the Applicants may have lodged their review applications prior to the expiry of the bid validity period, the determinative consideration is whether the Panel is able to grant effective relief at the time of its decision.

5.8 The Review Panel finds that, upon expiry of the bid validity period, the procurement process lapsed and is no longer capable of being lawfully sustained. The Panel does not have the power to revive or extend an expired bid validity period. Accordingly, any determination on the merits would be academic and without practical effect.

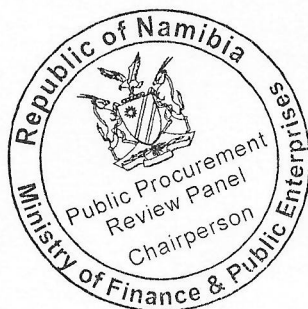
5.9 The Review Panel therefore concludes that, in addition to the fatal defect of non-service by the 2nd Applicant, the expiry of the bid validity period independently renders the Panel unable to grant effective relief in terms of section 60 of the Act as far as the 1st Applicant's application is concerned.

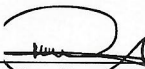
ORDER

In the result, the following order is made:

1. The application by the 2nd Applicant is hereby dismissed in terms of section 60 (a) of the Act.
2. The notice for the selection of award and that of cancellation are hereby set aside in their entirety in terms of section 60(c) of the Act; and
3. In terms of section 60 (f), the Review Panel orders that the procurement proceedings be terminated and start afresh should the public entity still wish to pursue the same procurement activity.
4. This Order shall take immediate effect on the date it is received by the parties.

Seal




Martins Kambulu
Chairperson