

REPUBLIC OF KENYA
PUBLIC PROCUREMENT ADMINISTRATIVE REVIEW BOARD
APPLICATION NO. 37/2020 OF 17TH MARCH 2020

BETWEEN

DANKA AFRICA (K) LIMITED.....APPLICANT

AND

THE ACCOUNTING OFFICER,

KENYA PORTS AUTHORITY.....1ST RESPONDENT

AND

KENYA PORTS AUTHORITY.....2ND RESPONDENT

Record of Consent in the Review against the decision of the Accounting Officer of Kenya Ports Authority with respect to Tender No. KPA/018/2019-20/PSM for the Supply of Fuel.

BOARD MEMBERS

- | | |
|---------------------------|--------------|
| 1. Ms. Faith Waigwa | -Chairperson |
| 2. Mr. Ambrose Ogetto | -Member |
| 3. Ms. Phyllis Chepkemboi | -Member |

IN ATTENDANCE

- | | |
|------------------------|----------------------------------|
| 1. Mr. Philemon Kiprop | -Holding brief for the Secretary |
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THE REQUEST FOR REVIEW

M/s Danka Africa (K) Limited (hereinafter referred to as "the Applicant") lodged a Request for Review dated and filed on 17th March 2020 together with a Statement in Support of the Request for Review sworn and filed on even date. The Applicant sought for the following orders in the Request for Review:-

- 1. An order annulling and setting aside the Respondent's decision not to evaluate and/or award Tender No. KPA/018/2019-20/PSM for the Supply of Fuel;**
- 2. The Board be pleased to review all records of the procurement process relating to Tender No. KPA/018/2019-20/PSM for the Supply of Fuel and be pleased to order the Respondent to complete the tendering process, evaluate all bids and award the tender to the lowest bidder as provided for in the tender document;**
- 3. In the alternative to (b) above, an order directing the Respondent to award Tender No. KPA/018/2019-20/PSM for the Supply of Fuel to the Applicant herein in the event the Applicant was/is determined and/or found to be the lowest evaluated bidder; and**
- 4. An order directing the Respondent to pay the full costs incidental to these proceedings.**

On 27th March 2020, a Consent with respect to the instant Request for Review was filed with the Board containing the following details:-

"The parties would be most obliged if the following consent were adopted as the Order of the Board;

By consent;

- a. The Request for Review dated 17th March 2020 be and is hereby marked as settled with no order as to costs***
- b. The Respondents be and are hereby ordered to complete the procurement process with respect to Tender No. KPA/018/2019-20/PSM for the Supply of Fuel within seven (7) days from the date of this consent.***
- c. In default of (b) above, the Applicant be at liberty to file a Request for Review"***

FINAL ORDERS

The Board having considered parties' consent filed before it and in exercise of the powers conferred upon it by Section 173 of the Public Procurement and Asset Disposal Act, 2015 hereby grant the following orders:-

- 1. The Consent filed on 27th March 2020 with respect to Request for Review Application No. 37/2020 filed on 17th March 2020, be and is hereby adopted as the orders of the Board.**

2. The Board makes no orders as to costs.

Dated at Nairobi this 7th day of April 2020

CHAIRPERSON

SECRETARY

PPARB

PPARB