

REPUBLIC OF KENYA
PUBLIC PROCUREMENT ADMINISTRATIVE REVIEW BOARD
APPLICATION NO. 10/2026 FILED ON 23RD JANUARY 2026

BETWEEN

CRANBERRY DESIGNERS LIMITED..... APPLICANT

VERSUS

HEAD TEACHER AND ACCOUNTING OFFICER,

MOLO ACADEMY PRIMARY SCHOOL.....1ST RESPONDENT

MOLO ACADEMY PRIMARY SCHOOL.....2ND RESPONDENT

PRELIAM ENTERPRISES.....INTERESTED PARTY

Review against the decision of the Accounting Officer, Molo Academy Primary School in relation to Tender No. MAPS/B-DORM/001/2025-2027 Supply of Labour for the Proposed Construction to Completion of 3 No. Storey Dormitory at Molo Academy Primary School in Molo Constituency.

BOARD MEMBERS PRESENT

Mrs. Njeri Onyango, FCI Arb, SC	-	Panel Chairperson
QS Hussein Were	-	Member
Ms. Jessica M'mbetsa	-	Member
Mr. Robert Chelagat	-	Member

IN ATTENDANCE

Mr. Abdalla Issa - Holding Brief for Board Secretary

PRESENT BY INVITATION

APPLICANT CRANBERRY DESIGNERS LIMITED

Mr. Koigi Advocate, C.M Koigi & Company Associates

**RESPONDENTS THE ACCOUNTING OFFICER,
MOLO ACADEMY PRIMARY SCHOOL**

MOLO ACADEMY PRIMARY SCHOOL

Mrs. Edna Kapsowe Principal, Molo Academy Primary School

INTERESTED PARTY PRELIM ENTERPRISES

Mr. Mwenesi Agesa Sheth & Wathigo Advocates

BACKGROUND OF THE DECISION

The Tendering Process

1. The Molo Academy Primary School (hereinafter referred to as “the Procuring Entity”) invited eligible tenderers to submit bids for Tender No. MAPS/B-DORM/001/2025-2027 for Supply of Labour for the Proposed Construction to Completion of 3 No. Storey Dormitory at Molo Academy

Primary School in Molo Constituency (hereinafter referred to as “the subject tender”). The tender was initially scheduled to close and be opened on 29th December 2025.

Addenda/Clarifications

2. According to the confidential documents submitted to the Board pursuant to section 67(3)(e) of the Public Procurement and Asset Disposal Act (hereinafter referred to as *the Act*), it is evident that the Respondents issued an Addendum dated 28th December 2025, by which they revoked the initial Tender Document and introduced a revised Tender Document. The revised Tender Document introduced a tender security requirement and extended the tender closing date to 6th January 2026.

Submission of Bids and Tender Opening

3. According to the Tender Opening Report dated 6th January, 2026, submitted to the Board as part of the confidential documents, a total of six (6) tenders were received in response to the subject tender. The tenders were recorded as follows:

Bid No.	Name of Bidder
1.	M/s Omex (EA) Controls Ltd
2.	M/s Cranberry Designers Ltd
3.	M/s Bourice Construction Services Company

4.	M/s Regence Enterprises Co. Limited
5.	M/s Pascoh Afrique Décor K Ltd
6.	M/s Preliam Enterprises

Evaluation of Tenders

4. According to the Tender Evaluation Report dated 7th January 2026 (hereinafter referred to as "the Evaluation Report"), the Tender Evaluation Committee (hereinafter referred to as "the Evaluation Committee") convened to evaluate the tenders submitted. The evaluation process was undertaken in three stages, as set out below:

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

Preliminary Evaluation

5. At the Preliminary Evaluation stage, the Evaluation Committee was required to examine each tender against the mandatory requirements set out under the Preliminary/Mandatory Evaluation criteria of the Tender Document. Any tender that failed to satisfy these requirements was to be declared non-responsive.

6. Upon conclusion of the preliminary evaluation, four (4) bids were found to be non-responsive and were accordingly disqualified from further consideration. The remaining two (2) bids, being those of the Applicant and the Interested Party, were found to be responsive and were consequently advanced to the technical evaluation stage.

Technical Evaluation

7. At the Technical Evaluation stage, the Evaluation Committee assessed the tenders for compliance with the technical requirements set out in the Technical Evaluation criteria of the Tender Document. To qualify for progression to the Financial Evaluation stage, a tender was required to attain a minimum technical score of seventy-five percent (75%).
8. Upon conclusion of the Technical Evaluation stage, all tenders attained scores exceeding the minimum required technical score of seventy-five percent (75%). Accordingly, all the tenders were advanced to the Financial Evaluation stage.

Financial Evaluation

9. At the Financial Evaluation stage, the Evaluation Committee was required to evaluate the tenders in accordance with the Financial Evaluation criteria

set out in the Tender Document, including the determination of the lowest evaluated bidder.

10. Upon conclusion of the Financial Evaluation, the bidders that had made it to this stage were ranked and it was determined that the lowest responsive evaluated bidder was the Interested Party, M/s Preliam Enterprises.

Evaluation Committee's Recommendation

11. The Evaluation Committee recommended award of the subject tender to the Interested Party, having been determined to be the lowest responsive evaluated bidder.

Professional Opinion

12. In a Professional Opinion dated 9th January 2026 (hereinafter referred to as *the Professional Opinion*), Ms. Irene Cheptoo, a Procurement Officer, reviewed the procurement process, including the evaluation of the tenders, and concurred with the Evaluation Committee's recommendation to award the tender to the lowest evaluated bidders. The Professional Opinion was subsequently approved by the 1st Respondent on the same date.

Notification of Award

13. The tenderers were notified of the outcome of the evaluation for the subject tender through letters of Notification of Intention to Award dated 9th January 2025.

REQUEST FOR REVIEW NO. 10 OF 2026

14. On 23rd January 2026, the Applicant, through the firm of C.M. Koigi & Company Advocates, filed a Request for Review dated 22nd January 2026, accompanied by a Statement in Support of the Request for Review dated 22nd January 2026 by Martin Komu Githaiga, the Applicant's Director/Shareholder, (hereinafter collectively referred to as "the Request for Review"), seeking the following reliefs:

a. The Notice of Intention to Award dated 9th January 2026 issued to the Interested Party herein with respect to Tender No. MAPS/B-DORM/001/2025-27 for Supply of Labour for the Proposed Construction to Completion of 3 No. Storey Dormitory at Molo Academy Primary School in Molo Constituency be nullified and set aside;

b. The Honourable Board be pleased to find and hold that the 1st and 2nd Respondent's decision and reason for the Applicant's bid being found unsuccessful in the Notice of Intention to Award dated 9th January 2026 is unlawful and unconstitutional.

c. The 1st Respondent be directed to award the Tender No. MAPS/B-DORM/001/2025-27 for SUPPLY OF LABOUR FOR THE PROPOSED CONSTRUCTION TO COMPLETION OF 3 NO. STOREY DORMITORY AT MOLO ACADEMY PRIMARY SCHOOL IN MOLO CONSTITUENCY to the Applicant and issue the requisite letter of notification of award in accordance with the law within 14 days from the date of the Boards' decision nullified and set aside stated in.

d. Costs be awarded to the Applicant.

15. In a Notification of Appeal and a letter dated 23rd January 2026, Mr. Philemon Kiprop, the Board Secretary notified the Respondents of the filing of the instant 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. 02/2020 dated 24th March 2020. Further, the Respondents were requested to submit a response to the instant Request for Review together with confidential documents concerning the subject tender within five days from 23rd January 2026.

16. On 27th January 2026, the Respondents filed a Memorandum of Response dated 26th January 2026 together with an Affidavit sworn on 27th January 2026 by the 1st Respondent and, in compliance with section 67(3)(e) of

the Act, submitted to the Board the confidential documents relating to the subject tender.

17. On 27th January 2026, the Interested Party, through the firm of Sheth & Wathigo Advocates, filed a Notice of Preliminary Objection dated the same day.
18. On 30th January 2026, the Board Secretary issued a Hearing Notice dated the same day to the parties, notifying them that the hearing of the Request for Review would be held virtually on 5th February 2026 at 11:00 a.m. via the provided link.
19. When the Board convened for hearing on 5th January 2026, Counsel for all the parties were present. The Board confirmed that the pleadings on record had been duly filed and inquired into service upon all parties. Counsel for the Applicant then applied for an adjournment and sought leave to file and serve a Replying Affidavit in response to the Interested Party's Notice of Preliminary Objection. The Respondents opposed the application, while Counsel for the Interested Party indicated no objection, subject to being granted leave to file Written Submissions.
20. Upon consideration, the Board allowed the application for adjournment in the interest of having a complete record. The Applicant was directed to file and serve its Replying Affidavit by 9:00 a.m. on 6th February 2026, and the Interested Party was granted leave to file and serve its Written

Submissions. The hearing was accordingly adjourned to 6th February 2026 at 11:00 a.m.

21. On 6th February 2026, the Applicant filed a Replying Affidavit sworn on 28th January 2026 by Martin Komu Githaiga, together with Submissions dated 5th February 2026.
22. When the Board convened for hearing on 6th February 2026, all parties were present. The Board reviewed the documents on record and confirmed that the same had been duly exchanged among the parties. Upon further inquiry, all parties indicated that they were ready to proceed. The Board thereafter allocated time to the parties to highlight their respective cases.

PARTIES' SUBMISSIONS

Interested Party's Submissions on the Notice of Preliminary Objection

23. Counsel for the Interested Party submitted that the Request for Review is unsigned as required by law and therefore does not constitute a valid legal document from which any remedies may flow, as it lacks legal and probative value. Counsel further submitted that the Supporting Affidavit was not commissioned by a Commissioner for Oaths and therefore contravenes Rule 9 of the Oaths and Statutory Declarations Act.

Additionally, Counsel contended that the Request for Review improperly relies on confidential documents.

Applicant's Submissions in response to the Notice of Preliminary Objection and in support of the Request for Review

24. The Applicant's Counsel submitted that the objections raised by the Respondents and Interested Party were without merit. Counsel noted that the first two objections, concerning the alleged lack of signatures on the Request for Review and Statement, were premised on the mistaken service of draft documents. The Applicant's director affirmed that the filed Request and Statement were duly signed, filed, and accompanied by the requisite fees and security deposit. The error occurred only during service on 27th January 2026, and the correct documents were served the following day, within 24 hours. Counsel contended that this minor mistake did not prejudice any party and that Section 167 of the Act and Regulation 203 of the Regulations were fully complied with.
25. Additionally, Section 168 of the Act and Regulation 205 require service to be effected by the Board's Secretary; the Applicant should not be penalized for assisting in service. Counsel emphasized that courts recognize human error and cited ***Belinda Murai & 9 Others v Amos Wainaina [1979] eKLR***, where Madan JA held that mistakes, even by senior counsel, are pardonable and may be rectified in the interests of justice. Article

159(2)(d) of the Constitution similarly requires justice to be administered without undue regard to procedural technicalities.

26. On the third preliminary objection, which assumed that the Applicant filed a Supporting Affidavit not commissioned by a commissioner for oaths, Counsel clarified that the document was a Statement in Support of the Request for Review, not an Affidavit, and that no law requires such statements to be sworn. Regulation 203(1) and (2) permits a request to be accompanied by "Statements" as the Applicant considers necessary, and Black's Law Dictionary distinguishes between Statements and Affidavits. Counsel submitted that the objection was misconceived and lacked merit.
27. Regarding the final preliminary objection alleging reliance on confidential or illegally obtained evidence, Counsel explained that the Interested Party's National Construction Authority (NCA) certificate was publicly accessible on the NCA website and published in the Gazette as required under Section 20 of the NCA Act. Counsel argued that information in the public domain cannot be considered confidential and that this objection was similarly unmeritorious.
28. On the substantive issue of evaluation and comparison of bids, Counsel submitted that Section 80 of the Act and Regulation 30(a) require evaluation committees to assess tenders strictly in accordance with the criteria set out in the tender documents. Counsel cited ***PPARB***

Application No. 116 of 2024 Peesam Limited v The Accounting Officer, Kenya Electricity Generating Company PLC & Others,

affirming that evaluation criteria must be objective, quantifiable, and applied fairly to all bidders. The Tender in question required bidders to be registered contractors under the NCA Act, with the Interested Party obligated to satisfy all professional requirements to be eligible under Section 55(1)(c) of the Act.

29. Counsel argued that the Interested Party could not have satisfied the Technical Evaluation criteria, particularly the experience requirement, given that its NCA registration occurred in June 2025 and the Tender required demonstration of experience over the prior ten years. Under the three categories of technical evaluation, years of similar works, magnitude of similar works, and prior business in similar works, the Interested Party could not have achieved the 75% threshold required to progress to the financial evaluation stage. Counsel further submitted that any works undertaken prior to registration would have been illegal under Sections 15(1) and (3) of the NCA Act and should not have been considered.

30. Counsel concluded that the Respondents failed to comply with the Tender document, Section 80(1) of the Act, and Regulation 30(a) of the Regulations 2020, resulting in an evaluation process that was neither fair, equitable, competitive, nor cost-effective, contrary to Section 86(1)(a) of the Act and Article 227(1) of the Constitution. Given that the Applicant was the only other bidder to pass the Technical Evaluation, Counsel urged the

Board to find that the Tender should have been awarded to the Applicant and to direct that the award be made accordingly.

Respondents' Submissions

31. The Respondents submitted that the procurement process for the tender in question was conducted in strict compliance with the Constitution of Kenya, 2010, the Act, and the Regulations, 2020. They stated that all bidders were subjected to uniform eligibility, Technical, and Financial Evaluation criteria. The tender was publicly advertised, bids were publicly opened, Notifications of Award were duly issued, and the award was made to the lowest evaluated responsive bidder in accordance with Article 227 of the Constitution. The Respondents further submitted that the tender was advertised only after confirmation of available funds contributed by parents for the construction of a three-storey dormitory to enhance boarding facilities at Molo Academy Primary School.
32. The Respondents raised an objection regarding the Applicant's Request for Review being unsigned. They submitted that the Request for Review was unsigned, thereby failing to authenticate the claims and rendering the document defective.
33. Additionally, the Respondents submitted that the Affidavit accompanying the Applicant's Request for Review was neither signed by the Applicant nor commissioned by a Commissioner of Oaths. They argued that, as a

result, the Affidavit does not constitute a legal Affidavit and fails to meet the legal threshold necessary for the Board to consider the application. The Respondents therefore prayed that the Board strike out the Applicant's Request for Review.

Interested Party's Rejoinder on the Submissions on the Notice of Preliminary Objection

34. The Interested Party's Counsel submitted that they could not understand the Applicant's submission that the Request for Review they served the Interested Party was a draft yet the same was stamped by the Board. The Interested Party Counsel further argued that the Statement in Support to the Request for Review was equally not executed just like the Request for Review.

BOARD'S DECISION

35. The Board has considered each of the parties' cases, documents, pleadings, written submissions, authorities together with confidential documents submitted to the Board by the 1st Respondent pursuant to Section 67(3)(e) of the Act and finds the issues that arise for determination are:

A. Whether the Board has jurisdiction to hear and determine the instant Request for Review.

In determining the first issue, the Board will make a determination on the following sub-issue:

- i. Whether the alleged failure to sign the Request for Review renders the Application incompetent and thereby deprives the Board of jurisdiction to determine it on its merits.**

Depending on the determination on the above sub-issue

- ii. Whether the Request for Review is pegged on confidential documents.**

B. Whether the Procuring Entity properly evaluated the Interested Party's tender submitted in response to the subject tender in accordance with Section 80 of the Act and the provisions of the Tender Document.

C. What appropriate orders should issue in the circumstances.

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

36. Counsel for the Interested Party filed a Notice of Preliminary Objection contending that the Request for Review is unsigned as required by law and therefore does not constitute a valid legal document from which any remedies may flow, as it lacks legal and probative value. Counsel further submitted that the Supporting Affidavit was not commissioned by a Commissioner for Oaths and therefore contravenes Rule 9 of the Oaths and Statutory Declarations Act. Additionally, Counsel contended that the Request for Review improperly relies on confidential documents.
37. Similarly, the Respondents raised an objection regarding the Applicant's Request for Review being unsigned. They submitted that the Request for Review was unsigned, thereby failing to authenticate the claims and rendering the document defective. Additionally, the Respondents submitted that the Affidavit accompanying the Applicant's Request for Review was neither signed by the Applicant nor commissioned by a Commissioner of Oaths. They argued that, as a result, the Affidavit does not constitute a legal Affidavit and fails to meet the legal threshold necessary for the Board to consider the Application.
38. In response, Counsel for the Applicant submitted that the objections raised by the Respondents and Interested Party were without merit. Counsel noted that the first two objections, concerning the alleged lack of signatures on the Request for Review and Statement, were premised on the mistaken service of draft documents. The Applicant's director affirmed

that the filed Request and Statement were duly signed, filed, and accompanied by the requisite fees and security deposit.

39. On the third objection, the Applicant's Counsel submitted that the document was a Statement in Support of the Request for Review, not an Affidavit, thus it did not require to be commissioned. Regarding the final objection alleging reliance on confidential or illegally obtained evidence, Counsel explained that the Interested Party's National Construction Authority (NCA) certificate was publicly accessible on the NCA website.
40. The effect of the foregoing issues, if established, would be to deprive the Board of jurisdiction to entertain the present Request for Review. Accordingly, given their preliminary and jurisdictional nature, the issues must be addressed as a matter of priority. The Board is guided by the well-established principle that adjudicative bodies may only determine matters within their jurisdiction. Where a question of jurisdiction arises, it must be resolved as a threshold issue before any further proceedings. Jurisdiction is the cornerstone of adjudication, and in its absence, a court or a tribunal lacks the legal authority to proceed.
41. In ***Kenya Hotel Properties Limited v Attorney General & 5 others (Petition 16 of 2020) [2022] KESC 62 (KLR) (Civ) (7 October 2022)***, the Supreme Court reaffirmed that jurisdiction is the cornerstone of any judicial or quasi-judicial process. Where a question of jurisdiction is

raised, it must be addressed and resolved at the earliest stage of the proceedings.

On our part, and this is trite law, jurisdiction is everything as it denotes the authority or power to hear and determine judicial disputes. It was this court's finding in In [R v Karisa Chengo](#) [2017] eKLR, that jurisdiction is that which grants a court authority to decide matters by holding;

"By jurisdiction is meant the authority which a court has to decide matters that are litigated before it or 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 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."

42. This Board is a creature of statute, established under Section 27(1) of the Act, which provides:

(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.

43. Section 28 of the Act outlines the functions of the Board as follows:

The functions of the Review Board shall be –

reviewing, hearing and determining tendering and asset disposal disputes; and to perform any other function conferred to the Review Board by this Act, Regulations or any other written law.

44. The jurisdiction of this Board is established under Part XV – Administrative Review of Procurement and Disposal Proceedings. Specifically, Section 167 of the Act defines the matters that can and cannot be brought before the Board, while Sections 172 and 173 outline the Board's powers in handling such proceedings.

45. In light of the foregoing, the Board is compelled to examine its jurisdiction with reference to the preliminary issue raised by the Interested Party.

Whether the alleged failure to sign the Request for Review renders the Application incompetent and thereby deprives the Board of jurisdiction to determine it on its merits.

46. The Interested Party's Counsel submitted that the Request for Review is unsigned as required by law and therefore does not constitute a valid legal document from which any remedies may flow, as it lacks legal and probative value. Counsel further submitted that the Supporting Affidavit was not commissioned by a Commissioner for Oaths and therefore contravenes Rule 9 of the Oaths and Statutory Declarations Act.
47. The Respondents, on their part, submitted that the Request for Review was unsigned, thereby failing to authenticate the claims and rendering the document defective. Additionally, the Respondents submitted that the Affidavit accompanying the Applicant's Request for Review was neither signed by the Applicant nor commissioned by a Commissioner of Oaths. They argued that, as a result, the Affidavit does not constitute a legal Affidavit and fails to meet the legal threshold necessary for the Board to consider the Application.
48. Counsel for the Applicant submitted that the alleged lack of signatures on the Request for Review and Statement, were premised on the mistaken service of draft documents. The Applicant's director affirmed that the filed Request and Statement were duly signed, filed, and accompanied by the requisite fees and security deposit. Counsel, further, submitted that the

document was a Statement in Support of the Request for Review, not an Affidavit, thus it did not require to be commissioned.

49. Order 2 Rule 16 of the Civil Procedure Rules provides as follows:

16. Pleading to be signed [Order 2, rule 16]

Every pleading shall be signed by an advocate, or recognised agent (as defined by Order 9, rule 2), or by the party if he sues or defends in person.

50. The Board understands the above section of the law to mean that every pleading filed before a court, tribunal, or decision-making body such as the Board must bear the signature of a duly authorised person, namely an advocate on record, a recognised agent as defined under Order 9 Rule 2, or the party personally where he or she appears in person. The requirement of a signature is mandatory, as it authenticates the pleading, confirms responsibility for its contents, and signifies formal adoption of the document by the person entitled to act in the proceedings. Accordingly, a pleading that is not signed by any of the prescribed persons is procedurally defective, since the law renders a signature a compulsory element for the validity and proper recognition of the pleading before a decision-making body.

51. The Court in ***Southern Engineering Co. Limited v Heady Berge Limited & another [2019] eKLR*** held as follows:

21. A pleading is very important in any matter before court simply because it is the bridge in which a party crosses before approaching the court. Order 2 Rule 6 of Civil Procedure Rules is framed in mandatory form and is a requirement of signing of pleadings. That is the position of the law and failure of signing the pleading is not only a question of who the maker of the document is but a question of whether the document is genuine and valid.

22. In Regina Kavenya Mutuku & 3 Others vs. United Insurance Company Limited Nairobi (Milimani) HCCC No. 1994 of 2000 [2002] 1 KLR 250, Justice A. Ringera stated; "An unsigned pleading has no validity in law as it is the signature of the appropriate person on the pleading which authenticates the same and an unauthenticated document is not a pleading of anybody. It is a nullity".

52. Turning to the instant Request for Review, the Board notes that the Respondents and the Interested Party alleged that the Request for Review is unsigned. The Applicant, however, submitted that the Request for Review was signed, and that it was only the copy served on the Respondents and the Interested Party that was unsigned.

53. In view of the differing positions taken by the parties regarding whether the Request for Review was signed, the Board must make a determination on this question. The Board notes that, in practice, multiple copies of documents are usually required when filed, with some retained in the Board's file for the matter and others issued to the filing party or served on other parties.
54. The copy retained in the Board's file generally serves as the official record in relation to the matter. Upon perusal of the Request for Review in the Board's file, the Board notes that it is unsigned. The Board also examined the documents accompanying the Request for Review and notes that the Statement in Support of the Request for Review by Martin Komu Githaiga, a Director and Shareholder of the Applicant, dated 22nd January 2026, is likewise unsigned.
55. The Board notes that the Applicant submitted that an error occurred in serving the Request for Review, claiming that a draft, which was unsigned, was initially served and that the error was remedied the following day by serving a signed copy. The Board finds this explanation not to be truthful, as it is inconsistent with the official records in the Board's file. All copies of the Request for Review and the Statement in Support of the Request for Review retained in the Board's file are unsigned. Accordingly, the Board finds that both the Request for Review and the Statement in Support were not signed.

56. In view of the above findings, the Board now turns to the question of the fate of the unsigned pleadings. The Board notes that the Applicant relied on the principle under Article 159(2)(d) of the Constitution, contending that justice should be administered without undue regard to procedural technicalities.
57. The Board finds it difficult to accept the Applicant's position that the alleged error in serving the pleadings should be treated as a mere procedural technicality. As noted above, the error stems from the pleadings being unsigned, and there is no signed Request for Review on record. The Board's record is the official record in regard to what pleadings or documents have been presented by parties. The Applicant's assertion that a subsequently served copy was properly executed appears to reflect dishonesty and an attempt to circumvent proper procedure. The failure to file a duly executed pleading and supporting statement renders the entire Application incompetent and a nullity and not a mere error. Accordingly, the Board finds that Article 159(2)(d) of the Constitution cannot assist the Applicant in the present matter.
58. In ***Southern Engineering Co. Limited v Heady Berge Limited & Another (supra)***, the Court stated as follows

27. Further in the case of *Kiptoo Arap Korir Salat v IEBC & others Civil Application 228/2013 Nairobi - Ouko, Kiage, and Mohamed JJA*: held that;

"Courts cannot aid in the bending or circumventing of rules and shifting of goal posts for, while it may seem to aid one side, it unfairly harms the innocent party who strives to abide by the rules. I apprehend that it is the even handed and dispassionate application of the rules that courts give assurance that there is clear method in the manner in which things are done so that outcomes can be anticipated with a measure of confidence, certainty and clarity where issues of rules and their application are concerned."

"The above analysis draws us to the conclusion that where a pleading is not signed the same should be struck out."

59. The Board understands the above case to mean that courts are obligated to apply procedural rules consistently and without favouritism, and they cannot assist a party in circumventing or bending the rules, even if doing so might appear to benefit that party. Fairness in legal proceedings requires predictability, certainty, and clarity, ensuring that parties who comply with the rules are not prejudiced by those who disregard them. A pleading which is not signed, in accordance with the law, is procedurally defective and must be struck out, as allowing it to stand would undermine

the integrity of the judicial process and the equitable enforcement of procedural rules.

60. In view of the above, the Board finds that the unsigned Request for Review and the unsigned supporting Statement must be struck out. The failure to sign renders the Request for Review unauthenticated and procedurally defective, thereby divesting the Board of jurisdiction to discuss, review or determine it on the merits. Accordingly, the Board finds and holds that it lacks the requisite jurisdiction to proceed further in relation to the instant Request for Review.

What orders should the Board grant in the circumstances?

61. Having considered the parties' submissions and examined the evidence on record, the Board finds that there is no competent Request for Review before it, as the same is unsigned. Accordingly, the Board lacks jurisdiction to determine the Request for Review on its merits.
62. Consequently, the instant Request for Review, filed on 23rd January 2026, relating to Tender No. MAPS/B-DORM/001/2025-2027 for Supply of Labour for the Proposed Construction to Completion of 3 No. Storey Dormitory at Molo Academy Primary School in Molo Constituency, is hereby struck out as specified in the Final Orders section below.

FINAL ORDERS

63. 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 Request for Review dated 22nd January 2026 be and is hereby struck out.

B. The Accounting Officer of the Molo Academy Primary School is hereby directed to oversee the tender proceedings for Tender No. MAPS/B-DORM/001/2025-2027 for Supply of Labour for the Proposed Construction to Completion of 3 No. Storey Dormitory at Molo Academy Primary School in Molo Constituency to their logical and lawful conclusion

C. Each party shall bear its own costs of the proceedings.

Dated at NAIROBI, this 13th day of February 2026.

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PANEL CHAIRPERSON
PPARB

.....
SECRETARY
PPARB

