

REPUBLIC OF KENYA
PUBLIC PROCUREMENT ADMINISTRATIVE REVIEW BOARD

APPLICATION 7/2014 OF 24TH MARCH, 2014

BETWEEN

BCX KENYA LTD APPLICANT

AND

NAIROBI CITY COUNTY PROCURING ENTITY/RESPONDENT

SEVEN SEAS TECHNOLOGIES LTD INTERESTED PARTY

AND

APPLICATION NO.10 OF 9TH APRIL, 2014

BETWEEN

LANTECH (AFRICA) LIMITED APPLICANT

AND

NAIROBI CITY COUNTY PROCURING ENTITY/RESPONDENT

AND

SEVEN SEAS TECHNOLOGIES LTD 1ST INTERESTED PARTY

BCX KENYA LIMITED 2ND INTERESTED PARTY

BOARD MEMBERS PRESENT

Mr. Paul Gicheru - Chairman
Mr. Nelson Orgut - Member
Mrs. Rosemary Gituma - Member
Mr. Peter Bitu Ondieki - Member

IN ATTENDANCE

Pauline Opiyo - Secretary to the Board
Philip Okumu - Secretariat
Judy Maina - Secretariat

PRESENT BY INVITATION

1st Applicant - BCX Kenya Limited

S. O. Owino - Advocate

2nd Applicant - Lantech (Africa) Limited

S. O. Owino - Advocate
Vaibuan Misura - Business Consultant
Abraham Macharia - Business Consultant

Procuring Entity - Nairobi City County

Patrick Murage - Advocate
Joseph Chege - Procurement Officer

Interested parties

Wilson Mwihuri - Advocate, Seven Seas Technologies Ltd
Mark Mukira - Rep. Seven Seas Technologies Ltd
Albert Mandela - Agent, Seven Seas Technologies Ltd
Eric Genga - BDM, Copy Cat
Dickens Ondiek - A/C Manager, Copy Cat

ORDER FOR DIRECTIONS

The Requests for Review No. 7 of 2014 and No.10 of 2014 came up for hearing and mention respectively before the Board on 11th April 2014 and UPON hearing representations by all the parties present on the issue of the withdrawal of the Request for Review No. 7 of 2014 and on the nature of the Directions that the Board should give, the Board notes that though the Applicant filed a notice of withdraw of Request for Review No. 7 of 2014 on 9th April, 2014, the Board noted that the notice of withdrawal had not been served upon all the tenderers who had participated in the tender and who had been invited to participate in these proceedings by the Board pursuant to the provisions of Section 96 of the Public Procurement and Disposal Act 2005. The said tenderers were namely Computech Limited, Eastr Solution Ltd and Kryce Ltd, System Information Technology (Kenya) Ltd, The Copy Cat Ltd, Gestat Gild Limited and Lantech Limited.

The Board also noted that the Interested Party and the Procuring Entity filed their responses and a preliminary objection to the Request for Review on the same day or soon after the notice of withdrawal was filed.

Inview of the above circumstances the Board declines to make an order marking Request No. 7 of 2014 as withdrawn in the absence of evidence of service of the notice on all the tenderers who participated in the tender and instead gives the following directions:-

- (a) The Requests for Review No.7 of 2014 and No.10 of 2014 be and are hereby consolidated but only for the purpose of hearing. The Board will upon hearing the Respective Requests for Review deliver a separate decision on each.
- (b) The Preliminary Objection filed by the Interested Party namely; Seven Seas Technologies Ltd in Review No.7 of 2014 shall be argued in the main Request for Review since it raises disputed factual issues.
- (c) The Procuring Entity and the Interested Party/Parties in Request for Review No.10 of 2014 shall file their respective responses to the said Request and shall serve the Responses, if any, on the parties who appeared before the Board today. The Responses shall be filed and served on or before 10.00 a.m. on Wednesday 16th April 2014.
- (d) The Requests for Review together with Preliminary Objection set out in (b) above shall be heard together but one after the other on Thursday 17th April 2014 at 2.30 p.m.

Dated at Nairobi this 11th day of April 2014.

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CHAIRMAN
PPARB

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SECRETARY
PPARB