

REPUBLIC OF KENYA

PUBLIC PROCUREMENT ADMINISTRATIVE REVIEW BOARD

APPLICATION NO. 45 OF 2023 DATED 22ND JUNE, 2023

BETWEEN

BROAD CONTRACTORS COMPANY

LIMITED APPLICANT

VERSUS

THE PRINCIPAL SECRETARY,

MINISTRY OF EDUCATION..... RESPONDENT

AND

CHAJU BUILDERS LIMITED..... INTERESTED PARTY

Review against the decision of the Principal Secretary, Ministry of Education in relation to Request for Bids: MOE/SEQIP/NCB/01/2022-2023 for the Construction and Completion of Proposed Ultra-Modern Training Centre- CEMASTEIA under SEQIP in Karen.

BOARD MEMBERS

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|----------------------|---|-------------|
| 1. Mr. George Murugu | - | Chairperson |
| 2. QS Hussein Were | - | Member |
| 3. Mr. Daniel Langat | - | Member |
| 4. Dr.Susan Mambo | - | Member |
| 5. Alice Oeri | - | Member |

DECISION OF THE BOARD

On 22nd June, 2023 the Applicant herein filed a Request for Review dated 22nd June 2023 together with a Statement in Support of the Request for Review signed by Parminder Singh Manku, the Managing Director of the Applicant, on 22nd June 2023 (hereinafter referred to as the "Request for Review") through the firm of Okenyo Omwansa & Associates.

On being served with, and in opposition to the Request for Review, the Respondent, on 27th June 2023, filed a Response to the Request for Review dated 26th June 2023 signed by Dr. Hilder Kaaria on behalf of the Respondent (hereinafter referred to as the "Respondent's Response").

On 3rd July 2023, in opposition to the Request for Review and in support of the Respondent's Response, the Interested Party filed a Notice of Appointment of Advocates dated 30th June 2023, a Notice of Preliminary Objection dated 30th June 2023 and a Replying Affidavit sworn by Cornel Opiyo Osano, the Interested Party's Director, on 30th June 2023 through the firm of Njoki Mboce & Company Advocates.

Vide an email dated 3rd July, 2023 the Public Procurement Administrative Review Board (hereinafter referred to as the "Review Board"), notified all parties of the virtual hearing of the Request for Review scheduled for the 6th day of July 2023 at 12:00noon whilst sharing with all parties the link for attendance for such virtual hearing.

However, on 4th July 2023, the Applicant filed before the Review Board a Notice of Withdrawal of the Request for Review pursuant to Regulation 216(1) of the Public Procurement Asset and Disposal Regulations, 2020 (hereinafter referred to as "Regulations 2020").

Subsequently, on 5th July 2023, Consent to Withdraw dated 4th July 2023 and signed by all parties and/or parties' appointed advocates was equally filed with the Review Board pursuant to Regulation 216(2) of Regulations 2020.

The Applicant having issued the Notice of Withdrawal to the Acting Board Secretary pursuant to Regulation 216 (1) of Regulations 2020 and Notice of Withdrawal being based on the Consent to Withdraw signed by all parties to the Request for Review and filed before the Review Board pursuant to Regulations 216(3) of Regulations 2020, the Request for Review dated 22nd June 2023 is deemed to have been withdrawn on 6th July 2023.

FINAL ORDERS

In exercise of the powers conferred upon it by Section 173 of the Public Procurement and Asset Disposal Act, No. 33 of 2015, the Review Board makes the following orders by consent of all parties to the Request for Review dated 22nd June 2023:

1. The Applicant's Request for Review dated 22nd June 2023 and filed on 22nd June 2023 be and is hereby marked as withdrawn.

2. The Respondent is at liberty to proceed with the procurement proceedings of the Request for Bids: MOE/SEQIP/NCB/01/2022-2023 for the Construction and Completion of the Proposed Ultra-Modern Training Centre-CEMASTEIA under SEQIP in Karen, Nairobi County to its logical conclusion.

3. There shall be no orders as to costs.

Dated at NAIROBI, this 6th Day of July 2023.



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CHAIRPERSON

PPARB



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SECRETARY

PPARB