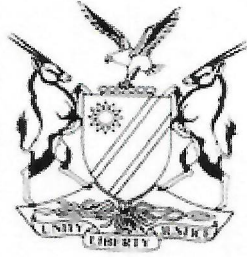


REPUBLIC OF NAMIBIA



PUBLIC PROCUREMENT REVIEW PANEL

Case numbers: RA/05-01/2026 and RA/05-02/2026

ORDER

In the matter between:

KAMFER INVESTMENT CC

1st APPLICANT

BERTHA SECURITY SERVICES CC

2nd APPLICANT

and

NATIONAL HERITAGE COUNCIL OF NAMIBIA

1st RESPONDENT

SIX THOUSAND SECURITY SERVICES CC

2nd RESPONDENT

AND OTHERS

4th -15th RESPONDENTS

Citation: *Kamfer Investment CC and Bertha Security Services cc v National Heritage Council of Namibia (NCS/ONB/NHC-01/2025)*

Coram: Hilka Alberto (Chairperson), Martha Haiping, Ehrenfried Honga, Titus Kanyanda and Effaishe Nghiidipaa

Heard: 27 May 2026

Decided: 27 May 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/NHC-01/2025: PROVISION OF SECURITY SERVICES (ON-SITE
GUARDING) TO THE NATIONAL HERITAGE COUNCIL OF NAMIBIA FOR A PERIOD
OF TWENTY-FOUR (24) MONTHS]

1. INTRODUCTION

- 1.1 The Review Panel was duly constituted in terms of section 58(1) of the Public Procurement Act, 2015, as amended ("the Act"), to determine review applications lodged by the Applicants against the 1st Respondent.
- 1.2 The applications arise from a procurement process conducted under Bid No. NCS/ONB/NHC-01/2025 for the provision of security services to the National Heritage Council of Namibia.
- 1.3 The Review Panel joined the Selected Bidder and other interested parties in accordance with Regulation 42(5)(a) of the Public Procurement Regulations, 2017 ("the Regulations").
- 1.4 Having considered the review applications, affidavits, documentary record and oral submissions of the parties, the Review Panel makes the following findings.

2. POINTS *IN LIMINE*

Defective Service by the 1st Applicant

- 2.1 The Second Respondent raised a point in limine that the 1st Applicant failed to serve the review application upon the Selected Bidder as required by Regulation 42(3) of the Regulations.

- 2.2 The 1st Applicant submitted that service was effected by electronic mail on 12 May 2026 and subsequently produced a screenshot as proof of service.
- 2.3 The Review Panel allowed the 1st Applicant to produce proper proof of service. Despite such indulgence, no satisfactory proof of service was provided
- 2.4 The Review Panel finds that the 1st Applicant failed to discharge the onus of proving proper service as required by Regulation 42(3) of the Regulations. The screenshot produced does not constitute satisfactory proof of service.

Validity of the Replying Affidavit

- 2.5 The 2nd Applicant raised a point *in limine* challenging the validity of the 1st Respondent's Replying Affidavit. The 2nd Applicant contended that the affidavit was not properly before the Review Panel due to an apparent discrepancy between the date hand recorded by the Commissioner of Oaths (Commissioner) and the date reflected through the Commissioner's stamp on the said Affidavit.
- 2.6 The 2nd Applicant submitted that the deponent ought to have signed the Affidavit in the presence of the Commissioner and therefore the hand written date and the date on the stamp ought to correspond. The 2nd Applicant argued that this discrepancy rendered the affidavit defective and therefore inadmissible.
- 2.7 The Respondent argued that she visited the Commissioner on the date that is reflected by the stamp. She also submitted that the Commissioner must have made a mistake with the hand written date and that the correct date is as reflected by the stamp. She also submitted that she indeed signed the Affidavit in the presence of the Commissioner and the

Commissioner filled in the hand written date and also stamped the affidavit on the same date.

2.8 The Review Panel examined the affidavit and noted that the date stamp appearing on the affidavit indeed does not corresponds with the hand written date. However, having weighted both arguments the Panel is satisfied on a balance of probabilities that the version of the Respondent is more likely to be true.

2.9 Therefore, the Review Panel is satisfied that the affidavit was duly commissioned and properly executed. The discrepancy in the stamp date and the handwritten date appears to be a administrative or clerical error by the Commissioner of Oaths which does not affect the substance, authenticity, or validity of the affidavit.

2.10 The Review Panel further finds that no party has suffered any prejudice as a result of the discrepancy.

Prematurity of the 2nd Applicant's Review Application

2.11 The 1st Respondent raised a point *in limine* contending that the 2nd Applicant's review application was prematurely lodged. The 1st Respondent submitted that, at the time the review application was filed, the statutory period afforded to the 1st Respondent to consider and respond to the request for reconsideration in terms of section 55 of the Act had not yet expired.

2.12 The 1st Respondent accordingly argued that the 2nd Applicant had failed to exhaust the internal reconsideration process prescribed by the Act before approaching the Review Panel and that the application was therefore not properly before the Panel.

2.13 In response, the 2nd Applicant provided the dates and chronological order

of events and maintained that it filed its application for review after it had not received any response from the 1st Respondent.

2.14 The Review Panel having considered the timelines finds that the 2nd Applicant lodged its review application before the expiry of the period contemplated in section 55(4B) of the Act.

2.15 The internal reconsideration process established by section 55 had therefore not run its course at the time the review application was instituted. The Review Panel accordingly finds that the application was prematurely instituted and that the 2nd Applicant failed to exhaust the internal remedy prescribed by the Act.

3. Findings by the Review Panel

Having considered the respective applications, the record filed by the parties, the oral submissions made during the hearing on the preliminaries, the Review Panel makes the following findings:

3.1 Regulation 42(3) of the Regulations requires an applicant to serve a review application on all affected parties, including the selected bidder. The 1st Applicant bore the onus of establishing compliance with this requirement.

3.2 Although the 1st Applicant alleged that service was effected by electronic mail, it failed to provide satisfactory proof of such service despite being afforded an opportunity by the Review Panel to do so. The screenshot produced is insufficient to establish compliance with Regulation 42(3). The Review Panel therefore finds that the 1st Applicant failed to comply with a mandatory procedural requirement and that its review application is not properly before the Panel.

3.3 With regard to the challenge directed at the 1st Respondent's Replying Affidavit, the Review Panel finds that the discrepancy between the date

reflected by the Commissioner of Oaths and the date reflected by the deponent is administrative in nature and does not affect the validity, authenticity, or admissibility of the affidavit.

3.4 The Review Panel is satisfied that the affidavit was duly commissioned and properly executed. Furthermore, no prejudice has been demonstrated by any party arising from the discrepancy. The challenge to the affidavit therefore lacks merit.

3.5 Section 55 of the Act establishes an internal reconsideration process which must ordinarily be exhausted before a bidder may invoke the review jurisdiction of the Review Panel under section 59 of the Act. Having considered the chronology of events and the applicable statutory timelines, the Review Panel finds that the 2nd Applicant lodged its review application before the expiry of the period contemplated in section 55(4B) of the Act. At that stage, the 1st Respondent still had time within which to consider and determine the request for reconsideration.

3.6 The Review Panel accordingly finds that the 2nd Applicant approached the Panel prematurely and before exhausting the internal remedy prescribed by the Act. The review application is therefore not properly before the Panel.

3.7 Therefore, both review applications are fatally affected by procedural defects which prevent the Review Panel from considering the merits of the respective complaints. It is therefore unnecessary for the Panel to determine any substantive issues arising from the procurement process.

ORDER

In the result, the following order is made:

1. In terms of section 60 (a) of the Act, the Review Panel dismisses the review applications, respectively.

2. This Order shall take effect on 2 June 2026.



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Hilka Alberto
Chairperson