

SCHEDULE 1

FORM 4

REPUBLIC OF KENYA

**PUBLIC PROCUREMENT COMPLAINTS, REVIEW AND
APPEALS BOARD**

APPLICATION NO.57/2006 OF 13TH DECEMBER, 2006

BETWEEN

MURINGA HOLDINGS LTD APPLICANT

AND

**TELKOM KENYA LTD.....PROCUREMENT ENTITY
THE PERMANENT SECRETARY,
MINISTRY OF INFORMATION AND
COMMUNICATIONS.....PROCURING ENTITY**

Appeal against the evaluation and award of the tenders for the joint venture participation (entire or part) for Gilgil Telecommunication Industries. (Tender No.TKL/T&C/45/2006).

PRESENT

- | | | | |
|----|----------------------|---|-----------------------------|
| 1. | Mr. Richard Mwongo | - | Chairman |
| 2. | Mr. Adam S. Marjan | - | Member |
| 3. | Mr. John W. Wamaguru | - | Member |
| 4. | Ms Phyllis N. Nganga | - | Member |
| 5. | Mr. Paul M. Gachoka | - | Member |
| 6. | Mr. Joshua W. Wambua | - | Member |
| 7. | Eng. Daniel W. Njora | - | Member |
| 8. | Mr. C. R. Amoth | - | Holding brief for Secretary |

IN ATTENDANCE

Mr. D. M. Amuyunzu - Secretariat
Mr. M.A.Obuya - Secretariat

PRESENT BY INVITATION

Applicant, Muringa Holdings Limited

Mr. B. Mukuria - Mukuria & Co. Advocates
Mr. Duncan K. Wachira - Managing Director
Mr. Elijah M. Kinyanjui - Finance Director
Mr. Moses Nderitu - Economist.

Procuring Entity, Telkom Kenya Limited

Mr. C. W. Wekesa - Wekesa & Co. Advocates
Mr. Felix Koske - Manager Procurement
Mr. Ericsson Band - Acting Head of Procurement
Mr. Ronald Onono - Project Manager, Restructuring
Ms. Decimah M'Mayi - Strategy & Regulatory Affairs
Mr. Richard Murusoi - Chief Information Technology
Officer
Mr. Peter Ngambi - Project Secretary
Mr. G. M. Tanyasis - Chief Finance Officer
Ms. Hellen S. Kiilu - Min. of Information &
Communication
Mr. Humphrey. N. Muhu - Senior Economist, Ministry of
Finance

Interested Candidates

Mr. S. G. Waigwa - Advocate, Egyptian Electronics
Technology Company

BACKGROUND

This is an application by the procuring entity arising out of the Appeal against the evaluation and award of the tenders for the joint venture participation (entire or part) for Gilgil Telecommunication Industries. (Tender No.TKL/T&C/45/2006).

BOARD'S RULING ON APPLICATION BY THE PROCURING ENTITY.

The Procuring Entity has made two applications:

1. For the introduction of a document filed by it on 8th January, 2006 and dated the same date

and...
2. To be allowed to file skeletal arguments in respect of the subject appeal.

We have considered the arguments of all the parties and interested candidates for and against both applications.

We rule as follows:-

On the second application for filing of skeletal arguments, the Procuring Entity's application is allowed. All that the Procuring Entity desires is to file its arguments in written form. To these arguments, the Applicant and the interested candidates will have full opportunity to respond.

On the first application, the Board notes that the documents dated 8th January, 2007 sought to be introduced by the Procuring Entity contains several documents which under Regulation 10(1) and 10(2) of the Public Procurement Regulations, the Procuring Entity is not allowed to disclose.

Accordingly, we order that the Procuring Entity's document dated 8th January, 2007 be withdrawn and only such documents as are allowable under law be produced.

The upshot is that the Procuring Entity shall withdraw the said document dated 8th January, 2007.

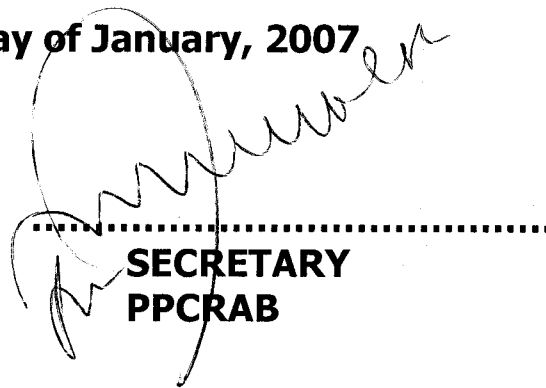
We make the following further orders:

1. Any party that may wish to file any further allowable document shall do so and serve on the other parties by close of business on Wednesday 10th January, 2007.
2. Any party that wishes to file a response to any of the documents filed upon it on or before 10th January, 2007, shall file such documents with the Board not later than 11.00 a.m. on Thursday 11th January, 2007.
3. On account of the tight time frame statutorily imposed on the Board for the rendering of decisions, the hearing of this Appeal shall be held on Thursday 11th January, 2007 at 2.15 p.m.

Dated at Nairobi on the 9th day of January, 2007



CHAIRMAN
PPCRAB



SECRETARY
PPCRAB