

REPUBLIC OF KENYA

PUBLIC PROCUREMENT ADMINISTRATIVE REVIEW BOARD

APPLICATION NO. 7/2026 OF 20TH JANUARY 2026

BETWEEN

WESTRIFT HOLDINGS LIMITED APPLICANT

AND

NYABANGI SECONDARY SCHOOL 1ST RESPONDENT

THE ACCOUNTING OFFICER,

NYABANGI SECONDARY SCHOOL 2ND RESPONDENT

WASUCHE COMPANY LIMITED INTERESTED PARTY

Review against the decision of the Accounting Officer, Nyabangi Secondary School in relation to Tender No. KCO/BEL/NYAB/022/2024-2025 for Proposed Completion of Multipurpose Hall at Nyabangi Secondary School.

BOARD MEMBERS PRESENT

1. Mr. George Murugu FCI Arb & IP - Chairperson
2. Mr. Daniel Langat - Member
3. Mr. Robert Chelagat - Member

IN ATTENDANCE

1. Ms. Godana Dokatu Holding brief for Board Secretary
2. Ms. Evelyn Weru Secretariat



PRESENT BY INVITATION

APPLICANT **WESTRIFT HOLDINGS LIMITED**

Mr. Yegon - Advocate, Kibet Yegon & Co. Advocates

Kipngetch Sang Benard - Director

RESPONDENT **NYABANGI SECONDARY SCHOOL &
THE ACCOUNTING OFFICER,
NYABANGI SECONDARY SCHOOL**

Mr. David Yegon - Accounting Officer, Nyabangi Secondary School

INTERESTED PARTY **WASUCHE COMPANY LIMITED**

N/A

BACKGROUND OF THE DECISION

The Tendering Process

1. The NG-CDF-Belgut and B.O.M Nyabangi Secondary School invited sealed tenders from interested contractors under category of Building, Maintenance & Repairs of Government Offices and Estate in response to Tender No. KCO/BEL/NYAB/022/2024-2025 for Proposed Completion of Multipurpose Hall at Nyabangi Secondary School (hereinafter referred to as the "subject tender"). The tender's submission deadline was scheduled on 19th November 2025 at 1.30 p.m.




Submission of Tenders and Tender Opening

2. According to the Tender Opening Minutes dated 19th November 2025 which were part of confidential documents furnished to the Public Procurement Administrative Review Board (hereinafter referred to as the 'Board') by the 2nd Respondent pursuant to Section 67(3)(e) of the Public Procurement and Asset Disposal Act, a total of nine (9) tenders were submitted in response to the subject tender and were recorded as follows:

No.	Bidder
1	Cnnett Eng. Construction
2	Vimax Multiworks Ltd
3	Kogal Multiwork Ltd
4	Wil Square Co Ltd
5	Kermen East African Ltd
6	Westrift Holding Ltd
7	Entai Technologies Ltd
8	Yaganso General Supplies Ltd
9	Wasuche Company

Evaluation of Tenders

3. A Tender Evaluation Committee (hereinafter referred to as the "Evaluation Committee") appointed by the 2nd Respondent undertook evaluation of the nine (9) tenders as captured in the Evaluation Report



for the subject tender signed by members of the Evaluation Committee on 27th November 2025 in the following stages:

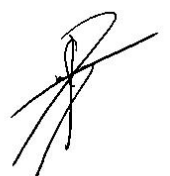
- i Preliminary Evaluation;
- ii Technical Evaluation; and
- iii Financial Evaluation

Preliminary Evaluation

4. The Evaluation Committee was required to examine tenders for responsiveness using the criteria provided under the Mandatory Requirements of the Tender Document. Tenderers were required to meet all the mandatory requirements at this stage to proceed to the technical evaluation stage.
5. At the end of evaluation at this stage, eight (8) tenders were determined non-responsive including the Applicant's tender, while one (1) tender was determined responsive and proceeded for Technical Evaluation.

Technical Evaluation

6. At this stage of evaluation, the Evaluation Committee was required to examine tenders using the criteria set out under the Technical Evaluation Criteria of the Tender Document. Bidders were required to attain a pass mark of 70% to be considered for financial evaluation.

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7. At the end of evaluation at this stage, the one (1) tender that progressed at this stage was determined responsive and proceeded for evaluation at the financial evaluation stage.

Financial Evaluation

8. At this stage of evaluation, the Evaluation Committee was required to examine tenders using the criteria set out under the Financial Evaluation Criteria of the Tender Document. Following the conclusion of evaluation at this stage, the Evaluation Committee finds as follows:

<i>BIDDER NO</i>	<i>Name Of The Bidder And Address</i>	<i>SUM BID PRICE IN KSHS.</i>	<i>Remarks</i>
<i>B1</i>	<i>Wasuche Company Limited P.O Box 1132, Kericho</i>	<i>Nine million, One hundred and twenty-two thousand, five hundred and fifty-three and twenty cents shillings only (Kshs. 9,122,553.20)</i>	<i>Lowest Evaluated Bidder, Responsive</i>

Evaluation Committee's Recommendation

9. The Evaluation Committee recommended award of the subject tender to Wasuche Company Limited at their quotation of Kenya Shillings Nine million, One Hundred and Twenty-Two Thousand, Five Hundred and Fifty-Three and Twenty Cents (kshs.9,122,553.20) only.

Professional Opinion

10. In a Professional Opinion dated 10th December 2025 (hereinafter referred to as "the Professional Opinion"), the Supply Chain Officer, Zeddy C Chebochok, reviewed the manner in which the subject procurement process in the subject tender was undertaken including evaluation of tenders concurred with the recommendations of the Evaluation Committee with respect to award of the subject tender.

11. The Professional Opinion was subsequently approved by the 2nd Respondent on the same day of 10th December 2025.

Notification to tenderers

12. Tenderers were notified of the outcome of evaluation of the subject tender vide letter dated 11th December 2025.

REQUEST FOR REVIEW NO. 7 OF 2026


13. On 20th January 2026, Westrift Holdings Limited, the Applicant herein, filed through Kibet Yegon & Co. Advocates, a Request for Review dated 20th January 2026 together with a Supporting Affidavit sworn by Kipngetich Sang Benard, its Director (hereinafter referred to as the 'instant Request for Review') seeking the following orders, in verbatim, from the Board that:



a) The Respondents decision awarding TENDER NO. KCO/BEL/NYABS/022/2024–2025 – Proposed Completion of Multipurpose Hall at Nyabangi Secondary School, P.O BOX 60-20201, Kabianga Belgut Constituency, Kericho County to the Interested Party be annulled and set aside;


b) The 1st Respondent’s letter dated 11th December,2025 notifying the Applicant that it had not been successful in TENDER NO. KCO/BEL/NYABS/22/2024–2025 – Proposed Completion of Multipurpose Hall at Nyabangi Secondary School, P.O BOX 60-20201, Kabianga Belgut Constituency, Kericho County be annulled and set aside;

c) Nullify and set aside any contract with respect to the subject tender that the Respondents may have entered with the Interested Party in breach of Section 135(3) of the Act read with Section 167(1) of the Act, Section 168 of the Act and Regulation 203 (2)(c) of Regulations 2020;

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d) The Public Procurement Administrative Review Board be pleased to review all records of the procurement proceedings/process relating to TENDER NO. KCO/BEL/NYABS/22/2024–2025 – Proposed Completion of Multipurpose Hall at Nyabangi Secondary School ,P.O BOX 60-20201, Kabianga Belgut Constituency, Kericho County and in exercise of its discretion, to direct the Respondents to redo or correct anything within the entire procurement proceedings/process found not to have been done in compliance with the law;

e) In the alternative and without prejudice to the foregoing, a declaration that the procurement proceedings/processes of the subject tender are null and void for contravening the provisions of the Constitution of Kenya 2010, the Act, Regulations 2020 and the Tender Document thus, the Public Procurement Administrative Review Board be pleased to order termination of the procurement process of the subject tender and commencement of a new procurement process;

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f) The Respondents be compelled to pay to the Applicant the costs arising from/and incidental to this Application; and

g) The Public Procurement Administrative Review Board to make such and further orders as it may deem fit and appropriate in ensuring that the ends of justice are fully met in the circumstances of this Request for Review

14. In a Notification of Appeal and a letter dated 20th January 2026, Mr. Philemon Kiprop, the Secretary of the Board notified the 1st and 2nd Respondents of the filing of the Request for Review and the suspension of the procurement proceedings, while forwarding to the said Respondents a copy of the Request for Review together with the Board's Circular No. 02/2020 dated 24th March 2020. Further, the Respondents were requested to submit a response to the Request for Review together with confidential documents concerning the matter within five (5) days from 20th January 2026.

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15. *Vide* a letter dated 27th January 2026, the Board Secretary sent a reminder to the Respondents referring to the Notification of the instant Request for Review and notified the Respondents of the provisions under Regulation 205(3) & (4) of the Public Procurement and Asset Disposal Regulations 2020 (hereinafter referred to as "Regulations 2020") with regard to the five (5) days within which they were required to submit a response being on or about 25th January 2026 noting that the operations of the Board are time bound and require matters to be concluded within 21 days.

16. On 29th January 2026, the Respondents through Mr. David Yegon advanced via email soft copies of the confidential documents relating to the subject tender together with the Respondents' Memorandum of Response to the Board. Physical copies were filed on 2nd February 2026.

17. *Vide* email and letter dated 2nd February 2026, the Board Secretary notified all tenderers in the subject tender via email, of the existence of the subject Request for Review while forwarding to all tenderers, *inter alia*, a copy of the Request for Review together with the Board's Circular No. 02/2020 dated 24th March 2020. All tenderers in the subject tender were invited to submit to the Board any information and arguments concerning the subject tender within three (3) days.

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18. *Vide* a Hearing Notice dated 2nd February 2025, the Board Secretary, notified parties and all tenderers in the subject tender of an online hearing of the Request for Review slated for 5th February 2026 at 11.00 a.m., through the link availed in the said Hearing Notice.
19. When the matter first came up for hearing on 5th February 2026, the Board read out pleadings filed by the respective parties in the matter and confirmed that parties and all tenderers had been notified of the hearing. Having taken note of the absence of the Applicant, the Board adjourned the matter in the interest of affording the Applicant an opportunity to be heard and directed the hearing to be rescheduled to 6th February 2026 at 9.00 a.m.
20. On the same day of 5th February 2026, the Board Secretary notified parties and all tenderers in the subject tender of the Board's directions and the rescheduling of the hearing to 6th February 2026 at 9.00 a.m.
21. At the hearing on 6th February 2026 at 9.00 a.m., the Applicant and Respondent through their representatives confirmed pleadings filed before the Board and were subsequently allocated time within which each party was required to proceed and highlight their respective cases. Thus, the matter proceeded for virtual hearing as scheduled.

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PARTIES' SUBMISSIONS

Applicant's case

22. In his submissions, Mr. Yegon for the Applicant placed reliance on the Applicant's pleadings filed before the Board.

23. Counsel submitted that though the Applicant is in possession of a letter of regret dated 11th December 2025 and stamped on 12th December 2025 when the statutory period of 14 days commenced, it was served with the said notification letter on 6th January 2026 through an SMS communication sent by the 1st Respondent's bursar after the expiry of the standstill period and consequently denied a meaningful opportunity to exercise its right to seek administrative review under Section 167(1) of the Act and Article 47 of the Constitution.

24. He further submitted that the Procuring Entity failed to comply with the mandatory requirement under Section 87(3) of the Act requiring it to disclose the successful tenderer thus rendering the regret letter defective and unlawful.

25. Counsel pointed out that at the time the Applicant was served with the regret letter, the Interested Party was already on site and ready to commence construction thus demonstrating that the Respondents had prematurely proceeded with contract implementation in blatant



disregard of the mandatory standstill period and in violation of the principles of fairness, transparency, and accountability under Article 227 of the Constitution.

26. He further pointed out that the Applicant wrote a letter of inquiry dated 6th January 2025 seeking clarification regarding the outcome of the procurement process but the Respondents failed to respond thus denying it an opportunity to seek clarification and frustrating its right to administrative review under Section 167(1) of the Act.

27. Counsel submitted that the 1st Respondent changed the location of the tender opening from its school grounds, which was clearly indicated in the invitation for tenders as the physical address for submission of tenders to the NG-CDF offices without issuing any addendum or prior notification to the tenderers. It further submitted that this irregularity renders the safety and security of the tender documents as well as the integrity of the tendering process questionable and raises serious concerns regarding the Respondents motives and the ultimate conduct of the procurement process.

28. With regard to disqualification of the Applicant's tender on account of having failed to submit a duly filled and signed Confidential Business Questionnaire (CBQ), the Applicant contends that this ground was

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misconceived since the alleged failure does not diminish the responsiveness of the Applicant's tender given that all the information required in the CBQ was already provided through the mandatory documents to be submitted with the bid i.e., business permit and CR12. Mr. Yegon submitted that any omission was minor and a non-material omission that did not affect the responsiveness of the Applicant's bid.

29. The Applicant argued that its bid was Kshs. 21,781.60 lower than that of the Interested Party hence it ought to have been declared as the successful bidder.

30. It is the Applicant's case that there was a conflict of interest in the procurement process arising from the subject tender's evaluation Committee and the directors of the Interested Party who allegedly had an undisclosed personal or professional relationship. It argued that this conflict of interest compromised the impartiality, fairness, and objectivity of the evaluation process thereby rendering the award of the subject tender unlawful, procedurally improper and contrary to Sections 33, 87, and 88 of the Act as well as Article 47 and 227 of the Constitution.

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31. Mr. Yegon urged the Board to allow the instant Request for Review as prayed and to dismiss the preliminary objection raised by the Respondents.

Respondents' case

32. In his submissions, Mr. Yegon on behalf of the Respondents placed reliance on the pleadings and confidential documents submitted to the Board by the Respondents.

33. He submitted that the procurement process in the subject tender was conducted in strict compliance with the Constitution, the Act, and Regulations 2020 and that all bidders were subjected to uniform eligibility, technical, and financial evaluation criteria leading to award to the lowest evaluated responsive bidder.

34. Mr. Yegon urged the position that the Applicant was duly informed through direct telephone communication that the notification letter regarding the outcome of the evaluation of the subject tender was ready for collection from the Procuring Entity's office. He indicated that the period immediately thereafter coincided with a phase of administrative realignment within the institution, occasioned by a transition in the office of the Accounting Officer coupled with a time when normal institutional operations were substantially scaled down in

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line with the academic calendar. That during this interval, access to offices, availability of officers, and coordination with external parties was practically constrained.

35. He further indicated that as a result of the foregoing, facilitation of physical collection of correspondence by bidders was operationally limited notwithstanding the Procuring Entity's readiness to release the same and that this delay was incidental to institutional circumstances affecting administrative efficiency and not the product of deliberate action, neglect, or intent to disadvantage the Applicant. He pointed out that upon resumption of full administrative operations, the communication was promptly regularized and conveyed and that no substantive prejudice was occasioned upon the Applicant.

36. Mr. Yegon submitted that the letter of regret issued to the Applicant under the authority of the Accounting Officer fully satisfied the substantive requirements governing notification of unsuccessful tenderer in line with Section 87 of the Act and that it clearly set out the reasons why the Applicant's tender was found non-responsive being failure to submit a duly completed and signed Confidential Business Questionnaire.

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37. Mr. Yegon denied the allegation that the Interested Party was on site and had taken possession of the site in readiness of commencing construction and indicated that this assertion by the Applicant was false, baseless, and unsupported by any evidence whatsoever. He submitted that the Procuring Entity did not authorize, facilitate or permit any form of mobilization or implementation of the project capable of undermining the integrity of the procurement process.

38. He further denied having any record of the Applicant's correspondence dated 6th January 2025 purportedly seeking clarification and reiterated that no such letter was received through the Procuring Entity's official channels nor served upon, or brought to the attention of the Accounting Officer. Mr. Yegon indicated that the reference number issued on the said letter was for a different school and as such, he could not respond.

39. On the allegation that the 1st Respondent changed the location of the tender opening, Mr. Yegon submitted that the tender notice as issued clearly and expressly indicated the designated location of the tender box as the Belgut NG-CDF office which served as the official point of submission and opening of tenders. He pointed out that at no point was the tender submission location changed, relocated, or substituted and received bids were opened at the location originally specified in the Tender Document. He further pointed out that the Tender Box was

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secured, access was controlled, and the opening conducted in accordance with established procedures, ensuring transparency and accountability throughout the process.

40. As to the allegation of conflict of interest in the procurement process arising from the Evaluation Committee and the directors of the Interested Party undisclosed personal or professional relationships, Mr. Yego submitted that no member of the Evaluation Committee applied for the subject tender or relate personally to the Interested Party. He indicated that the members of the Evaluation Committee acted independently and objectively being bound by confidentiality and impartiality obligations. He urged the Board to note that the Applicant had not identified any specific member of the Evaluation Committee nor particularized any alleged relationship nor tendered any evidence capable of sustaining the allegation of conflict of interest.

41. As to the reason for the disqualification of the Applicant's tender, Mr. Yegon submitted that the requirement for submission of a duly completed and signed Confidential Business Questionnaire (CBQ) was expressly stipulated as a mandatory requirement in the Tender Document and its compliance was a condition precedent to further evaluation. He stated that the CBQ was not intended merely to replicate information contained in other documents but to secure specific

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declarations and confirmations in a prescribed format. That the availability of similar or related information in other documents including a business permit, or CR12 could not cure, substitute, or mitigate the absence of a duly completed CBQ as the Tender Document did not permit equivalence, inference, or supplementation in respect of mandatory requirements.

42. It is the Respondents case that responsiveness at the Preliminary Evaluation stage is determined strictly on the basis of conformity with mandatory conditions as set out and not on an assessment on whether information may be gleaned from other submissions. It argued that once a bid fails to meet a mandatory requirement, it is rendered non-responsive by operation of the evaluation framework and cannot lawfully proceed to subsequent stages.

43. Mr. Yegon submitted that award of tender is not predicated on the lowest quoted price but on the outcome of the evaluation process which culminates in the identification of the lowest evaluated responsive bidder and that the Applicant's bid having failed to meet mandatory requirements did not qualify for financial evaluation and could not lawfully be subjected to price comparison, hence the subject tender was properly awarded in accordance with Section 86(1) of the Act.

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44. Mr. Yegon urged the Board to dismiss the instant Request for Review with costs and uphold award of the subject tender to the Interested Party.

Applicant's Rejoinder

45. In a rejoinder, Mr. Yegon for the Applicant submitted that the Applicant's correspondence dated 6th January 2025 seeking clarification had a clerical error but this did not negate the substance and content therein. He reiterated that the Respondents failed to meet the provisions under Section 87 of the Act in issuance of the letter of regret to the Applicant with regard to the outcome of evaluation of the subject tender.

46. At the conclusion of the online hearing, the Board informed parties that the instant Request for Review having been filed on 20th January 2026 was due to expire on 10th February 2026 and that the Board would communicate its decision on or before 10th February 2026 to all parties to the Request for Review via email.

BOARD'S DECISION

47. The Board has considered all documents, submissions, and pleadings together with confidential documents submitted to it pursuant to

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section 67 (3)(e) of the Act and finds the following issues call for determination:

A. Whether the tender opening in the subject tender was done in compliance with the provisions of the Tender Document as read with the Act.

B. Whether the 1st Respondent's Evaluation Committee evaluated the Applicant's tender at the Preliminary Evaluation stage in accordance with the provisions of the Tender Document as read with Section 79 and 80(2) of the Act.

C. Whether the Letter of Notification dated 11th December 2025 issued to the Applicant in the subject tender was proper.

D. What orders should the Board grant in the circumstances?

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Whether the tender opening in the subject tender was done in compliance with the provisions of the Tender Document as read with the Act.

48. The Applicant took issue with the manner in which the Respondents conducted the tender opening in the subject tender. According to the Applicant, the Respondent irregularly changed the venue for the tender opening from the school premises indicated in the Invitation to Tender to the NG-CDF offices without issuing any addendum or prior notification to tenderers. During the hearing, Mr. Yegon for the Applicant confirmed that the Applicant's director was present at the tender opening and argued that such sudden change of location was an inconsistency that ought to have been cured by prior written notification and not via phone call from a staff of the Procuring Entity. He further argued that because there was a change of venue, there was a real possibility that the tender documents were tampered with.

49. On their part, the Respondents denied that there was any alteration of the tender submission or opening location and submitted that the tender notice as issued expressly indicated the designated location of the tender box as the Belgut NG-CDF Offices which served as the official point for submission and opening of bids submitted in the subject tender. They further submitted that the tender box was



secured, and its access controlled thus ensuring transparency and accountability throughout the procurement process in the subject tender.

50. We understand the Applicant's allegation to mean that the Respondents illegally changed the venue of the tender opening from the 1st Respondent's premises indicated in the Invitation to Tender to the NG-CDF offices without issuing any addendum or prior notification to tenderers.

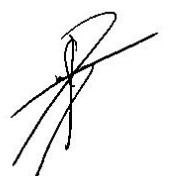
51. We have perused the Invitation to Tender in the subject tender dated 7th November 2025 and note as follows with respect to submission and opening of bids submitted in the subject tender:

5. Completed tenders must be delivered to the address below on or before Wednesday 19th November 2025 at 1.30 p.m.

.....

7. Completed tenders must be delivered to the address below on or before 19th November 2025 at 1.30 p.m. Electronic Tenders will not be permitted.

8. Tenders will be opened immediately after the deadline date and time specified above or any deadline date and time specified later. Tenders will be publicly opened in



the presence of the Tenderers' representatives who choose to attend at the address below.

.....

10. The addresses referred to above are:


NYABANGI SECONDARY SCHOOL

P.O. BOX 60-20201, KABIANGA

TENDER BOX AT BELGUT NG-CDF OFFICE, SOSIOT.

52. From the above, it is quite clear that the tender box where completed tenders were to be delivered and later on opened immediately after the tender submission deadline was at Belgut NG-CDF Office, Sosit. Hence, at no point was the venue of opening of bids submitted in the subject tender scheduled to be at the 1st Respondent's premises as alleged by the Applicant. Furthermore, the Applicant has confirmed to having attended the tender opening and did not stand to suffer any prejudice with the opening of bids submitted in the subject tender at Belgut NG-CDF Office.

53. The above notwithstanding, the Board notes that the Applicant's claim of occurrence of breach at the tender opening on 19th November 2025 on account of the alleged change in venue has been raised too late in time. We say so because Section 167 of the Act as read with Regulation 203(1) & (2) (c) of Regulations 2020 provides statutory



timelines that must be complied with by an Applicant seeking administrative review by the Board.

54. A reading of Section 167 of the Act provides as follows:

"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. "

55. While a reading of Regulation 203(1)&(2)(c) of Regulations 2020 provides as follows:

"Request for a review

(1) A request for review under section 167(1) of the Act shall be made in the Form set out in the Fourteenth Schedule of these Regulations.

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(2) The request referred to in paragraph (1) shall—

(a)

(b)

(c) be made within fourteen days of —

(i) the occurrence of the breach complained of, where the request is made before the making of an award;

(ii) the notification under section 87 of the Act; or

(iii) the occurrence of the breach complained of, where the request is made after making of an award to the successful bidder.

56. Section 167(1) of the Act, allows an aggrieved candidate or tenderer to seek administrative review within 14 days of (i) notification of award or (ii) date of occurrence of alleged breach of duty imposed on a procuring entity by the Act and Regulations 2020 at any stage of the procurement process in a manner prescribed.

57. Moreover, Regulation 203(1),(2)(c) & (3) of Regulations 2020 and the Fourteenth Schedule of Regulations 2020 confirms that an aggrieved candidate or tenderer invokes the jurisdiction of the Board by filing a



request for review with the Board Secretary within 14 days of (i) occurrence of breach complained of, having taken place before an award is made, (ii) notification under Section 87 of the Act; or (iii) occurrence of breach complained of, having taken place after making of an award to the successful tenderer.

58. It is our understanding that if the stipulated timelines are not adhered to, then any administrative review sought would be time barred for consideration by the Board. Put otherwise, the Board will lack jurisdiction to consider an administrative review that is time barred. The Board has severally held that procurement proceedings are time bound and a candidate or a tenderer who wishes to challenge a decision of a procuring entity with respect to a tender must come before the Board at the earliest, by using the earliest option available under Regulation 203(2) (c) of Regulations 2020 so as not to be accused of laches.

59. In the circumstances, the Applicant's contention as to the alleged change of venue of the subject tender's opening ought to have been challenged within 14 days from the 19th November 2025, being the tender opening date.

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60. 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.

61. In computing time when the Applicant should have sought administrative review before the Board with respect to the allegation of change of the venue of the subject tender's opening, the 19th November 2025 is excluded pursuant to Section 57(a) of the IGPA being the day that the Applicant learnt of occurrence of the alleged breach. This means 14 days started running from 20th November 2025 and lapsed on 3rd December 2025. However, the Applicant opted to raise this issue in the instant Request for Review filed on 20th January 2026 which is the 63rd day from the date of occurrence of the alleged breach by the Respondents.

62. To this end, we find that the allegation raised by the Applicant challenging the purported change of venue of the subject tender's opening to have been raised outside the statutory period of 14 days of occurrence of alleged breach of duty imposed on the 1st Respondent by the Act contrary to Section 167(1) of the Act read with Regulation 203(2)(c)(i) of Regulations 2020 to invoke the jurisdiction of the Board.




Whether the 1st Respondent's Evaluation Committee evaluated the Applicant's tender at the Preliminary Evaluation stage in accordance with the provisions of the Tender Document as read with Section 79 and 80(2) of the Act.

63. We understand the Applicant's case on this issue to be that its tender met all the eligibility and mandatory requirements of the Tender Document and that the decision to disqualify its tender at the Preliminary Evaluation stage on the ground that it did not submit a duly filled and signed Confidential Business Questionnaire (CBQ) was misconceived, misleading, and unlawful.

64. The Applicant contends that all the information required under the CBQ was adequately provided through the mandatory documents submitted in its bid including the business permit and CR 12. It further contends that the alleged omission, if any, did not go to the substance of its bid nor diminish its responsiveness and ought to be considered as a minor deviation.

65. On their part, the Respondents contend that the Evaluation Committee complied with provisions of the Constitution, the Act, Regulations 2020 and the Tender Document in evaluation of bids submitted in the subject tender. They submitted that the Applicant

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was non-responsive in the subject tender as it failed to submit a duly filled and signed Confidential Business Questionnaire (CBQ) as required under the Mandatory Requirements provided at the Preliminary Evaluation stage in the Tender Document.

66. Having considered parties' submissions herein, we note that the objective of public procurement is to provide quality goods and services in a system that implements the principles specified in Article 227 of the Constitution which provides as follows:

"227. Procurement of public goods and services

(1) When a State organ or any other public entity contracts for goods or services, it shall do so in accordance with a system that is fair, equitable, transparent, competitive and cost-effective.

(2) An Act of Parliament shall prescribe a framework within which policies relating to procurement and asset disposal shall be implemented and may provide for all or any of the following –

a)

b)

c) and

d)....."



67. The Board observes that the legislation contemplated in Article 227(2) of the Constitution is the Act. Section 80 of the Act is instructive on how evaluation and comparison of tenders should be conducted by a procuring entity as follows:

"80. Evaluation of tender

(1) The evaluation committee appointed by the accounting officer pursuant to Section 46 of the Act, shall evaluate and compare the responsive tenders other than tenders rejected.

(2) The evaluation and comparison shall be done using the procedures and criteria set out in the tender documents and, in the tender for professional services, shall have regard to the provisions of this Act and statutory instruments issued by the relevant professional associations regarding regulation of fees chargeable for services rendered.



(3) The following requirements shall apply with respect to the procedures and criteria referred to in subsection (2)-

(a) the criteria shall, to the extent possible, be objective and quantifiable;

(b) each criterion shall be expressed so that it is applied, in accordance with the procedures, taking into consideration price, quality, time and service for the purpose of evaluation; and

(4)

68. Section 80(2) of the Act as indicated above requires the Evaluation Committee to evaluate and compare tenders in a system that is fair using the procedures and criteria set out in the Tender Document. A system that is fair is one that considers equal treatment of all tenders against a criterion of evaluation known by all tenderers since such criteria is well laid out for in a tender document issued to tenderers by a procuring entity. Section 80(3) of the Act requires for such evaluation criteria to be as objective and quantifiable to the extent possible and



to be applied in accordance with the procedures provided in a tender document.

69. Section 79 of the Act provides for responsiveness of tenders as follows:

"(1) A tender is responsive if it conforms to all the eligibility and other mandatory requirements in the tender documents"

70. Responsiveness serves as an important first hurdle for tenderers to overcome. From the above provision, a tender only qualifies as a responsive tender if it meets all eligibility and mandatory requirements set out in the tender documents. In the case of **Miscellaneous Civil Application No. 85 of 2018, Republic V Public Procurement Administrative Review Board Ex Parte Meru University of Science & Technology; M/S AAKI Consultants Architects and Urban Designers (Interested Party) [2019] eKLR**, the High Court held that:

"Tenders should comply with all aspects of the invitation to tender and meet any other requirements laid down by the procuring entity in its tender documents. Bidders should, in other words, comply with tender conditions; a failure to do so would defeat the underlying purpose of



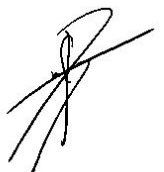
supplying information to bidders for the preparation of tenders and amount to unfairness if some bidders were allowed to circumvent tender conditions. It is important for bidders to compete on an equal footing. Moreover, they have a legitimate expectation that the procuring entity will comply with its own tender conditions. Requiring bidders to submit responsive, conforming or compliant tenders also promotes objectivity and encourages wide competition in that all bidders are required to tender on the same work and to the same terms and conditions."

71. The Board notes that Regulation 74(1) of Regulations 2020 provides that:

"74. Preliminary evaluation of open tender

(1) Pursuant to section 80 of the Act and upon opening of tenders, the evaluation committee shall first conduct a preliminary evaluation to determine whether—

(a) a tenderer complies with all the eligibility requirements provided for under section 55 of the Act;

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(b) the tender has been submitted in the required format and serialized in accordance with section 74(1)(i) of the Act;

(c) any tender security submitted is in the required form, amount and validity period, where applicable;

(d) the tender has been duly signed by the person lawfully authorized to do so through the power of attorney;


(e) the required number of copies of the tender have been submitted;

(f) the tender is valid for the period required;

(g) any required samples have been submitted; and

(h) all required documents and information have been submitted.

72. The import of the aforementioned provisions of the Act and case law is that mandatory requirements cannot be waived. In this instance, the Evaluation Committee was mandated to evaluate the Applicant's tender together with all other tenders submitted in the subject tender



using the procedures and criteria set out in the Tender Document having regard to provisions of the Act and the Constitution.

73. Turning to the circumstances in the instant Request for Review, we note that the Applicant was notified in a notification letter dated 11th December 2025 that its bid in the subject tender was unsuccessful as follows:

".....
We regret to inform you that your bid was unsuccessful. This is because you did not submit a duly filled and signed Confidential Business Questionnaire (CBQ).
....."

74. We note that Mandatory Requirement No. 6 under the Preliminary Evaluation of the Tender Document reads:

MR6	<i>Duly filled and signed Confidential Business Questionnaire</i>
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75. We note that it is not in contest that the Applicant did not submit a duly filled and signed Confidential Business Questionnaire (CBQ) in its bid document. It averred as seen at paragraph 6 of the Request for Review and paragraph 10 of the Supporting Affidavit sworn on 20th



January 2026 by Kipngetich Sang Benard that all the information required under the Confidential Business Questionnaire (CBQ) was adequately provided through the mandatory documents submitted with its bid which included the business permit and CR 12 and urged the Board to treat this non-compliance as a minor deviation.

76. The Board has on various occasions considered the import of Section 79(2) and (3) of the Act with respect to minor deviations. Section 79 (2) and (3) of the Act provides that:

"(2) A responsive tender shall not be affected by-
(a) minor deviations that do not materially depart from the requirements set out in the tender document; or
(b) errors or oversights that can be corrected without affecting the substance of the tender.
(3) A deviation described in subsection (2)(a) shall-
(a) be quantified to the extent possible; and
(b) be taken into account in the evaluation and comparison of tenders."

77. Essentially, responsiveness of a tender shall not be affected by any minor deviations that do not materially depart from the requirements set out in the Tender Document and that do not affect the substance of a tender. This provision details a minor deviation as one that can



be quantified to the extent possible and shall be taken into account in the evaluation and comparison of tenders.

78. In **Miscellaneous Civil Application No. 85 of 2018** the High Court considered what amounts to a minor deviation and determined as follows:

The term "acceptable tender" means any tender which, in all respects, complies with the specifications and conditions of tender as set out in the tender document. A tender may be regarded as acceptable, even if it contains minor deviations that do not materially alter or depart from the characteristics, terms, conditions and other requirements set out in the tender documents or if it contains errors or oversights that can be corrected without touching on the substance of the tender. Any such deviation shall be quantified, to the extent possible, and appropriately taken account of in the evaluation of tenders. A tender shall be rejected if it is not acceptable....

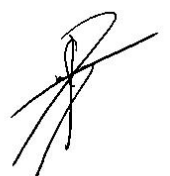
In public procurement regulation it is a general rule that procuring entities should consider only conforming, compliant or responsive tenders. Tenders should comply with all aspects of the invitation to tender and meet any



other requirements laid down by the procuring entity in its tender documents. Bidders should, in other words, comply with tender conditions; a failure to do so would defeat the underlying purpose of supplying information to bidders for the preparation of tenders and amount to unfairness if some bidders were allowed to circumvent tender conditions. It is important for bidders to compete on an equal footing. Moreover, they have a legitimate expectation that the procuring entity will comply with its own tender conditions. Requiring bidders to submit responsive, conforming or compliant tenders also promotes objectivity and encourages wide competition in that all bidders are required to tender on the same work and to the same terms and conditions.

79. It is evident that a procuring entity cannot waive a mandatory requirement or term it as a "minor deviation" since a mandatory requirement is instrumental in determining the responsiveness of a tender and is a first hurdle that a tender must overcome in order to be considered for further evaluation.

80. In **Republic v Public Procurement Administrative Review Board ex parte Guard force Group Limited; Pwani University &**



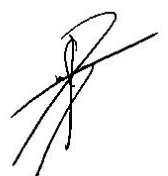
2 Others (Interested Parties) [2021] eKLR Justice E.K. Ogola, held that;

“...it becomes apparent to this court that the aspect of compliance with the mandatory requirement of the tender document aims to promote fairness, equal treatment, good governance, transparency, accountability and to do away with unfairness. Failure to conform to this mandatory requirement, and/or exempt or give an opportunity to those who had not earlier on conformed to this mandatory requirement translates to unequal and unfair treatment of other tenderers and, if allowed, may encourage abuse of power and disregard of the law by not only bidders, but also procuring entities.”

81. In the recent holding by the High Court in **Republic v Public Procurement Administrative Review Board Ex parte Fresquare Investments Limited & 2 Others (Interested Parties) [2025] eKLR** Justice R.E.Aburili held that:

.....

133. In view of this Court, treating the Applicant’s omission as a ‘minor error’ would directly undermine Article 227 of the



Constitution and the statutory architecture of the PPADA in several interconnected ways as stated below.

134. Article 227 of the Constitution provides:

.....

135. Article 227(1) requires procurement systems to be fair and equitable, transparent, competitive and cost-effective. Therefore, treating a substantive omission as minor would inter alia, confer an undue advantage on the Applicant; penalise bidders who strictly complied with the tender requirements; and introduce unequal treatment. Fairness in procurement is not subjective or outcome-based. It is achieved by uniform application of the rules to all bidders.

136. Secondly, Article 227 also demands transparency. It follows that if a mandatory requirement can later be re-classified as "minor," bidders cannot predict which rules will be enforced and as a result, tender requirements lose normative force thereby making the procurement process opaque and discretionary, contrary to the constitutional design. Transparency requires that bidders know in advance what will disqualify them and that those rules will be enforced as written.

137. Thirdly, public procurement competitiveness and cost effectiveness depends on a level playing field. Therefore,



permitting post-submission curing of substantive omissions allows bidders to submit incomplete tenders, knowing they may later rectify them, it disincentivises diligence and compliance and distorts genuine competition, ultimately undermining cost-effectiveness. 138. Fourthly, Section 79 draws a bright line between responsive and non-responsive tenders. The Section provides:

.....

139. Section 79(1) requires compliance with all mandatory requirements and Section 79(2) allows only non-material deviations. Treating the omission as minor would in my view collapse this statutory distinction, convert mandatory requirements into optional ones and undermine section 79 of the Act thereby rendering the section nugatory.

140. In the view of this Court, once a requirement in the tender documents is mandatory, materiality is already legislatively determined and therefore the procuring entity or the Review Board cannot make it discretionary to favour one bidder against the other bidders who have complied with the requirement. 141. Fifth, Section 80 of the Act mandates that evaluation be conducted strictly in accordance with the tender documents. The section provides:

.....

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142. in view of the above provision, re-characterizing a mandatory requirement as minor at evaluation stage would Amount to re-writing the tender documents by introducing undisclosed evaluation criteria and as a result, violate the principle that bidders must be evaluated on pre-disclosed rules only.

143. Sixth, Section 82 of the Act and Regulation 74 of the 2020 Regulations permit correction and clarification only where such clarification does not introduce new information or change the substance of the tender.

144. Section 82 provides:

82. Correction, revision, adjustment or amendment of tender (1) Subject to subsection (2) of this section, the tender sum as submitted and read out during the tender opening shall be absolute and final and shall not be the subject of correction, revision, adjustment or amendment in any way by any person entity. (2) For avoidance of doubt, the provisions of subsection (1) shall not apply to sections 103, 131 and 141 of this Act.

145. Although the section refers to the tender sum, where the error is not a typo or clerical error, allowing disclosure of the auditor's name post-submission would introduce new material information, cure a substantive omission and

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convert clarification into post-tender compliance. This would directly defeat the statutory limits placed on clarification.

146. On the other hand, Regulation 74 provides:

74. Preliminary evaluation of open tender

(1) Pursuant to section 80 of the Act and upon opening of tenders, the evaluation committee shall first conduct a preliminary evaluation to determine whether —

(a) a tenderer complies with all the eligibility requirements provided for under section 55 of the Act;

(b) the tender has been submitted in the required format and serialized in accordance with section 74(1)(i) of the Act;

(c) any tender security submitted is in the required form, amount and validity period, where applicable;


(d) the tender has been duly signed by the person lawfully authorised to do so through the power of attorney;

(e) the required number of copies of the tender have been submitted; (f) the tender is valid for the period required;

(g) any required samples have been submitted; and

(h) all required documents and information have been submitted.

(2) Subject to section 79(2)(b) of the Act, any errors in the submitted tender arising from a miscalculation of unit price,

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quantity, subtotal and total bid price shall be considered as a major deviation that affect.

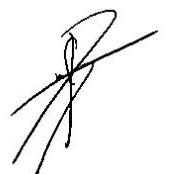
.....

149. Eighth is that the Review Board being a creature of statute, if it were permitted to re-classify substantive omissions as minor or waive mandatory requirements, this would act ultra vires its mandate and usurp the legislative role reserved to Parliament under Article 227(2) of the Constitution.

150. Lastly, at a systemic level, treating substantive omissions as minor deviations would encourage strategic non-compliance by bidders, increase procurement disputes and litigation, introduce subjectivity into evaluation, and thereby eroding public confidence in procurement processes.

151. Public procurement law exists precisely to restrain discretion, not to expand it. It follows that a procurement process is rendered unfair not by strict enforcement of tender requirements, but by selective relaxation of those requirements in favour of one or another of the bidders.

152. Thus, the constitutional and statutory framework requires, rather than prohibits, strict rejection of tenders that fail to meet mandatory requirements.



82. From the above, the Learned Judge pointed out that treating a substantive omission as a minor deviation confers an unfair advantage on the Applicant therein and penalizes bidders who strictly complied with the tender requirements. She further pointed out that fairness in public procurement is achieved by uniform application of the rules to all bidders and that if a mandatory requirement can later be re-classified as a minor, bidders cannot predict which rules will be enforced making the procurement process opaque and discretionary contrary to the constitutional design.

83. Importantly, public procurement competitiveness and cost-effectiveness depends on a level playing field and permitting post-submission curing of substantive omissions allows bidders to submit incomplete tenders knowing that they may later rectify them thereby distorting genuine competition and undermining cost-effectiveness. The High Court was adamant in stating that once a requirement in the tender document is mandatory, neither the procuring entity or this Board can make it discretionary to favour one bidder against the other bidders who have complied with the requirement.

84. Considering the above, we are left with the inevitable conclusion that the 1st Respondent's Evaluation Committee properly evaluated the Applicant's tender at the Preliminary Evaluation stage in accordance


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with the provisions of the Tender Document as read with Section 79 and 80(2) of the Act.

Whether the Letter of Notification dated 11th December 2025 issued to the Applicant in the subject tender was proper.

85. The Applicant contends that the letter of Notification dated 11th December 2025 was issued contrary to Section 87(3) of the Act and failed to notify it of the successful bidder. It further contends that the said letter was dated 11th December 2025 and stamped on 12th December 2025 yet it was only served with the said letter on 6th January 2026 after receiving an SMS communication sent by the Procuring Entity's bursar after the expiry of the standstill period thus denying it a meaningful opportunity to exercise its right to seek administrative review under Section 167(1) of the Act.

86. In response, the Respondents admitted that there was a delay, though not deliberate, in dispatch of the Applicant's letter though it was duly informed through direct telephone communication that the notification letter was ready for collection from its offices. They submitted that the notification letter as issued satisfied the substantive requirements governing notification of unsuccessful tenderers and the Applicant was



informed that its bid was unsuccessful and reasons for its disqualification indicated.

87. It is not in contention that the Applicant received its letter of notification of the outcome of evaluation of the subject tender on 6th January 2026. Nevertheless, the Applicant has suffered no prejudice having filed its request for review within 14 days of receipt of the said notification letter and sufficiently articulated its case before the Board. We note that the notification letter dated 11th December 2025 issued to the Applicant reads in part:

".....

Thank you for submitting your bid for the PROPOSED COMPLETION OF MULTIPURPOSE HALL AT NYABANGI SECONDARY SCHOOL under reference no: KCO/BEL/NYABS/22/2024-2025. We regret to inform you that your bid was unsuccessful. This is because you did not submit a duly filled and signed Confidential Business Questionnaire (CBQ).

We appreciate the time, effort and interest your organization demonstrated in participating in this procurement process. We encourage you to continue participating in our future tenders, as we value your



interest and look forward to potential opportunities to work together.

.....”

88. From the above notification, the Applicant was notified that its bid was unsuccessful and the reasons why. We however note that it failed to disclose the successful bidder and reasons why it was deemed successful.

89. We note that Section 87 of the Act is instructive on how notification of the outcome of evaluation of the successful and unsuccessful tenderers should be conducted by a procuring entity and provides as follows:

“87. Notification of intention to enter into a contract

(1) Before the expiry of the period during which tenders must remain valid, the accounting officer of the procuring entity shall notify in writing the person submitting the successful tender that his tender has been accepted.

(2) The successful bidder shall signify in writing the acceptance of the award within the time frame specified in the notification of award.



(3) When a person submitting the successful tender is notified under subsection (1), the accounting officer of the procuring entity shall also notify in writing all other persons submitting tenders that their tenders were not successful, disclosing the successful tenderer as appropriate and reasons thereof.

(4) For greater certainty, a notification under subsection (1) does not form a contract nor reduce the validity period for a tender or tender security."

90. Section 87 of the Act recognizes that notification of the outcome of evaluation of a tender is made in writing by an accounting officer of a procuring entity. Further, the notification of the outcome of evaluation ought to be done simultaneously to the successful tenderer(s) and the unsuccessful tenderer(s). A disclosure of who is evaluated as the successful tenderer is made to the unsuccessful tenderer with reasons thereof in the same notification of the outcome of evaluation.

91. The procedure for notification under Section 87(3) of the Act is explained by Regulation 82 of Regulations 2020 which provides as follows:

"82. Notification of intention to enter into a contract

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- (1) The notification to the unsuccessful bidder under Section 87(3) of the Act, shall be in writing and shall be made at the same time the successful bidder is notified.**
- (2) For greater certainty, the reason to be disclosed to the unsuccessful bidder shall only relate to their respective bids.**
- (3) The notification in this regulation shall include the name of the successful bidder, the tender price and the reason why the bid was successful in accordance with Section 86(1) of the Act.”**

92. In view of the provisions of Section 87 of the Act read with Regulation 82 of Regulations 2020, the Board observes an accounting officer of a procuring entity must notify, in writing, the tenderer who submitted the successful tender, that its tender was successful before the expiry of the tender validity period.

93. **Simultaneously**, while notifying the successful tenderer, an accounting officer of a procuring entity notifies other unsuccessful tenderers of their unsuccessfulness, giving reasons why such tenderers are unsuccessful, disclosing who the successful tenderer is,




why such a tenderer is successful in line with Section 86(1) of the Act and at what price is the successful tenderer awarded the tender. These reasons and disclosures are central to the principles of public procurement and public finance of transparency and accountability enshrined in Article 227 and 232 of the Constitution. This means all processes within a public procurement system, including notification to unsuccessful tenderers must be conducted in a transparent manner.

94. In **Judicial Review No. 589 of 2017, Lordship Africa Limited v Public Procurement Administrative Review Board & 2 others (2018) eKLR** (hereinafter referred to as "the Lordship Case") and **Judicial Review Miscellaneous Application No. 531 of 2015, Republic v Public Procurement Administrative Review Board & 2 others ExParte Akamai Creative Limited** (hereinafter referred to as "the Akamai Case") the High Court dealt with the importance of providing reasons for disqualifying a bidder.

95. In the Lordship Case, the High Court held that:

"It must be emphasized that contracts that are pedigree of a flawed process must be rendered null and void ab initio. The right to file a Request against the decision of the Procuring Entity accrues after an unsuccessful bidder



is notified that its bid was not successful, and with reasons.

...The letter simply states that the tenderer was not successful for incompleteness and for being nonresponsive. It does not state what was incomplete and or what aspect of the bid was non responsive leading to the rejection.

Notification of regret to the unsuccessful tenderer and the giving reasons for the regret is not optional for the procuring entity.”

96. In the Akamai Case, the High Court held that:

"In my view, Article 47 of the Constitution requires that parties to an administrative proceeding be furnished with the decision and the reasons thereof within a reasonable time in order to enable them decide on the next course of action. It is not merely sufficient to render a decision but to also furnish the reasons for the same. Accordingly, where an administrative body unreasonably delays in furnishing the parties with the decision and the reasons therefor when requested to do so, that action or



inaction may well be contrary to the spirit of Article 47 aforesaid”

97. From the above authorities, the Board observes that the High Court was basically expounding on one of the rules of natural justice as provided for in Article 47 (2) of the Constitution which provides:

“If a right or fundamental freedom of a person has been or is likely to be adversely affected by administrative action, the person has the right to be given written reasons for the action.”

98. In essence, the rules of natural justice as provided for in Article 47 of the Constitution require that a procuring entity promptly notifies tenderers of the outcome of evaluation to afford an unsuccessful tenderer the opportunity to challenge such reasons if need be. Further, the Act does not require that an unsuccessful tenderer to seek clarification in order for the accounting officer to provide it with the outcome of evaluation in a tendering process.

99. As such we deem it just and fair to order the Respondents to dispatch to the Applicant, within 48 hours of release of this decision, a letter of Notification of Intention to Award the subject tender setting out the details pertaining to the successful bidder and reasons why it was successful noting that the Applicant despite not having been notified of

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the name of the successful bidder joined the said successful bidder as an Interested Party in the instant Request for Review.

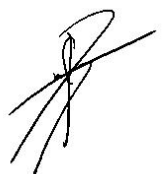
100. This directive does not affect the substantive findings of the Board in the instant Request for Review and is only meant to satisfy the requirements of the law and proper record of the procurement proceedings, the Board having fully addressed the reasons for the Applicant's disqualification and the entirety of the issues in this Request for Review. In other words, nothing at this stage of the proceedings turns on this issue.

What order should the Board grant in the circumstances?

101. The Board has found that the tender opening in the subject tender was done in compliance with the provisions of the Tender Document as read with the Act and that the Applicant's allegation that the Respondents unlawfully changed the venue of the subject tender's opening is time barred thus divesting the Board of jurisdiction to consider the same.

102. The Board has also made the finding that the 1st Respondent's Evaluation Committee properly evaluated the Applicant's tender at the Preliminary Evaluation stage in accordance with the provisions of the Tender Document as read with Section 79 and 80(2) of the Act.

103. The Board has further found that the Respondents' Letter of Notification of the outcome of evaluation of the subject tender dated

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11th December 2025 issued to the Applicant failed to meet the threshold required in Section 87(3) of the Act read with Regulation 82(3) of Regulations 2020 however the directive to issue the letter of Notification in paragraph 100 above does not affect the substantive findings of the Board in the instant Request for Review and is only meant to satisfy the requirements of the law and proper record of the procurement proceedings, the Board having fully addressed the reasons for the Applicant's disqualification and the entirety of the issues in this Request for Review. In other words, nothing at this stage of the proceedings turns on this issue.

104. The upshot of our findings is that the instant Request for Review fails as laid out in the following final orders, subject to the right of any party aggrieved with this decision to seek judicial review by the High Court within fourteen days, pursuant to Section 175 of the Act.

FINAL ORDERS

105. 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 the instant Request for Review:

A. The 2nd Respondent is hereby directed to issue the Applicant with a letter of Notification of Intention to Award Tender No. KCO/BEL/NYAB/022/2024-2025 for Proposed Completion of

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Multipurpose Hall at Nyabangi Secondary School in line with Section 87 of the Act within 48 hours of delivery of this decision.

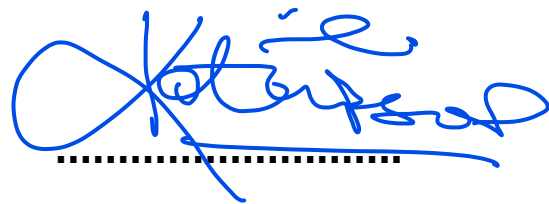
B. The Request for Review dated 20th January 2026 and filed on even date, save for Order No. 1 hereabove, be and is hereby dismissed.

C. Further to Order A, the Respondents are hereby directed to proceed with the procurement proceedings of Tender No. KCO/BEL/NYAB/022/2024-2025 for Proposed Completion of Multipurpose Hall at Nyabangi Secondary School to conclusion in accordance with the Tender Document, the Act, and the Constitution.

D. Each party shall bear its own costs in the Request for Review.

Dated at NAIROBI this 10th Day of February, 2026.


.....
CHAIRPERSON
PPARB


.....
SECRETARY
PPARB

