

REPUBLIC OF KENYA

PUBLIC PROCUREMENT ADMINISTRATIVE REVIEW BOARD

APPLICATION NO. 71/2025 OF 23RD JUNE 2025

BETWEEN

SLDR INTERNATIONAL LIMITED APPLICANT

AND

KENYA TEA DEVELOPMENT (HOLDINGS) LIMITED ... RESPONDENT

ORIOLE HOMES LIMITED INTERESTED PARTY

Review against the decision of the Respondent made on the 14th May 2025 over Tender No; Tender for Supply of 99,875 Metric Tonnes of NPK 26:5:5 Chemically Compounded Fertilizer for the Year 2025 – Tender No. KTDA/014/2025 where the respondent refused/declined to open the applicant's financial bid.

BOARD MEMBERS PRESENT

1. Mr. George Murugu, FCI Arb, I.P - Chairperson
2. Mr. Alexander Musau - Member
3. Mr. Daniel Langat - Member

IN ATTENDANCE

Ms. Evelyn Weru - Holding brief for the Board Secretary

PRESENT BY INVITATION

APPLICANT

SLDR INTERNATIONAL LIMITED

Mr. Dominic Rono

- Advocate, Rono & Company Advocates

RESPONDENT KENYA TEA DEVELOPMENT (HOLDINGS) LIMITED

Ms. Maureen Cheruiyot

- Advocate, J. K. Kibicho & Co. Advocates

1st INTERESTED PARTY ORIOLE HOMES LIMITED

Mr. Hilary Kiplangat

- Advocate, H&K Law Advocates

2ND INTERESTED PARTY INDAGRO GENEVA

Ms. Pauline Oduk h/b for

Mr. Henry Ogolla

- Representative

DECISION OF THE BOARD

1. On 23rd June 2025, SLDR International Limited, the Applicant herein, filed a Request for Review dated 22nd June 2025 together with a Verifying Affidavit sworn by Morgan Ezekiel Kipchirchir Kipkurui on 22nd June 2025, and a Supporting Affidavit sworn by Morgan Ezekiel Kipchirchir Kipkurui on 22nd June 2025 (hereinafter referred to as "the instant Request for Review") through Rono & Company Advocates seeking the following orders from the Board:

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a) A DECLARATION be and is hereby issued that the Respondent's decision not to open the petitioner's financial bid relating to TENDER FOR SUPPLY OF 99,875 METRIC TONNES OF NPK 26:5:5 CHEMICALLY COMPOUNDED FERTILIZER FOR THE YEAR 2025 – TENDER NO. KTDA/014/2025 is unconstitutional, illegal, unfair, null and void ab initio.

b) The Respondent decision made on the 14th May, 2025 disqualifying the Applicant's financial bid with respect to Tender No. TENDER FOR SUPPLY OF 99,875 METRIC TONNES OF NPK 26:5:5 CHEMICALLY COMPOUNDED FERTILIZER FOR THE YEAR 2025 – TENDER NO. KTDA/014/2025 be and is hereby nullified and/or set aside.

c) An order be and is hereby issued cancelling the award relating to-TENDER FOR SUPPLY OF 99,875 METRIC TONNES OF NPK 26:5:5 CHEMICALLY COMPOUNDED FERTILIZER FOR THE YEAR 2025 – TENDER NO. KTDA/014/2025 to any other bidder prior to the opening of the applicant's financial bid and the determination of the instant review.

d) An order be and is hereby issued directing and/or compelling the respondent to open the applicant's financial bid relating to TENDER FOR SUPPLY OF 99,875 METRIC TONNES OF NPK

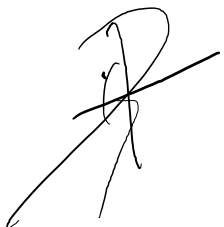
26:5:5 CHEMICALLY COMPOUNDED FERTILIZER FOR THE YEAR 2025 – TENDER NO. KTDA/014/2025.

e) An order be and is hereby issued directing and/or compelling the respondent to upon compliance with order (d) above award the applicant the TENDER FOR SUPPLY OF 99,875 METRIC TONNES OF NPK 26:5:5 CHEMICALLY COMPOUNDED FERTILIZER FOR THE YEAR 2025 – TENDER NO. KTDA/014/2025 should it's bid be the lowest.

f) The Respondent be and is hereby ordered to pay the costs of and incidental to these proceedings; and

g) Such other or further reliefs as this Board shall deem just and expedient.

2. In a Notification of Appeal and a letter dated 23rd June 2025, Mr. James Kilaka, the Secretary of the Board notified the Procuring Entity of the filing of the Request for Review and the suspension of the procurement proceedings of the subject tender, while forwarding to the said Procuring Entity 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 Procuring Entity was requested to submit a response to the Request for Review together with confidential documents concerning the subject tender within five (5) days from 23rd June 2024.



3. On 26th June 2025, the Respondent filed through Lilan & Koech Associates LLP a Notice of Appointment of Advocates dated 26th June 2025 and a Preliminary Objection dated 26th June 2025.
4. Subsequently, the Board on 26th June 2025, being mindful of the strict timelines within which it is required to complete a review as provided under Section 171 (1) of the Act, proceeded to issue the following dispositive orders with respect to the Preliminary Objection dated 26th June 2025:
- i. That the Applicant and Interested Party shall, in accordance with Regulation 209(3) of Regulations 2020 file and serve the Respondent with their replies and comprehensive written submissions (including any authorities they may wish to rely on) to the preliminary objection on or before Monday, 30th June 2025 at 8.00 a.m.
 - ii. That the Respondent shall file and serve comprehensive written submissions (including any authorities it may wish to rely upon) in response to the submissions by the applicant and the interested party on or before midnight of 30th June 2025.
 - iii. The matter shall be heard virtually on Tuesday, 1st July 2025 from 11.00 a.m. and a hearing link will be shared for that purpose.
5. *Vide* a Hearing Notice dated 26th June 2025, the Acting Board Secretary, notified parties and all tenderers of an online hearing of the instant

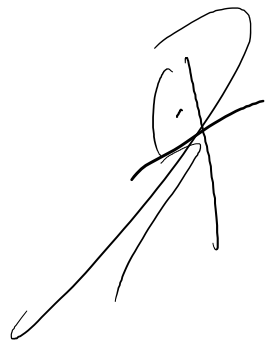
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Request for Review slated for 1st July 2025 at 11:00 a.m. through the link availed in the said Hearing Notice.

6. *Vide* letters dated 27th June 2025 and 30th June 2025, the Acting Board Secretary notified all tenderers in the subject tender, of the existence of the Request for Review while forwarding to them the Request for Review together with the Board's Circular No. 02/2020 dated 24th March 2020. All tenderers were invited to submit to the Board any information and arguments concerning the tender within three (3) days.
7. On 27th June 2025, the Respondent filed through J. K. Kibicho & Company Advocates a Notice of Change of Advocates dated 27th June 2025, a Notice of Withdrawal of the Respondent's Notice of Preliminary Objection dated 27th June 2025 together with a letter dated 27th June 2025, a Respondent's Replying Affidavit sworn on 27th June 2025 by Peter Mungai, the Ag. Group Head – Procurement and Logistics together with confidential documents in the subject tender pursuant to Section 67(3)(e) of the Act.
8. On the same day of 27th June 2025, the Interested Party filed through H & K Law Advocates a Notice of Appointment of Advocates dated 27th June 2025 and a Notice of Preliminary Objection dated 27th June 2025.
9. On 29th June 2025, the Interested Party filed an Interested Party's Replying Affidavit sworn by Du Ying on 29th June 2025.

10. On 30th June 2025, the Interested Party filed Written Submissions dated 29th June 2025 together with a List and Bundle of Authorities dated 29th June 2025.
11. On the evening of 30th June 2025, the Applicant filed a Notice of Withdrawal of Request for Review dated 30th June 2025.
12. At the hearing on 1st July 2025 at 11.00 a.m., the Board read out pleadings filed by parties in the instant Request for Review and acknowledged receipt of the Applicant's Notice of Withdrawal dated 30th June 2025.
13. Parties present through their respective advocates confirmed receipt of the Notice of Withdrawal and submitted that there was no objection to the withdrawal of the matter with no orders as to costs. Subsequently, the Board in view of consensus by parties to have the matter marked as withdrawn proceeded to adopt the same as an order of the Board.
14. In the circumstances, the Request for Review dated 22nd June 2025 and filed on 23rd June 2025 is hereby marked as withdrawn on 1st July 2025 by consent of parties with no order as to costs.

FINAL ORDERS

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15. In exercise of the powers conferred upon it by Section 173 of the Public Procurement and Asset Disposal Act, No. 33 of 2015, the Board makes the following orders in this Request for Review:

A. The Request for Review dated 22nd June 2025 and filed on 23rd June 2025 be and is hereby marked as withdrawn by consent of parties.

B. There shall be no orders as to costs.

Dated at NAIROBI this 1st Day of July 2025.



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CHAIRPERSON

PPARB



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SECRETARY

PPARB

