

**REPUBLIC OF KENYA**

**PUBLIC PROCUREMENT ADMINISTRATIVE REVIEW BOARD**

**APPLICATION NO. 100 OF 2022 OF 30<sup>TH</sup> NOVEMBER 2022**

**BETWEEN**

**FRANCIS MUTAI ..... APPLICANT**

**AND**

**ACCOUNTING OFFICER,**

**MINISTRY OF EDUCATION .....1<sup>ST</sup> RESPONDENT**

**THE CHIEF PRINCIPAL, MOI TEACHERS**

**TRAINING COLLEGE, BARINGO .....2<sup>ND</sup> RESPONDENT**

**SIRMAH ENTERPRISES .....INTERESTED PARTY**

Review against the decision of the Chief Principal, Moi Teachers Training College- Baringo in relation to Tender No. MTC-B/P/19/22/23 for Hiring of the College Canteen.

**BOARD MEMBERS PRESENT**

- |                      |              |
|----------------------|--------------|
| 1. Ms. Faith Waigwa  | -Chairperson |
| 2. Mrs Njeri Onyango | - Member     |
| 3. Ms.Isabella Juma  | - Member     |

## **IN ATTENDANCE**

Mr. James Kilaka

-Ag. Board Secretary

## **BACKGROUND OF THE DECISION**

### **The Tendering Process**

Moi Teachers Training College- Baringo, the Procuring Entity herein, advertised tenders using the open tendering method by way of an advertisement on 23<sup>rd</sup> September 2022 through the PPIP and on the college website [www.moittcbaringo.ac.ke](http://www.moittcbaringo.ac.ke) . In particular, the Procuring Entity advertised Tender No. MTC-B/P19/22/23 for Hiring of College Canteen (hereinafter referred to as the 'subject tender'). The subject tender closed on Friday 7<sup>th</sup> October 2022 at 11:00a.m. in the college staff room.

### **Submission of Tender and Tender Opening**

A total of four (4) tenderers submitted their tenders in response to the subject tender within the tender submission deadline of 7<sup>th</sup> October 2022 at 11:00a.m. The tenders were opened in the presence of the representatives of tenderers who attended the tender opening at the college staffroom. The submitted tenders were as follows:

<b>Tenderer No.</b>	<b>Tenderer</b>
1.	Sirma Enterprises
2.	Francis Mutai
3.	Franktess Holdings Ltd
4.	Jovan Kipsang

### **Evaluation of Tenders**

A Tender Evaluation Committee (hereinafter referred to as the 'Evaluation Committee') was appointed consisting of six members. The Evaluation Committee undertook the evaluation on the four (4) tenders in the following three stages and as captured in the Evaluation Report signed by all members and dated 8<sup>th</sup> November 2022 (hereinafter referred to as the 'Evaluation Report'):

- i. Preliminary Evaluation;
- ii. Technical Evaluation;
- iii. Financial Evaluation.

### **Preliminary Examination of Bids**

At this stage of evaluation, three (3) tenders were determined non-responsive as captured in the Evaluation Report whose extract is herein below:

#### **PRELIMINARY EVALUATION**

S/N	Name	T1	T2	T3	T4
1	<i>A tenderer complies with all the eligibility requirements</i>				
	Valid certificate of registration/incorporation (attach copy)	✓	X	X	X
	KRA pin certificate (attach copy)	✓	X	X	X
	Valid tax compliant certificate (attach copy)	✓	X	X	X
	Valid trade license certificate/business permit (attach copy)	✓	X	X	X
	Physical location of the business	✓		↓	↓
	Dully signed and stamped tender forms	✓	↓	↓	↓
	Dully filled and signed certificate of independence tender determination	✓	✓	✓	✓
	Dully filled and signed form of self-declaration that the bidder will not engage in any corrupt or fraudulent practice	✓	X	✓	✓
	Insurance Regulatory Authority license	N/A	N/A	N/A	N/A
2	<i>The tender has been submitted in the required format and serialized.</i>	✓	↓	↓	↓
3	<i>Any tender security submitted is in the required form, amount and validity period, where applicable;</i>	N/A	N/A	N/A	N/A
4	<i>The tender has been duly signed by the person lawfully authorized to do so through the power of attorney</i>	N/A	N/A	N/A	N/A
5	<i>The required number of copies of the tender have been submitted</i>	✓	X	X	X
6	<i>The tender is valid for the period required</i>	✓	X	X	X
7	<i>Any required samples have been submitted; and</i>	N/A	N/A	N/A	N/A
8	<i>All required documents and information have been submitted.</i>	N/A	N/A	N/A	N/A
<b>Percentage 100%</b>		100	26	37	37

Bearing the results above, only T1, Sirma Enterprises was found responsive and therefore proceeded to the technical evaluation stage.

**Technical Evaluation**

At this stage of evaluation, T1, Sirma Enterprises, was the only tenderer determined responsive having attained a maximum technical score of 100% and proceeded for Financial Evaluation as herein below shown:

**TECHNICAL EVALUATION**

		T1
	<i>Supplier availability</i> <i>Contact person: at least three contacts</i> <i>Postal address</i> <i>Physical location/Building</i> <i>Telephone Number</i> <i>E-mail address</i>	✓
	<i>Financial capability</i> <i>Audited accounts for the last two years</i> <i>Bank statement for last 6 month</i>	✓
	<i>Experience</i> <i>Indicate any similar assignment you have undertaken with at least two firms (attach copies of LPO/LSO and letters of recommendation)</i>	✓
	<i>Supply capacity</i> <i>Maximum volume of business handled in the last two years</i> <i>2,000,000 and above</i>	✓

	1,000,000 500,000.00 <i>Attach evidence</i>	
	Percentage 100%	100

### **Financial Evaluation**

At this stage of evaluation, the Interested Party's tender was determined responsive as the lowest evaluated tender for a monthly rent payment of Kshs. 10,000.00.

### **Evaluation Committee's Recommendation**

The Evaluation Committee recommended that M/s Sirma Enterprises to be awarded the subject tender at a tender price of Kshs. 10,000.00.

### **Professional Opinion**

The Procuring Entity's Procurement Officer, Penedy Toroitich, in a Professional Opinion dated 7<sup>th</sup> November 2022, recommended the subject tender be awarded to the Interested Party at Kshs.10,000.00 for having submitted the lowest evaluated. The 2<sup>nd</sup> Respondent approved the award on even date.

### **Letters of Notification**

Vide letters dated 8<sup>th</sup> November 2022, signed by the Secretary of the Evaluation Committee, Penedy Toroitich through the 2<sup>nd</sup> Respondent notified tenderers of the outcome of evaluation of the subject tender. In particular, the Applicant was issued a regret since its tender was declared unsuccessful with the reasons being detailed in the notification letter of regret.

### **REQUEST FOR REVIEW**

On 22<sup>nd</sup> November 2022, Mr Francis Mutai, the Applicant herein, through the firm of Boiwo & Company Advocates filed a Request for Review dated 30<sup>th</sup> November 2022 together with the Applicant's Supporting Affidavit signed by Francis Mutai, on 29<sup>th</sup> November 2022 seeking the following orders, verbatim:

- 1. The Respondents' decision and notification to the Interested Party in respect to the TENDER NO. MTC-B/P/19/22/23: HIRING OF COLLEGE CANTEEN regarding the said bidder's win and notification be and is hereby annulled and set aside.**
- 2. The decision and notification of unsuccessful bid dated 8<sup>th</sup> November, 2022 regret letter addressed to the Applicant in the subject TENDER MTC-B/P/19/22/23: HIRING OF COLLEGE CANTEEN be and is hereby annulled and set aside.**

**3. The procuring entity be and is hereby directed to notify the Applicant of his success in the bidding of the subject TENDER MTC-B/P/19/22/23: HIRING OF COLLEGE CANTEEN.**

**4. Any other relief that the Board may deem fit and just to grant pursuant to the Fair Administrative Action under Article 47 of the Constitution of Kenya 2010.**

**5. Cost of this Review.**

In a Notification of Appeal and a letter dated 30<sup>th</sup> November 2022, the Acting Board Secretary of the Public Procurement Administrative Review Board (hereinafter referred to as the "Board"), Mr. James Kilaka, notified the Respondents of the filing of the Request for Review and the suspension of the procurement proceedings for the subject tender, while forwarding to the Respondents a copy of the Request for Review together with the Board's Circular No. 02/20 dated 24<sup>th</sup> March 2020, detailing administrative and contingency measures to mitigate the spread of COVID-19. Further, the Respondents were requested to submit a response to the Request for Review together with confidential documents concerning the subject tender within five days from 30<sup>th</sup> November 2022.

On 6<sup>th</sup> December 2022, the 2<sup>nd</sup> Respondent filed the 2<sup>nd</sup> Respondent's Response to the Request for Review Dated 29<sup>th</sup> November 2022.

### **APPLICANT'S CASE**

The Applicant avers that the Procuring Entity breached the provisions of Section 78(8) of the Public Procurement and Asset Disposal Act (hereinafter referred to as 'the Act') by refusing to supply the Applicant with copies of the Tender opening and evaluation process even after the Applicant requested for the same through the firm of Boiwo & Company Advocates which in the Applicant's estimation believes the tender process was grossly flawed in favour of the person declared to have won against the Applicant bid.

The Applicant avers that the 2<sup>nd</sup> Respondent contravened both the Act and the Constitution by conducting the entire tendering process corruptly and discriminately with the sole intention of knocking out the Applicant herein from winning the subject tender. In the end the Applicant avers that it risks to suffer loss and damage that include loss of income that it would have accrued from the subject tender and has been unfairly denied an opportunity to undertake the contract.

The Applicant avers that the 2<sup>nd</sup> Respondent callously and corruptly messed with its documents in the bid document and intentionally knocked him out of the subject tender. The Applicant believes that its tender was the most responsive bid among all the bids which were tendered having bid at Kshs. 12,050.00 per month's rent. The Applicant therefore alleges that the 2<sup>nd</sup> Respondent maliciously and corruptly ensured that its bid could not see the light of day contrary to Section 66 of the Act.

The Applicant therefore urges that the decision ought to be reviewed and set aside in accordance with the Fair Administrative Action Act and that the Honorable Board has the jurisdiction to take cognizance of, hear and determine the instant Request for Review.

### **RESPONDENTS' CASE**

In response, the 2<sup>nd</sup> Respondent avers that they acted in a fair manner by following what was set in the Tender Document and the regulations and laws governing procurement.

The 2<sup>nd</sup> Respondent avers that the Evaluation Committee (therein referred to as Ad hoc Committee) between 25<sup>th</sup> October, 2022 and 8<sup>th</sup> November 2022 undertook evaluation of the tenders among them the subject tender. The 2<sup>nd</sup> Respondent avers that the evaluation was conducted using the three stages set out in the Tender Document and that the Evaluation

Report dated 8<sup>th</sup> November 2022 with recommendation was prepared, a professional opinion by the Head of Procurement issues dated even day and approved by her as the Accounting Officer.

The 2<sup>nd</sup> Respondent avers that the Applicant was duly notified of the regret and collected the same without any reservations from the registry. The 2<sup>nd</sup> Respondent avers that the Applicant is being dishonesty as to when it collected its notification of regret as being 15<sup>th</sup> November 2022 at Paragraph 11 of its Supporting Affidavit and yet through a letter dated 14<sup>th</sup> November 2022 from its Advocates on record it stated that they were already in receipt of the notification of regret.

The 2<sup>nd</sup> Respondent disputes that it was ever requested for the tender opening register. Instead they aver that the Applicant only requested for the tender advertisement copy, tender opening minutes, tender opening committee appointments, tender evaluation committee appointment letters, full evaluation report, tenderer's (Francis Mutai) tender document submitted, and the procurement expert opinion. The 2<sup>nd</sup> Respondent avers that her understanding of Section 78(8) of the Act is that it does not allow an open clause for issuance of all tender documents. It avers that at all times they ensured compliance with the tendering process as stipulated under the Act and the Regulations 2020.

The 2<sup>nd</sup> Respondent avers that the Hiring of the College Canteen was procedurally done in accordance with the Act and the Regulations 2020 and that the Request for Review dated 29<sup>th</sup> November 2022 and filed on 30<sup>th</sup> November 2022 is filed outside the 14 days' period as provided for under Section 167(1) of the Act. The 2<sup>nd</sup> Respondent therefore urges that the Board should find the Request for Review as misconceived, frivolous, speculative, and baseless, lacking in merit as there is no justifiable reasons to warrant a review of the process.

### **BOARD'S DECISION**

The Board has considered each of the parties' cases, documents, pleadings, written submissions, authorities together with confidential documents submitted to the Board by the Respondents pursuant to Section 67(3)(e) of the Act and finds the issues that arise for determination are:

- 1. Whether the Board has jurisdiction to hear and determine the instant Request for Review;**

Depending on the determination of the first issue;

- 2. Whether the Procuring Entity breached Sectionn78(8) of the Act;**

- 3. Whether the Procuring Entity's Evaluation Committee evaluated the Applicant's tender in accordance with the procedures and criteria for evaluation set out in the Tender Document;**
  
- 4. What orders should the Board grant in the circumstances?**

We now proceed to address and make a determination on the aforesaid issues.

**Whether the Board has jurisdiction to hear and determine the instant Request for Review;**

Jurisdiction is defined in Halsbury's Laws of England (4th Ed.) Vol. 9 as "*...the authority which a Court has to decide matters that are litigated before it or to take cognizance of matters presented in a formal way for decision.*"

In his book, "Words and Phrases Legally Defined", Vol. 3, John Beecroft Saunders defines jurisdiction as follows: -

***"By jurisdiction is meant the authority which a Court has to decide matters that are litigated before it or to take cognizance of matters presented in a formal way for its decision. The limits of this authority are imposed by the statute, charter or commission under which the Court [or other decision-making body] is constituted, and may be extended or restricted by like means. If no restriction or limit is imposed, the jurisdiction is said to be unlimited. A limitation may be either as to the kind and nature of the actions and matters of which the particular Court has cognizance or as to the area over which the jurisdiction shall extend, or it may partake both these characteristics. Where a Court takes upon itself to exercise a jurisdiction which it does not possess, its decision amounts to nothing. Jurisdiction must be acquired before judgment is given."* [Emphasis by the Board]**

It is trite law that courts and decision-making bodies such as the Board can only act in cases where they have jurisdiction. Nyarangi, JA stated as follows in the *locus classicus* case of ***The Owners of Motor Vessel "Lillian S" vs. Caltex Oil Kenya Limited (1989) eKLR:***

***"I think that it is reasonably plain that a question of jurisdiction ought to be raised at the earliest opportunity and the court seized of the matter is then obliged to decide the issue right away on the material before it. Jurisdiction is everything. Without it, a court***

*has no power to make one more step. Where a court has no jurisdiction, there would be no basis for a continuation of proceedings pending other evidence. A court of law downs its tools in respect of the matter before it the moment it holds the opinion that it is without jurisdiction.* [Emphasis is ours]

In the case of **Kakuta Maimai Hamisi v Peris Pesi Tobiko & 2 Others [2013] eKLR**, the Court of Appeal emphasized on the centrality of the issue of jurisdiction and held that:

*".....So central and determinative is the issue of jurisdiction that it is at once fundamental and over-arching as far as any judicial proceedings is concerned. It is a threshold question and best taken at inception. It is definitive and determinative and prompt pronouncement on it, once it appears to be in issue, is a desideratum imposed on courts out of a decent respect for economy and efficiency and a necessary eschewing of a polite but ultimately futile undertaking of proceedings that will end in barren cul de sac. Courts, like nature, must not act and must not sit in vain...."*

Such is the centrality of jurisdiction that the Court of Appeal has held in **Isaak Aliaza v Samuel Kisiavuki [2021] eKLR**, that "*whether it is*

*raised either by parties themselves or the Court suo moto, it has to be addressed first before delving into the interrogation of the merits of issues that may be in controversy in a matter.*"(Emphasis ours).

The Supreme Court in the case of **Samuel Kamau Macharia and Another v Kenya Commercial Bank Ltd and 2 Others [2012] eKLR** pronounced itself regarding the source of jurisdiction of a court or any other decision making body as follows:

*"A court's jurisdiction flows from either the Constitution or legislation or both. Thus, a Court of law can only exercise jurisdiction as conferred by the Constitution or other written law. It cannot arrogate to itself jurisdiction exceeding that which is conferred upon it by law. We agree with Counsel for the first and second respondents in his submission that the issue as to whether a Court of law has jurisdiction to entertain a matter before it is not one of mere procedural technicality; it goes to the very heart of the matter for without jurisdiction the Court cannot entertain any proceedings."*

The jurisdiction of a court, tribunal, quasi-judicial body or an adjudicating body can only flow from either the Constitution or a Statute (Act of Parliament) or both.

This Board is a creature of statute owing to the provisions of Section 27 (1) of the Act which provides as follows:

***27. Establishment of the Public Procurement Administrative Review Board***

***(1) There shall be a central independent procurement appeals review board to be known as the Public Procurement Administrative Review Board as an unincorporated Board.***

Further, Section 28 of the Act provides for the functions and powers of the Board as follows:

***28. Functions and powers of the Review Board***

***(1) The functions of the Review Board shall be—***

***(a) reviewing, hearing and determining tendering and asset disposal disputes; and***

***(b) to perform any other function conferred to the Review Board by this Act, Regulations or any other written law.***

The above provisions demonstrate that the Board is a specialized, central independent procurement appeals review board with its main function being reviewing, hearing and determining tendering and asset disposal disputes.

The jurisdiction of the Board is provided for and also limited under Part XV – Administrative Review of Procurement and Disposal Proceedings and specifically in Section 167 of the Act which provides for what can and cannot be subject to proceedings before the Board and Section 172 and 173 of the Act which provides for the Powers of the Board as follows:

***PART XV — ADMINISTRATIVE REVIEW OF PROCUREMENT AND DISPOSAL PROCEEDINGS***

***167. Request for a review***

***(1) Subject to the provisions of this Part, a candidate or a tenderer, who claims to have suffered or to risk suffering, loss or damage due to the breach of a duty imposed on a procuring entity by this Act or the Regulations, may seek administrative review within fourteen days of notification of award or date of occurrence of the alleged breach at any stage of the procurement process, or disposal process as in such manner as may be prescribed. [Emphasis by the Board]***

### ***173. Powers of Review Board***

***Upon completing a review, the Review Board may do any one or more of the following—***

***(a) annul anything the accounting officer of a procuring entity has done in the procurement proceedings, including annulling the procurement or disposal proceedings in their entirety;***

***(b) give directions to the accounting officer of a procuring entity with respect to anything to be done or redone in the procurement or disposal proceedings;***

***(c) substitute the decision of the Review Board for any decision of the accounting officer of a procuring entity in the procurement or disposal proceedings;***

***(d) order the payment of costs as between parties to the review in accordance with the scale as prescribed; and***

***(e) order termination of the procurement process and commencement of a new procurement process.***

Given the forgoing provisions of the Act, the Board is a creature of the Act and its jurisdiction flows from Section 167 (1) of the Act, limited under Section 167(4) of the Act and exercises its powers under Section 172 and

173 of the Act which donates powers to the Board with respect to an administrative review of procurement proceedings before it. Put differently, if the Act does not apply, then the Board will not have jurisdiction where the Act does not apply because the Board is only established by the Act, its jurisdiction only flows from the Act and it can only exercise powers as granted under the Act.

It therefore follows, for one to invoke the jurisdiction of the Board, they need to ascertain that the Act applies (because the Board is a creature of the Act and its jurisdiction flows from the Act) then approach the Board as provided under Section 167 (1) of the Act read with Regulation 203 of Regulations 2020 while seeking remedies that the Board has powers to grant under Section 172 and 173 of the Act.

Turning to the circumstances of the instant Request for Review, as captured elsewhere above, the instant Request for Review was filed on the 30<sup>th</sup> November 2022. The Letter of Notification of regret and award of the subject tender was issued on the 8<sup>th</sup> November 2022. The Applicant has averred in its Supporting Affidavit sworn by one Francis Mutai that it picked the letter on the 15<sup>th</sup> November 2022. At the same time the Board has had occasion to peruse through a Demand Letter issued by the firm of M/s Boiwo & Company Advocates dated 14<sup>th</sup> November 2022.

The said letter reads in part as follows:

***"our Ref: Gen/Adm./024/22 Date:14<sup>th</sup> December 2022***

***THE CHIEF PRINCIPAL***

***MOI TEACHERS COLLEGE- BARINGO***

***P.O. BOX 348-30400***

***KABARNET.***

***RE: TENDER MTC-B/P/19/22/23- HIRING OF COLLEGE  
CANTEEN***

***We are retained by our client one Francis Mutai in  
whose instructions we address you as hereunder.***

***That he tendered for the above referred tender and has  
received a regret letter vide MTC-B/P/VOL.3 dated  
8/11/2022.***

.....  
.....  
.....  
.....  
.....  
..... [Emphasis ours]

The Board has in a plethora of cases before spoken in no uncertain terms that procurement proceedings are time bound. For the umpteenth time, we repeat this at the risk of becoming monotonous. The Board has noted an inconsistency in the averments made by the Applicant through its firm of Advocates namely M/s Boiwo & Company Advocates. On the one hand in the Supporting Affidavit accompanying the instant Request for Review the Applicant avers that it picked its letter of regret on 15<sup>th</sup> November 2022 and yet on the other hand there is the letter whose extract is quoted above that states as at 14<sup>th</sup> November 2022 the Applicant was already in receipt of the Notice of the Letter of Regret. With this inconsistency and contradiction, the Board is left to wander as to which is which. However, we must not wander without a solution. The Applicant did not bother to either admit an error in dating the demand letter above or explain the apparent contradiction in its documents. In the absence of any such explanation we will take that the Applicant at the very least received the Notification of the Letter of Regret on the 14<sup>th</sup> November 2022, being the same day through its firm of Advocates it issued a demand letter for the enumerated documents to be supplied to it.

In our considered view, there could be no other reason as to why the Applicant would be demanding for the documents in vain and make

reference and admit receipt of the notification of regret without knowledge of the outcome of the evaluation process. That said, we will now determine if the instant Request for Review dated 29<sup>th</sup> November 2022 and filed on 30<sup>th</sup> November 2022 is properly before the Board.

In computing time, the Board is guided by Section 57 of the Interpretation and General Provisions Act, Chapter 2 of the Laws of Kenya (hereinafter the IGPA) which provides as follows:

***57. Computation of time***

***In computing time for the purposes of a written law, unless the contrary intention appears—***

- (a) a period of days from the happening of an event or the doing of an act or thing shall be deemed to be exclusive of the day on which the event happens or the act or thing is done;***
- (b) if the last day of the period is Sunday or a public holiday or all official non-working days (which days are in this section referred to as excluded days), the period shall include the next following day, not being an excluded day;***
- (c) where an act or proceeding is directed or allowed to be done or taken on a certain day, then if that day happens to be an excluded day, the act or proceeding shall be***

***considered as done or taken in due time if it is done or taken on the next day afterwards, not being an excluded day;***

***(d) where an act or proceeding is directed or allowed to be done or taken within any time not exceeding six days, excluded days shall not be reckoned in the computation of the time.*** [Emphasis by the Board]

In essence, the counting of the 14 days provided for in Section 167(1) of the Act does not start from the date indicated on the notification letter but rather on a day after the receipt and/or dispatch of the notification of award and regret sent out simultaneously. The 14 days will therefore be computed from the date of dispatch and/or receipt of the notification of the letter. In computing this, Section 57(a) of the IGPA Act shall be considered. Section 167(1) provides that a candidate or a tenderer may seek administrative review within fourteen (14) days of notification. Effective notification is upon receipt of the notification and therefore acquainting oneself with the content in the letter which will enable one make a decision as to seek an administrative review or not. Indeed, the demand letter issues by the Applicant through its firm of Advocates in the instant Request for Review speaks volumes to this.

In computing time when the Applicant ought to have filed a Request for Review, the 14<sup>th</sup> November 2022 is excluded pursuant to Section 57(a) of

IGPA being the day the letter of notification at the very least was received by the Applicant. This means, the 14 days started running from the 15<sup>th</sup> November 2022 and lapsed on 29<sup>th</sup> November 2022. This computation renders the filing of the instant Request for Review on 30<sup>th</sup> November 2022 inordinately out of time and thus outside the (14) days of the stand still period provided for in Section 167(1) of the Act within which time a tenderer and/or candidate may seek administrative review before the Board.

In conclusion it is our considered view that the Applicant filed the Request for Review on 30<sup>th</sup> November 2022 after the lapse of 14 days from the date of notification, thus the Board is bereft of jurisdiction pursuant to Section 167(1) of the Act read with Regulation 203(2)(c) of Regulations 2020. This finding and conclusion renders us unable to address this matter any further. We must down our tool which we hereby do.

### **FINAL ORDERS**

In exercise of the powers conferred upon it by Section 173 of the Public Procurement and Asset Disposal Act, 2015, the Board makes the following orders in the Request for Review dated 22<sup>nd</sup> November 2022: -

- 1. The Request for Review dated 30<sup>th</sup> November 2022 with respect to Tender No. MTC-B/P/19/22/23 for Hiring of**

College Canteen be and is hereby struck out for want of jurisdiction.

2. Given that the procurement process is not complete, each party shall bear its own costs in the Request for Review.

Dated at NAIROBI, this 20<sup>th</sup> day of DECEMBER, 2022



.....  
**CHAIRPERSON**  
**PPARB**



.....  
**SECRETARY**  
**PPARB**