

REPUBLIC OF KENYA
PUBLIC PROCUREMENT ADMINISTRATIVE REVIEW BOARD
APPLICATION NO. 66 OF 2022 OF 20TH JULY, 2022

BETWEEN

MARONI ENTERPRISES LTD..... APPLICANT
AND

**THE ACCOUNTING OFFICER,
INDEPENDENT ELECTORAL & BOUNDARIES COMMISSION.....1ST
RESPONDENT**

AND

**COUNTY ELECTION MANAGER, INDEPENDENT ELECTORAL &
BOUNDARIES COMMISSION BARINGO COUNTY
OFFICE.....2ND RESPONDENT**

**M/S LONGONOT TRANSPORTERS & CAR LEASE
SERVICES.....INTERESTED PARTY**

Review against the decision of the Independent Election & Boundaries Commission (hereinafter referred to as 'the Procuring Entity') dated 29th May 2022 in the matter of Tender No. IEBC/OT/22/036/2021-2022: GENERAL ELECTIONS TRANSPORT SERVICES ON FRAMEWORK CONTRACT OF THREE YEARS.

BOARD MEMBERS

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|---------------------------|--------------|
| 1. Ms. Faith Waigwa | -Chairperson |
| 2. Ms. Isabella Juma | -Member |
| 3. Mr. Jackson Awele | -Member |
| 4. Eng. Mbiu Kimani | -Member |
| 5. Ms. Phyllis Chepkemboi | -Member |

IN ATTENDANCE

1. Mr. Stanley Miheso -Holding brief for Secretary

THE REQUEST FOR REVIEW

M/S Maroni Enterprises Limited filed a Request for Review against the decision of the Independent Election & Boundaries Commission (hereinafter referred to as 'the Procuring Entity') dated 29th May 2022 in the matter of Tender No. IEBC/OT/22/036/2021-2022: GENERAL ELECTIONS TRANSPORT SERVICES ON FRAMEWORK CONTRACT OF THREE YEARS. The Request for Review was together with a Supporting Affidavit filed on 20th July 2022. In response the 1st and 2nd Respondents filed their Submissions dated 27th July 2022 and received on 29th July 2022.

In a Notification of Appeal and a letter dated 20th July 2022, the Acting Board Secretary of the Public Procurement Administrative Review Board (hereinafter referred to as "the Board") notified the Respondents of the existence of the Request for Review and suspension of procurement proceedings for the subject tender while forwarding a copy of the Request for Review together with the Board's Circular No. 02/2020 dated 24th March 2020, detailing administrative and contingency measures to mitigate the spread of Covid-19. Further, the Respondent was requested to submit any information and arguments about the subject tender within three days pursuant to the PPARB Circular No. 2/2020 dated 24th March 2020.

In the Request for Review of 20th July 2022, the Applicant sought the Board to issue the following orders:

- a. The Respondents' decision and notification to the Interested Party in respect to the Tender No. IEBC/OT/22/036/2021-2022 & IEBC/OT/22/037/2021-2022 GENERAL ELECTIONS TRANSPORT SERVICES ON FRAMWORK CONTRACT OF THREE YEARS regarding the said bidder's win and notification be and is hereby annulled and set aside.**
- b. The decision and notification of unsuccessful bid dated 29th May, 2022 and hand delivered and personally collected by the Applicant on Monday 18th June, 2022 at 2:30PM at the Respondents ' office at Kabarnet after the Respondent telephoning the Applicant at 1:00PM to go and pick the said regret letter addressed to the Applicant in the subject tender number No. IEBC/OT/22/036/2021-2022 & IEBC/OT/22/037/2021-2022 GENERAL ELECTIONS TRANSPORT SERVICES ON FRAMWORK CONTRACT OF THREE YEARS be and is hereby annulled and set aside.**
- c. The procuring entity be and is hereby directed to notify the Applicant of its success in the bidding of the subject Tender No. IEBC/OT/22/036/2021-2022 & IEBC/OT/22/037/2021-2022 GENERAL ELECTIONS TRANSPORT SERVICES ON FRAMWORK CONTRACT OF THREE YEARS.**

d. Any other relief that the Board may deem fit and just to grant pursuant to section 11 (1) of the Fair Administrative Act.

e. Cost of this Review.

The Board has had the advantage of going through the Applicant's Request for Review and the Response submissions filed by the Respondents. In recognition of the public interest and importance of the subject tender, further in recognition that time is of essence, being that the General Elections are scheduled for Tuesday, the 9th of August, 2022; the Board finds no merit in the Applicant's application and hereby proceeds to direct by way of a Summary Decision as follows: -

FINAL ORDER

In exercise of the powers conferred upon it by section 173 of the Act, the Board makes the following order: -

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- 1. The Request for Review of 20th July 2022 seeking to annul the decision of the Procuring Entity in Tender No. IEBC/OT/22/036/2021-2022: GENERAL ELECTIONS TRANSPORT SERVICES ON FRAMEWORK CONTRACT FOR THREE YEARS, be and is hereby declared as unmerited and therefore struck out.**
 - 2. The Procuring Entity be and is hereby set at liberty to continue with the procurement proceedings to their logical conclusion.**

3. A reasoned decision will be rendered in due time but in any event not later than 11th August 2022.
4. Each party to bear its own costs.

Dated at Nairobi on this 5th day of August 2022



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CHAIRPERSON

PPARB



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SECRETARY

PPARB

