

REPUBLIC OF KENYA
PUBLIC PROCUREMENT ADMINISTRATIVE REVIEW BOARD
REVIEW NO.86 OF 2017 OF 5TH OCTOBER, 2017

BETWEEN

BAYCOMS AFRICA LIMITED..... APPLICANT

AND

**THE COUNTY ASSEMBLY OF
BUSIAPROCURING ENTITY**

Review against the decision of the The County Assembly of Busia in the matter of Tender No. BSA/CA/01/2017/2018 Supply, Delivery, Installation, Testing and Commissioning of Multi Media Digital Congress Systems for Busia County Assembly.

BOARD MEMBERS PRESENT

- | | |
|----------------------------|----------------|
| 1. Mrs. Josephine Mong'are | - in the chair |
| 2. Eng. Weche OKubo | - Member |
| 3. Nelson Orgut | - Member |
| 4. Peter B. Ondieki | - Member |
| 5. Hussein Were | - Member |

6. Mrs. Rosemary Gituma -Member

7. Paul Ngotho -Member

IN ATTENDANCE

1. Mr. Henock Kirungu - Board Secretary

2. Mr. Philip Okumu - Secretariat

3. Mr. Philemon Kiprop -Secretariat

4. Ms. Maryanne Karanja -Secretariat

5. Ms. Maureen Namadi - Secretariat

PRESENT BY INVITATION

Applicant – Baycoms Africa Limited

1. Vincent Odhiambo -M & K Advocates

Procuring Entity – The County Assembly of Busia

1. Jane Nyadwa Okoth - Advocate

2. Allan Mabuka - Clerk

3. Hon. Benard M. Wamalwa – Speaker

4. Gabriel Erambo – Principal Finance Officer

5. James Lwanyoni - Sergeant -at – Arms

6. Gideon Odieny -Admin Officer

7. Maleo Jakob -Hansard Editor

8. Allan Mabuka - Clerk
9. Ephraim Kwena - Procurement officer

Interested Parties

1. Elijah Ayieko - Advocate, Optic Technologies Kenya Ltd
2. Desmond Lusweti - Optic Technologies Kenya Ltd

BOARD'S DECISION

Upon hearing the representations of the parties and interested candidates before the Board and upon considering the information and all the documents before it, the Board decides as follows:-

BACKGROUND OF AWARD

The proposed project for the supply, installation and commissioning of the multi-media digital congress system was in the budget for the 2016/2017 financial year to address the challenges with the existing Hansard system in the plenary chamber.

The Procuring Entity invited bids through open tender. Invitations were through the Standard newspaper of 25th July 2017, a posting in the County Assembly website www.busiaassembly.go.ke and on the IFMIS supplier's portal portakesupplier.treasury.go.ke). The closing date for submission of bids was 10th august 2017 at 10.00 AM, immediately after which three bids which were received were and opened. The bidders and their tender sum were as follows:

1. Optic technologies - Kshs. 40,560,000.00

2. Baycoms Africa Limited - Kshs. 58,984,336.03

3. Milele limited - Kshs. 59,750,730.12

An *ad hoc* evaluation committee of five members under the chairmanship of Mr. Jacob Mallo was established pursuant to the Public Procurement and Assets Disposal Act 2015 Section 46.

MANDATORY REQUIREMENTS

A	MANDATORY REQUIREMENTS	1 of 3	2 of 3	3 of 3
A	Valid certificate of incorporation	✓	✓	✓
B	KRA PIN Certificate	✓	✓	✓
C	Audited financial statements and auditor's report for the last three years signed and stamped by a practicing Certified Public Account CPA (K)	✓	✓	✓
D	A copy of authorization letter to the bank allowing the procuring entity to seek financial information of the bidder.	✓	x	✓
E	Certified Bank statement for the last 12 months ending on 31st July 2017	✓	✓	✓
F	Valid communication Authority of Kenya Telecommunications Contractor License	✓	✓	✓
G	Valid National Construction Authority (NCA) Certificate and License Category 5 and above (i.e. Relevant NCA category to the related	✓	✓	✓

	works tendered)			
H	Current Clearance letter from Credit Reference Bureau.	✓	✓	✓
I	Current Manufacturer letter of Authorization as per specified format	✓	x	✓
J	Bid Security for the Amount Specified in the Appendix to instructions to tenderers	✓	x	✓
k	Valid single business permit with the respective County Government	✓	✓	✓
L	Complete set of tender documents.	✓	x	✓
m	Completely filled, signed and stamped tender documents, Confidential Business questionnaire, declaration forms and summary.	✓	✓	✓
n	Sequential serialization of all attached documents (should not be handwritten)	✓	x	x

Bidder no. 2 of 3 did not meet several of the mandatory requirements above and so it was disqualified at this point.

Bidders 1 of 3 and 3 of 3 proceeded to technical evaluation. It is worth noting that Bidder No. 3 of 3 was allowed to proceed to technical evaluation even though it did not meet Mandatory Requirement N above. That point will be discussed in greater detail later in this decision.

B. TECHNICAL EVALUATION CRITERIA

Item Description	Mks Allocated (Maximum)	1 of 3	3 of 3
<p>Personnel: Availability of Technical staff to carry out the implementation. Verifiable CVs and Certificates of Team Leader/Lead Technician (1 staff) and Technicians (minimum 3 staff) MUST be provided and referenced.</p> <p>Organization chart of the firm (2 Mks) Team leader CV and Certifications (2Mks) Technicians CV and Certifications (2 Mks) Relevant Skills and Experience of team leader in similar projects (2 Mks) Relevant Skills and Experience of technical team members in similar projects (2 Mks)</p>	10	0 2 2 2 2	1 1 0 2 2
<p>Compliance with the Technical Specifications: Bidder to provide a response to all technical specifications that justifies your offer. Cross Reference to and highlighting key items on the supporting documents is a MUST.</p> <ul style="list-style-type: none"> • Detailed description of the bidder's compliance to the technical specifications provided in this Bid document (20 Mks) • Systems Compliance with relevant industry codes and standards (5 Mks) • Description of the proposed approach to providing managed services for the Multimedia System for a 1 year period (4 Mks) • Bidders should provide details of the Service Level Agreements they will commit to (3 Mks) 	32	18 5 4 3	20 5 4 3
<p>Integrated System Design: Bidder to attach</p>			

<p>their proposed detailed design solution showing how all the individual components will be connected, integrated and optimized.</p> <ul style="list-style-type: none"> • Architectural Designs of the key components of the desired Multimedia system (6 Mks) • Project Design System should be capable of combining audio and video technology with industry leading IT Technology (5 Mks) • Integrated Design should also be able to accommodate today's growing needs to integrate video, audio, and a variety of PC input sources in live events; the system to provide a comprehensive set of AV and IT inputs. These to include SDI, analogue composite, S-Video, DV Input, balanced analogue and digital audio input from integration of conference microphone and the simultaneous interpreting systems, computer RGB input, e.tc. (5 Mks) 	<p>16</p>	<p>6</p> <p>5</p> <p>5</p>	<p>6</p> <p>5</p> <p>5</p>
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<p>Client References: Bidder to provide at least 3 references from enterprise clients for the same services provided quoting value and the scope. The evidence submitted shall include: - Copies of contracts, project sign-offs, service level agreement (where applicable) and recommendation letters.</p> <ul style="list-style-type: none"> • At least 3 references from enterprise clients for similar services provided (6 Mks) • Evidences submitted in the form of LPOs, LSOs, Letters of Award, Completion certificates etc.- 2mark per project (6 Mks) • Magnitude over KShs.120 million gross total turnover for the three projects – (12 Mks) 	24		6
<p>Manufacturer Support Documentation</p> <ul style="list-style-type: none"> • Valid Manufacturer Authorization Forms (5 Mks) • Brochures of equipment model offered detailing all the features of interest and reference sites of similar installation. Where the brochure contains different models, the bidders MUST clearly mark out the models they intend to offer by using a 'mark pen' (5 Mks) • Warranty provided should not be less than one year (4 Mks) <p>The Manufacturer Support Documentation and brochures are to be used to ascertain the suitability of the equipment being offered by the bidders, and bidders not complying with this requirement will be considered non-responsive and shall subsequently be disqualified from technical evaluation.</p>	14	5 5 4	5 5 4
<p>Training/Knowledge Transfer on operation</p>			

and usage of the system / Delivery period.	4		
• Training: The bidder should provide a comprehensive training approach for skills transfer (2 Mks)		2	2
• Work plan: Due to the criticality of this project a bidder should provide a reasonable timelines. This should not be more than 12 weeks (2 Mks)		2	2
Total – Technical Score	100	95	88
Weighted technical score a/b x75		71.25	66

Where: a =mks attained

b= maximum mks allocated

75%= the percentage of weighted average

A bidder was required to attain at least 75% in the Technical Evaluation to be considered for the Financial Evaluation. Only those bids that will have met the minimum technical requirements would be considered for the Financial Evaluation.

RESULT FOR TECHNICAL EVALUATION

NO.	Bidder	Maximum score	Technical Score	Ranking
1.	1 of 3	75	95	1
2.	3 of 3	75	88	2

OBSERVATION ON TECHNICAL EVALUATION

Both two firms scored 95 and 88 respectively and so they qualified for financial evaluation.

Bidder 1 of 3 was the highest technically evaluated bidder. He had attached all the required supporting documents including those from the manufacturer. The bidder has enough capacity both on personnel and experience as per the documents attached.

Bidder 3 of 3 was the second lowest technically evaluated. It has the capacity to do the job as per the documents attached including the experience. However, the supporting documents from the manufacturer were different – it quoted Panasonic cameras and Kramer studio switches instead of the Sony cameras and Black Magic studio switches as recommended by the manufacturer’s authorization letter.

FINANCIAL EVALUATION

The following formula was used to calculate the weighted financial scores.

$$SF = 100 \times FM/F$$

Where SF stands for financial score

FM stands for lowest priced financial proposal

F stands for the price of the proposal under consideration

Optic Technologies (K) Ltd

$$\begin{aligned} \text{Quoted price} &= 40,560,000.00 \\ \frac{40,560,000.00}{40,560,000.00} \times 100 &= 100\% \end{aligned}$$

Baycoms Africa Ltd

$$\begin{aligned} \text{Price Quoted} & \quad \frac{40,560,000.00}{58,984,336.00} \times 100 = 69\% \end{aligned}$$

ANALYSIS OF THE FINANCIAL PROPOSAL

Ms Optical Technologies (K) Ltd

The company was the lowest priced bidder. The price competed favourably with the market price.

Ms Baycoms Africa Ltd.

The company was the second lowest priced bidder. It quoted the same price twice i.e. item no 1 and 11 are one and the same. It also overpriced on the AC system, cabling, trunking, touch screen and desktop for speaker. On Scrutiny the committee also discovered that the prices quoted were identical to Milele's prices on the following items.

No	Item Description	Qty	Total Price in Kshs(Baycoms)	Total Price in Kshs(Milele)
1	Chairman Units	2	282,092.38	282,092.38
3	Gooseneck Microphones	60	1,701,879.66	1,701,879.66
4	Smart Card Encoders	2	92,040.00	92,040.00
5	Smart Cards	60	152,658.07	152,658.07
6	Interpreter Console & Headset	1	585,505.58	585,505.58
7	Digital Recording Software	1	265,015.80	265,015.80
8	Stereo Headsets	60	251,784.94	251,784.94
9	Audio Power Amplifier	2	696,712.59	696,712.59
10	Wireless handheld Microphones	2	719,727.12	719,727.12
11	LED Display monitors (60")	4	1,667,500.00	1,667,500.00
12	LED Display monitors (42")	3	540,702.22	540,702.22
13	Stereo Speakers	6	1,976,343.89	1,976,343.89
14	UPS -10KVA	1	970,920.00	970,920.00
15	AV Switcher	1	454,512.22	454,512.22
16	Touchscreen Desktop for Speaker	1	297,078.97	297,078.97
17	Stylus Pen, Wireless Mouse and keyboard	2	111,360.00	111,360.00

18	Rack Cabinet	1	159,790.00	159,790.00
	BIOMETRIC SYSTEM MACHINE: Fingerprint Scanner Palm Scanner	2	578,144.00	578,144.00
21	Services			
	a) Factory Visit (4 Client personnel Air and Ground Transport excluding subsistence)	1	2,818,452.00	2,818,452.00
	c) Training of 5 administrators and 50 users (Including Documentation)	1	2,018,400.00	2,018,400.00
	d) Maintenance and support (2 years)	2	8,282,328.15	8,282,328.15

The Board notes that the Procuring Entity, having made the above observations, turned a blind eye to the apparent collusion between the two bidders.

Recommendations

The committee recommended M/S OPTIC TECHINOGIES (K) LTD for the award of the tender for multi media and digital congress for the quoted total sum of Kshs. 40,560,000.00 (forty million five hundred and sixty thousands only) as the most responsive bidder and the lowest price evaluated bidder with enough experience and capacity as per the evidence attached.

The committee also recommended a factory visit by the Tender Processing Committee members together with The Speaker to County Assembly and the Clerk to the County Assembly to familiarize with the system before delivery.

Professional Opinion

The Head of Procurement gave a professional opinion dated 19th September 2017 pursuant to section 47(2) and 84 of the Public Procurement and Asset Disposal Act 2015 the (PPADA) and upon assessment of the budget dated 2017/2018, the annual procurement plan 2017/2018, the minutes of tender opening committee dated 10/8/2017 and the joint tender evaluation report dated 07/9/2017.

He opined that the subject procurement satisfied the statutory requirements of the Public Procurement and Asset Disposal Act 2015 and recommended that the Accounting Officer should award the tender to M/s Optic technologies (K) Ltd of Box 2380-50200 Bungoma at a total of Kshs. 40,560,000.

THE REVIEW

The Applicant herein M/s Baycoms Africa Limited lodged the Request for Review on 5th October, 2017 against the decision of the County Assembly of Busia in the matter of Tender No. BSA/CA/01/2017/2018 Supply, Delivery, Installation, Testing and Commissioning Of Multi Media Digital Congress Systems for Busia County Assembly.

The Applicant requested the Board for the following orders:-

- 1) **The award of the Tender to Optic Technologies (K) Limited is hereby annulled;**
- 2) **The Procuring Entity is hereby directed to award the Tender to the Applicant;**
- 3) **The Review Board's decision shall be transmitted to the Public Procurement Regulatory Board for consideration and possible sanction(s) against Optic Technologies (K) Limited;**
- 4) **The Procuring Entity shall reimburse the Applicant the costs of and incidental to this Request for Review within 30 days of today's date; and**
- 5) **Such other, further, additional, alternative, consequential and/or incidental orders as the Honourable Board may deem just and expedient.**

During the hearing of the Request for Review, the Applicant was represented by Mr. Vincent Odhiambo Advocate while the Procuring Entity was represented by Ms. Jane Nyadwa Okoth, Advocate. The

Interested Party, Messers Optic Technologies Kenya Limited, was represented by Mr. Elijah Ayieko, Advocate.

The Applicant raised several grounds of review which the Board comments on as follows:

Grounds 1 and 2; Breach of Section 3,79,80 and 83 of the Public Procurement and Asset Disposal Act, 2015 (“the Act”) violation of Article 227(1) of the Constitution of Kenya, and Breach of Clause 2.1.7, 2.1.8, 2.1.10, 2.25.1 and 2.29 of the Tender Document.

The two grounds of review have been consolidated since they both involve the issue of qualification.

The Applicant avers that the Tenderer which was awarded the tender had submitted forged documents and was therefore not responsive. It added that the Procuring Entity failed to conduct proper due diligence and/or post-qualification inquiries on the purported successful bidder and therefore condoned that Bidder's alleged fraudulent practice.

Specifically, the Applicant contends that the successful bidder engaged in fraudulent practice by submitting forged documents. The allegedly forged documents in the Successful Bidder's bid are letters all dated 19th September 2017 from:

- (i) Brahler ICS Konferenztechnik AG, (Brahler)
- (ii) National Construction Authority (NCA)
- (iii) Communications Authority of Kenya (CAK)

The Procuring Entity denied the allegations made in the Request for Review generally and demanded proof from the Applicant. The Procuring Entity claimed that it complied with the relevant provisions of the law with regard to procurement specifically on the aspects of the Guiding Principles, Responsiveness, Evaluation and Due Diligence.

The Procuring Entity contended that it relied on the documents provided by the successful bidder *M/s Optic Technologies Limited* which on the face of it appeared genuine.

Further the Procuring Entity submitted that the provisions of Section 83 of the Act, requiring post qualification due diligence are not couched in mandatory terms and accordingly the Procuring Entity was not under a statutory obligation to conduct due diligence and that in any case the law does not specify the level or extent of such due diligence.

The above notwithstanding, the Procuring Entity claimed that it conducted post qualification due diligence on the successful bidder which did not reveal the alleged forged documents.

Moreover, the Procuring Entity stated that it was not aware of any defects or irregularities regarding documents presented by the successful bidder on account of forgery or otherwise. It also submitted that allegations of forgery are serious and are criminal in nature requiring substantive proof by the Applicant.

Ground 3 - Statement of Loss

The Applicant stated that it has suffered loss and damage and risked suffering even greater loss and damage (including the commercial opportunity embodied in the Tender).

In response to Applicant's contention of loss, the procuring Entity averred that the Applicant had not suffered loss and damage and did not risk suffering any loss and damage since the contract is yet to be signed with any party.

ISSUES FOR DETERMINATION

Having read the documents submitted to it, the Board has identified the following as the primary substantive issue for determination in this matter:-

- 1. Did the Procuring Entity, in the evaluation of the subject tender, adhere to the criteria stipulated in the tender documents?*
- 2. Whether the Clerk/Accounting Officer in furnishing the Applicant with the confidential documents complied with the provision of Section 67(3) and 87(3) of the Act.*

The Board refers to the following Sections of the Constitution, the Act and the Tender Document.

The Constitution

Article 227(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.

Sections of the Act

Section 67 of the Act provides as follows;

“ (1) During or after procurement proceedings and subject to subsection (3), no procuring entity and no employee or agent of the procuring entity or member of a board, commission or committee of the procuring entity shall disclose the following —

(a) information relating to a procurement whose disclosure would impede law enforcement or whose disclosure would not be in the public interest;

(b) information relating to a procurement whose disclosure would prejudice legitimate commercial interests, intellectual property rights or inhibit fair competition;

(c) information relating to the evaluation, comparison or clarification of tenders, proposals or quotations; or

(d) the contents of tenders, proposals or quotations.

(2) For the purposes of subsection (1) an employee or agent or member of a board, commission or committee of the procuring entity shall sign a confidentiality declaration form as prescribed.

(3) This section does not prevent the disclosure of information if any of the following apply —

(a) the disclosure is to an authorized employee or agent of the procuring entity or a member of aboard or committee of the procuring entity involved in the procurement proceedings;(b) the disclosure is for the purpose of law enforcement;

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

Responsiveness of tenders.

80.(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.

83. (1) An evaluation committee may, after tender evaluation, but prior to the award of the tender, conduct due diligence and present the report in writing to confirm and verify the qualifications of the tenderer who submitted the lowest evaluated responsive tender to be awarded the Contract in accordance with this Act.

The Board has perused the documents submitted to it by the parties and in particular the blank tender document attached to the Request for Review, and notes as follows:-

- a) Letter of award to the Successful and unsuccessful bidders are dated 25th September, 2017
- b) The letters written by the Applicant to the National Construction Authority, Communication Authority of Kenya and from the Manufacturer are all dated 6th September, 2017 and response from the CAK is dated 19th September, 2017, while the one from the Manufacturer is dated 19/09/2017 and that from NCA is dated 21st September, 2017.
- c) The Applicant vide its letter dated 27th September, 2017 wrote to the Clerk of the Procuring Entity requesting for information and documents from itself and those of other bidders based on the provision of Section 67 of the Act.
- d) Mr. Allan W. Mabuka in response to Applicant's request furnished the Applicant with the document in the order requested by the Applicant and included internal memos to members of staff including information for other tenderers.

The Applicant's prime contention was that M/s Milele Limited and Optic Technologies (K) Limited should have been disqualified at the preliminary evaluation stage in accordance with the provisions of Clauses 2.1.7, 2.1.8 and 2.1.10 of the Tender Document as the documents submitted by the two bidders in compliance with the requirement of the cited clauses

were forgeries or were not valid and it is only the Applicant who complied with all the mandatory requirements and therefore should have been declared responsive and ought to have been awarded the tender.

The Board has considered the contention that the documents presented by the successful bidder were forgeries and finds that Clause 2.1.7 of the tender document requires bidders to attach "a valid Communication Authority of Kenya Telecommunication Contractor License" as a mandatory requirement. The certificate presented by the Successful Bidder under that clause is titled, "Content Service Provider". The Procuring Entity and the Successful Bidder told the Board that the license also served as the required "Telecommunication Contractor License" but could not, when requested by the Board, provide proof of that claim, which was in any case disputed by the Applicant. Thus the Procuring Entity and the Successful Bidder did not persuade the Board that the Successful Bidder had presented the required valid CAK Telecommunication Contractor License.

Clause 2.1.8 of the tender document required bidders to present a "valid National Construction Authority (NCA) Certificate and License Category 5 and above (i.e. Relevant NCA category to the related work tendered)" as a mandatory requirement.

The above requirement distinguishes the "certificate" and license" as two separate documents. Indeed, the Applicant's tender documents have an NCA "license" as a separate document from the NCA "certificate".

Furthermore, even the NCA Certificate which it attached was for "Building Works". The Applicant argued that the Successful Bidder's NCA certificate was irrelevant to the subject works, which clearly cannot be described as "building works". The Successful Bidder explained that the license for "building works" allowed it to undertake electrical and telecommunication works provided that it employed staff who had a licence for the relevant category of works. Again, the Procuring Entity and the Successful Bidder could not produce anything authoritative to back that argument.

Clause 2.1.15 of the tender document further requires bidders to provide "sequential serialization of all attached documents (should not be handwritten)" as a mandatory requirement. As noted above, the tender evaluation committee noted right at the beginning that the Applicant did not meet that requirement.

The Procuring Entity could not explain why it allowed the Applicant to proceed to the Technical Evaluation stage when it clearly had not complied with a mandatory requirement. This has a direct relevance to the Applicant's prayers in which it seeks a direct award of this tender from the Board as it ought to have been disqualified at preliminary stage.

In conclusion, the Board finds that the Procuring Entity in preparing the tender document without specifically indicating to the bidders the relevant NCA and CAK certificate for Multi Media Digital Congress Systems is misleading as each bidder will give a certificate of its own choice. The Board further finds that the Procuring Entity did not evaluate this tender in accordance with the tender documents considering that the Successful

Bidder and the Applicant did not supply the specific NCA and CAK certificates which were mandatory requirements in the tender documents. Further the Applicant bid document for Supply, Delivery, Installation, Testing and Commissioning of Multi Media Digital Congress Systems was not sequentially serialize all the pages in its bid yet that was also a mandatory requirement in the tender.

The effect of the above findings is that both the Applicant and the successful bidder's tenders ought to have been declared as non-responsive.

The Board notes with serious concern that the Clerk to the County Assembly in furnishing Documents to the Applicant did not comply with the dictates of Section 67 of the Act; the Act limits such documents to summary of evaluation report and not the complete evaluation report, and more specifically a summary of the Applicant's performance during evaluation and not of the other bidders. The Clerk in providing appointment letters of its staff and the entire evaluation report went outside what was envisaged under Section 67 of the Act.

The Applicant in its letter requesting for documents did not request to be furnished with the bids of other bidders or internal memos/administrative documents as such documents go beyond what the Act and the Constitution provides in handling of procurement and other related records. The Board notes that the Appointment letter at page 84 of the Applicant's request for review makes reference to tenders which are not before the Board.

The Board notes further that the Applicant made references to the Successful Bidder's documents and M/s Milele's bid documents. The source of such reference raises integrity issues on the how the bidder's documents were handled. The availing of documents by the Clerk to the Assembly to the Applicant goes beyond statutory obligation of providing documents envisaged by Section 67 of the Act which stipulates the nature and details of the information one can avail to a bidder.

The Board notes that the Clerk to the Assembly disclosed information which infringes or prejudices the successful Bidder's and M/s Milele's Commercial interest. As such the Clerk to the Assembly in disclosing bidders' documents went against the provisions of the Act.

The Board has however held that the Applicant and the successful bidder's tenders were not responsive and in view of the above contraventions of the law the only fair order to make in the circumstances of this case is to allow the Request for Review and restart the whole procurement process afresh.

FINAL ORDERS

Consequently, the Board, in view of the foregoing findings and in exercise of the powers conferred upon it by the Provisions of Section 173 of the Public Procurement and Asset Disposal Act of 2015, makes the following orders with respect to this Request for Review:

- 1. The Request for Review No. 86 of 2017 with respect to the Decision of the County Assembly of Busia in the matter of Tender No. BSA/CA/01/2017/2018 Supply, Delivery, Installation, Testing**

and Commissioning of Multi Media Digital Congress Systems for Busia County Assembly succeeds.

2. The Board hereby nullifies the award of the tender to Optic Technologies Kenya Ltd, the Successful Bidder.
3. The Procuring Entity is hereby ordered to commence the procurement process afresh.
4. Each party shall however bear its own costs.

Dated at Eldoret on this 19th day of October, 2017.



CHAIRMAN
PPARB



SECRETARY
PPARB

