

PUBLIC PROCUREMENT ADMINISTRATIVE REVIEW BOARD

APPLICATION NO. 43/2014 OF 15TH NOVEMBER, 2014

BETWEEN

REVITAL HEALTHCARE (EPZ) LIMITEDAPPLICANT

AND

**KENYA MEDICAL
SUPPLIES AUTHORITY.....PROCURING ENTITY**

Review against the decision of the Kenya Medical Supplies Authority dated 30th September, 2014 in the matter of Tender No. GF ATM - HIV - RD10 SSF - 13/14 - OIT - 025 for Supply and Delivery of Non-Pharmaceuticals (Subject Item: Syringes 2pc - 5ml RUP with G21 Needle)

BOARD MEMBERS PRESENT

Mr. Paul Gicheru	-	Chairman
Mrs. Gilda Odera	-	Member
Mr. Nelson Orgut	-	Member
Mr. Hussein Were	-	Member

IN ATTENDANCE

Mr. Philemon Kiprop	-	Secretariat
Ms. Shelmith Miano	-	Secretariat

PRESENT BY INVITATION

Procuring Entity.....Kenya Medical Supplies Authority

1. Julius Ogamba - Advocate
2. Patricia Muma - Advocate
3. Fredrick Wanyonyi - Corporate Secretary
4. Charles Juma - Procurement Director
5. Edward Buluma - Procurement Manager
6. John Kabuchi - Procurement Manager
7. Dorcas Kwayera - Quality Assurance Officer

Proceedings

7/11/2014

2.30 p.m

Mr. Ogamba for the Procuring Entity (Respondent) – present

N/A on the behalf of the Applicant.

Chair: Mr. Ogamba where are your colleagues appearing for the Applicant.

Mr. Ogamba: I have not seen any of them. They are probably on their way.

Chair: Fair enough, let's adjourn and give them thirty more minutes. We will reconvene at 3.00 p.m. though this application was fixed for hearing at 2.30 p.m.

3.00 p.m.

Chair: Have your colleagues arrived?

Mr. Ogamba: No.

Chair: How do you then want us to proceed?

Mr. Ogamba: Mr. Chair the Request for Review before the Board was lodged by the Applicant. We appeared before the Board on 31st October, 2014 when this application was fixed for hearing at 2.30 p.m. today. The date was taken by consent. In the absence of any representation on the part of the Applicant or any explanation as to why they are not present, I pray that the Request for Review No. 43 of 2014 be dismissed under the Provisions of Regulation 80 (b) of the Regulations. The Procuring Entity also prays for the costs of the application.

THE BOARD'S DECISION

This application/Request for Review came up for hearing before the Board for the first time on 31st October, 2014 at 2.30 p.m. when the same was adjourned for hearing to today 7th November, 2014 at 2.30 p.m. by the consent of Counsels acting for both parties who appeared before the Board on 31st October, 2014.

When this application was called out for hearing for the first time at 2.30 p.m. today, only Counsel for the Procuring Entity (Respondent) was present but the Board adjourned the hearing to 3.00 p.m. to give Counsel for the Applicant and or the Applicant's representatives an opportunity to be present.

When the application was called out again at 3.00 p.m., there was still no appearance on the part of Counsel for the Applicant or a representative from the Applicant.

The Board has heard and considered the application by Counsel for the Procuring Entity (Respondent) seeking for the dismissal of the application/Request for Review number 43 of 2014 under the provisions of

Regulation 80(b) of the regulations and finds that today's date and the time for the hearing of the application were both taken by the consent of advocates appearing for both parties when they appeared before the Board on 31st October, 2014. Counsel for the Applicant did not attend or send a representative before the Board today at the appointed time of 2.30 p.m. or at the adjourned time of 3.00 p.m. There was therefore no explanation offered for the non appearance on both occasions.

For the above reasons, the Application/the Request for Review number 43 of 2014 dated 14th October, 2014 and which was filed with the Board on 15th October, 2014 is hereby dismissed for want of prosecution under the Provisions of Regulation 80(b) of the Public Procurement and Disposal Regulations (2006) but with no order as to costs.

Dated at Nairobi at 3.11 p.m. on this 7th day of November, 2014.

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CHAIRMAN
PPARB

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SECRETARY
PPARB