

**REPUBLIC OF KENYA**

**PUBLIC PROCUREMENT ADMINISTRATIVE REVIEW BOARD**

**REVIEW NO. 50/2015 OF 28<sup>TH</sup> SEPTEMBER, 2015**

**BETWEEN**

**JACKWRIGHT (1982) LIMITED ..... APPLICANT**

**AND**

**1. MINISTRY OF DEFENCE..... PROCURING ENTITY**

**2. HABIBANI ENTERPRISES LTD.....INTERESTED PARTY**

Review against the decision of the Ministry of Defence in the Matter of Tender No. MOD/423(01022) 2014/2015 for Supply of Fresh Meat (Beef) on Bone to Nanyuki based units.

**BOARD MEMBERS PRESENT**

- |                              |   |                       |
|------------------------------|---|-----------------------|
| 1. Mr. Hussein Were          | - | Member (in the chair) |
| 2. Mr. Nelson Orgut          | - | Member                |
| 3. Mr. Peter B. Ondieki, MBS | - | Member                |
| 4. Mrs. Rosemary K. Gituma   | - | Member                |
| 5. Mr. Paul Ngotho           | - | Member                |

**IN ATTENDANCE**

1. Mr. Philip O. Okumu - Secretariat
2. Ms. Shelmith G. Miano - Secretariat

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### **PRESENT BY INVITATION**

#### **Applicant - Jackwright (1982) Limited**

1. Alex Masika - Advocate
2. Fazal Butt - Director

#### **Procuring Entity - Ministry of Defence**

1. S. C. Yator - Advocate
2. Z. G. Ogendi - AD/ SCMS
3. J. M. Kibara - Officer (Major)
4. Abdallah Ofula - Procurement
5. Simon Waithaka - Senior Procurement officer

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#### **Interested Party**

1. Yunis Ibrahim - Habibani Enterprises Ltd
2. Abdi Abdullahi - Habibani Enterprises Ltd

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### **BOARD'S DECISION**

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

### **BACKGROUND OF THE DECISION**

This is the second time the dispute relating to the tender the subject matter of this Request for Review has been filed before the Board. In the first Request for Review namely No. 42/2015, the Applicant requested the Board to annul the decision of the Procuring Entity to award the tender to the successful bidder and award it to the Applicant. The Board, after hearing the parties issued orders on 25<sup>th</sup> August 2015, as follows:-

- a) That the Procuring Entity's notification letters dated 6<sup>th</sup> August, 2015 to the Applicant and to the other bidders, including to the "successful bidder" are hereby annulled;
  
- b) That the Procuring Entity's Tender Evaluation Committee shall partially repeat the financial evaluation of tender No. MOD/423(01020) 2014/2015 in order to ensure:-

(i) That it applies the preference set out in Clause 2.25.1 of the tender document by giving a preference of 15% to all tenderers based in Nanyuki and its environs;

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(ii) That the Procuring Entity shall thereafter proceed to award the tender to the lowest evaluated price as provided for under Section 66(4) of the Act and for the avoidance of doubt, the prices to be taken into account in the partial re-evaluation shall be those that were quoted by the bidders as set out in the evaluation report and in the bidders respective tender documents.

c) That the Procuring Entity shall re-evaluate and award the tender within 14 days from the date of this decision and shall supply the Board with the evidence of compliance with the above orders within 15 days from today's date;

d) That for the reasons already stated, each party shall bear its own costs of this Request for Review.

## **TENDER RE-EVALUATION**

The Procuring Entity subsequently carried out the technical re-evaluation, restricting itself to the bids of the following bidders:

1. M/s Quality Meat Packers Ltd
2. M/s Jackwright (1982) Ltd
3. M/s Habibani Enterprises Ltd
4. M/s Mt Kenya Abattoirs Limited

The under-listed weighted parameters were used as the criteria for re-evaluation:

|  |                         |
|--|-------------------------|
| <b>a. <u>Line of Business/capacity</u></b> | <b><u>35 points</u></b> |
| (1) Existence of business                  | 10 points               |
| (2) Standard of Cleanliness                | 5 points                |
| (3) Accessibility                          | 5 points                |
| (4) Experience                             | 10 points               |
| (5) Storage facilities                     | 5 points                |
| <br>                                       |                         |
| <b>b. <u>Transport hired/self</u></b>      | <b><u>15 points</u></b> |
| (1) 1 vehicle                              | 5 points                |
| (2) 2 vehicles                             | 10 points               |
| (3) 3 vehicles                             | 15 points               |

The results of the technical evaluation were as shown in the table below.

Evaluation Summary Table

| BIDDER                  | Quality Meat Packers-Ltd | Jackwright (1982) Ltd | Habibani Enterprises | Mt Kenya Abattoirs Ltd |
|-------------------------|--------------------------|-----------------------|----------------------|------------------------|
| Existence of business   | 10                       | 10                    | 8                    | 6                      |
| Standard of Cleanliness | 5                        | 5                     | 4                    | 4                      |
| Accessibility           | 4                        | 5                     | 4                    | 4                      |
| Experience              | 10                       | 10                    | 5                    | 5                      |
| Storage facilities      | 5                        | 5                     | 3                    | 4                      |
| Transport               | 15                       | 15                    | 5                    | 5                      |
| TOTAL POINTS            | 49                       | 50                    | 29                   | 28                     |
| Maximum Score           | 60                       | 60                    | 60                   | 60                     |
| RANKING                 | 2                        | 1                     | 3                    | 4                      |

The Tender Evaluation Committee recommended that the tender for the supply of fresh meat (beef) on bone to Nanyuki based Units be awarded to M/s Jackwright (1982) Ltd based on the basis that the bidder:

- a) scored higher than the rest of the firms
- b) was located in Nanyuki, hence nearer to the delivery points
- c) being nearer to the delivery point compared to other bidders was capable of handling emergencies if need arose.

The Tender Evaluation Committee did not apply the 15% preference as ordered by the Board. The Procuring Entity attempted to cure this omission through an internal memo signed by Mr. J. M. Kibara, Major for Chief Logistics, dated 8<sup>th</sup> September 2015 which forwarded the Evaluation Committee's recommendation to the Tender Committee. Major Kibara applied the 15% preference in his memo and recommended the award of the tender to M/s Habibani Enterprises Ltd for being the lowest evaluated bidder; for having been a reliable supplier in the past and for not asking for price adjustments after it was awarded the tender in the past.

#### **TENDER COMMITTEE'S DECISION**

The Tender Committee, at its meeting No. 07/15/16 held on 11<sup>th</sup> September, 2015 awarded the tender for supply of fresh meat (beef) on bone to Nanyuki Based Units to Messrs Habibani Enterprises Ltd at a price of Kshs 260.00 per Kilogram as and when required for the duration between 11<sup>th</sup> September 2015 to 10<sup>th</sup> September, 2016.

#### **REQUEST FOR REVIEW**

The Request for Review was lodged by M/s Jackwright (1982) Limited (hereinafter "the Applicant") on 28<sup>th</sup> September, 2015 in the matter of Tender No. MOD/423(01022) 2014/2015 for Supply of Fresh Meat (Beef) on Bone to Nanyuki based Units.

The parties to the review were represented by Mr. Alex Masika, advocate for the Applicant and Major S.C. Yator, advocate for the Procuring Entity. Mr. Abdi Abdullahi submitted in person for the Interested Party.

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The Applicant sought for the following orders from the Board:-

- a) To annul in whole the decision of the tender committee of the Procuring Entity;*
- b) To award the tender to the Applicant;*
- c) The Procuring Entity be condemned to pay costs of this Request for Review to the Applicant.*

The Applicant raised five grounds in support of the request for review. The grounds are reproduced in the Applicant's arguments herein. The Board, having considered the submissions made by the parties and examined all the documents that were submitted to it, identified the following issues for determination in this Request for Review:

- (i) Whether the Procuring Entity failed to comply with the Board's Decision in Request for Review No. 42 of 2015 contrary to Section 100 of the Act.**
- (ii) Whether the Procuring Entity failed to apply the evaluation criteria set out at Clause 2.25.1 of the tender document with**



regard to preference margins in the evaluation of tenders and thereby breached the Provisions of Sections 66(2) of the Act.

1. As to whether the Procuring Entity failed to comply with the Board's Decision in Request for Review No. 42 of 2015 contrary to Section 100 of the Act.

On the first issue framed for determination the Applicant stated that it complied with all the mandatory requirements of the tender document in light of the Instructions to Bidders including the specific eligibility and qualifications requirements of the tender and stated that the Procuring Entity acted in breach of Section 64 of the Act as read together with Regulation 48 of the Regulations (as amended) for failing to find that the Applicant's tender was responsive and that it conformed to all the mandatory requirements in the tender documents and that the Applicant was unfairly evaluated and wrongfully disqualified at the financial evaluation stage.

The Applicant claimed that the Procuring Entity carried out a fresh and complete re-evaluation of bids as opposed to partial evaluation in the light of the ruling of the Board made on 25<sup>th</sup> August, 2015. It accused the Procuring Entity of breaching the order of the Board that required the Procuring Entity to re-evaluate the tender and issue an award within 14

days and to notify the Board within 15 days of that order adding that those deadlines which were 8<sup>th</sup> and 9<sup>th</sup> September 2015 respectively were not met.

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The Procuring Entity, in its response to the Request for Review put the Applicant to strict proof of all the allegations made in the application and contended that the Request for Review amounted to an abuse of the Board's process, was frivolous, mischievous and vexatious and ought to be dismissed.

The Procuring Entity submitted that it fully complied with the orders of the Board and that subsequently only four bids were re-evaluated.

The Procuring Entity maintained that the previous bid prices for the four firms were as follows:

|    | <b>Bidder</b>            | <b>Price</b> | <b>Scores</b> |
|----|--------------------------|--------------|---------------|
| 1. | Quality Meat Packers Ltd | 328.00       | 39.63         |
| 2. | Jackwright Limited       | 290.00       | 44.83         |
| 3. | Habibani Enterprises Ltd | 260.00       | 50.00         |
| 4. | Mt. Kenya Abattoirs      | 298.00       | 43.62         |

The Procuring Entity stated in this regard that the Interested Party was the lowest responsive bidder at Kshs 260.00 and that therefore, the award to

the Interested Party was in accordance with the Board's orders of 25<sup>th</sup> August, 2015.

As regards the timelines for complying with the decision of the Board, the Procuring Entity conceded that the timelines were not met. It stated that its Tender Evaluation Committee met on 7<sup>th</sup> September 2015 which was within the timeline. However, the notification to the Applicant dated 21<sup>st</sup> September 2015 was beyond the award deadline of 8<sup>th</sup> September 2015. The Procuring Entity's letter of 21<sup>st</sup> September 2015 was also outside the deadline of 9<sup>th</sup> September 2015.

The Procuring Entity attributed the delay to logistical difficulties of coordinating its procurement activities between the headquarters in Nairobi and the field office in Nanyuki. It also submitted that it did not, in any case, receive the Board's written orders on 25<sup>th</sup> August 2015 but several days later.

The Board has considered the submissions made by the parties and has examined all the documents that were submitted to it in view of the orders made in the Request for Review No. 42 of 2015 where the Board inter-alia made the following orders:-

*a)* .....

b) *"The Procuring Entity's Tender Evaluation Committee shall partially repeat the financial evaluation of tender No. MOD/423(01020) 2014/2015 in order to ensure:-*

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*(i) That it applies the preference set out in Clause 2.25.1 of the tender document by giving a preference of 15% to all tenderers based in Nanyuki and its environs;*

*(ii) That the Procuring Entity shall thereafter proceed to award the tender to the lowest evaluated price as provided for under Section 66(4) of the Act and for the avoidance of doubt, the prices to be taken into account in the partial re-evaluation shall be those that were quoted by the bidders as set out in the evaluation report and in the bidders respective tender documents.*

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*c) That the Procuring Entity shall re-evaluate and award the tender within 14 days from the date of this decision and shall supply the Board with the evidence of compliance with the above orders within 15 days from today's date".*

Neither the Procuring Entity nor the Applicant or any other party for that matter challenged the Board's findings and under the Provisions of Section 100 of the Act the said decision of the Board become final. Section 100 of the Act stipulates as follows:-

*Section 100 (1): A decision made by the Review Board shall be final and binding on the parties unless judicial review thereof commences within fourteen days from the date of the Review Board's decision.*

(2) .....

*Section 100 (3): A party to the review which disobeys the decision of the Review Board or the High Court shall be in breach of this Act and any action by such party contrary to the decision of the Review Board or the High Court shall be null and void.*

The Board notes that the Procuring Entity constituted an evaluation committee to re-evaluate the tender on 2<sup>nd</sup> September, 2015. Four bidders, namely, Quality Meat Packers Ltd, Jackwright (1982) Ltd, Habibani Enterprises Ltd and Mt. Kenya Abattoirs Limited were evaluated based on the following parameters; existence of business, standard of cleanliness, accessibility, experience, storage facilities and transport to award marks to the bidders as indicated in the table below:-

| BIDDER                  | Quality Meat Packers Ltd | Jackwright (1982) Ltd | Habibani Enterprises | Mt Kenya Abattoirs Ltd |
|-------------------------|--------------------------|-----------------------|----------------------|------------------------|
| Existence of business   | 10                       | 10                    | 8                    | 6                      |
| Standard of Cleanliness | 5                        | 5                     | 4                    | 4                      |
| Accessibility           | 4                        | 5                     | 4                    | 4                      |
| Experience              | 10                       | 10                    | 5                    | 5                      |
| Storage facilities      | 5                        | 5                     | 3                    | 4                      |
| Transport               | 15                       | 15                    | 5                    | 5                      |
| TOTAL POINTS            | 49                       | 50                    | 29                   | 28                     |
| Maximum Score           | 60                       | 60                    | 60                   | 60                     |
| RANKING                 | 2                        | 1                     | 3                    | 4                      |

Based on the criteria outlined above M/s Jackwright (1982) Ltd emerged the winner with a total score of 50 marks and was thus recommended for the award of the tender.

The Board observes that the evaluation carried out by the re-evaluation team was up to the point of the parameters that awarded the bidders various marks and rankings but did not include an evaluation of the financial quotations by the bidders. The Board further observes that the evaluation committee used a criteria not set out in the tender document in carrying out the re-evaluation.

The Board finds that the "Award Criteria" is found at Clause 2.27.4 of the Tender Document which states as follows:-

*“2.27.4 The Procuring Entity will award the contract to the successful tenderer(s) whose tender has been determined to be substantially responsive and has been determined to be the lowest evaluated tender, provided further that the tenderer is determined to be qualified to perform the contract satisfactorily.”*

Clause 2.27.4 dictates that the tender be awarded to the “lowest evaluated tender”. The Procuring Entity however awarded the tender to the bidder it considered to have the highest score of 50. The Board notes that the Tender Evaluation Committee of the Procuring Entity did not apply the 15% Preference as ordered by the Board in its decision of 25<sup>th</sup> August 2015.

The Board further finds that the Procuring Entity attempted to introduce the 15% preference rule in the procurement process through an internal memo signed by Major J. M. Kibara for Chief Logistics, dated 8<sup>th</sup> September 2015. Although Major Kibara applied the 15% preference rule and recommended the award to M/s Habibani Enterprises Ltd for being the lowest evaluated bidder; for having been a reliable supplier in the past; and for not asking for price adjustments after the bidder was awarded the tender in the past, the Board holds contends that Major Kibara was a stranger to the procurement process. The Tender Evaluation Committee

comprised of Major Cheruiyot as Chairman, Lt. J.M Mwandango and Lt. P.N. Okioma as members. Major Kibara was not a member of the Tender Evaluation Committee. His opinion on the evaluation process did not therefore matter and he could not lawfully influence or alter the recommendation of the Tender Evaluation Committee. The only recommendation available for the Tender Committee to consider, even if such a recommendation was flawed, is the recommendation of the Evaluation Committee and no other, and in this case such a recommendation ought to have been made by the committee which Major Cheruiyot chaired.

The Board further notes that the Tender Committee reversed the decision of the Evaluation Committee that recommended the award to the Applicant contrary to the provisions of the Act and the Regulations. This is a repeat of the scenario which was captured in Review No. 42/2015 in which the Board observed as follows at paragraph 21:-

*“Having ignored the recommendations of the Tender Evaluation Committee, the Tender Committee usurped the powers of the Tender Evaluation Committee by carrying out a further but unlawful evaluation of the tenders....”*



With regard to the order that the Procuring Entity re-evaluate and award the tender within 14 days from 25<sup>th</sup> August 2015, the Board notes that the letters of notification of award were dated 21<sup>st</sup> September 2015 which was outside the award deadline of 9<sup>th</sup> September 2015. The Board is however satisfied that the failure by the Procuring Entity to meet the timelines was not deliberate and that the delay was not inordinate. Further, the delay was not prejudicial to any party.

**2. As to whether the Procuring Entity failed to apply the evaluation criteria set out at Clause 2.25.1 of the tender document with regard to preference margins in the evaluation of tenders and thereby breached the Provisions of Sections 66(2) of the Act**

The Applicant submitted on the second issue identified for determination that the Tender Committee of the Procuring Entity acted in breach of the Provisions of Section 66(4) of the Act by failing to declare the Applicant's tender as the tender with the lowest evaluated price at Kshs. 290.00 per kilogram of standard beef on bone. It alleged that the Procuring Entity acted in breach of Regulation 15(4)(a) of the Regulations as read together with Clause 2.25.1 of the Tender Document by not restricting itself to the Applicant in the application of the 15% preference. It further alleged that out of the four bidders evaluated for financials the Applicant was the only bidder that was based in Nanyuki adding that the Interested Party ought

not to be accorded the preference since it was based in Isiolo County which is approximately 80 kilometres from Nanyuki. The Applicant produced a map of Kenya to amplify its argument that, in terms of distance, Isiolo and Nanyuki were far apart.

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The Applicant stated that its Post Office Box address, Business Licence and Confidential Business Questionnaire all indicate its business premises were located in Nanyuki while similar documents from the Interested Party show Isiolo town to be its location and area of business. It cited the *Collins Pocket English Dictionary's* definition of environs as “a surrounding area, especially of a town” and argued that from that definition, the Interested Party ought not to have been granted the 15% preference.

In response, the Procuring Entity stated that although the Interested Party was physically located in Isiolo, the Tender Committee considered the fact that the Interested Party was the current supplier of beef to the adjacent Isiolo region at a price of Kshs. 255.00 and that it had never requested for a price adjustment in the middle of a contract. It further averred that the Board's order was clear that a preference of up to 15% was to be given to all tenderers based in Nanyuki and its environs and contended that Isiolo, being within proximate to Nanyuki, was within the environs of Nanyuki.

The Interested Party associated itself with the submissions made by Procuring Entity. Mr Abdi on behalf of the Interested Party averred at the hearing of the Request for Review that the Interested Party's ranch, where its cattle are kept was in Doldol which was a 15 minutes drive from Nanyuki. It added that the subject animals would be slaughtered in Nanyuki.

The Board has considered the submissions made by the parties and has examined all the documents that were placed before it. The Board has also examined the Provisions of Clause 2.25.1 of the tender document with regard to preference margins to be given in the evaluation of tenders which provides as follows:-

*Preference where allowed in the evaluation of tenders shall not exceed 15% of the evaluated price of tender."*

Further, the Appendix to Instructions to Tenderers for Clause 2.25 provides as follows:-

**"13 Pursuant to Paragraph 2.25 – Preferential Consideration**

*In respect of this tender only, firms based in Nanyuki and its environs will have an advantage over firms outside Nanyuki Region".*

In determining if the Procuring Entity acted in accordance with the law, the Board is guided by the provisions of section 66 of the Act which states as follows:

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(1) .....

(2) *The evaluation and comparison shall be done using the procedures and criteria set out in the tender documents and no other criteria shall be used.*

(3) .....

(4) *The successful tender shall be the tender with the lowest evaluated price.*

The Board has considered the Applicant's arguments that the Interested Party was not entitled to a 15% preference on its price because the Interested Party is not located in Nanyuki or its environs. The Applicant further cited the *Collins Pocket English Dictionary's* definition of environs as "a surrounding area, especially of a town". The Board also heard that the Interested Party's principal place of business in Isiolo as shown by its Post Office Box address, Business Licence and Confidential Business Questionnaire. The Board has also considered the rival submissions by the Procuring Entity and Interested Party that the Interested Party was the current supplier of beef to the adjacent Isiolo region. The Board further heard that Isiolo was within a proximate distance of Nanyuki and hence

within the environs of Nanyuki town. Additional submissions to the Board were that the Interested Party's ranch was at Doldol which is a 15 minutes drive from Nanyuki and that the subject animals would be slaughtered in Nanyuki.

In the context of animals for large scale supply of beef as would be expected in the subject tender, the animals are kept in ranches and such ranches will certainly not be found in towns. Nanyuki from the map produced at the hearing is located in Laikipia County. Isiolo town, on the other hand is located in Isiolo County. The two counties of Laikipia and Isiolo share a common border.

In determining whether Isiolo is within the environs of Nanyuki for the purposes of the tender the subject matter of this Request for Review, the Board takes into account the objectives of public procurement. Section 2 of the Act stipulates as the objectives of public procurement, among others, is to maximise economy and efficiency - section 2(a) and to promote competition and ensure that competitors are treated fairly - section 2(b). The Board holds the view that the definition of "environs" ought to be broad enough to encompass the letter and spirit of the provisions of Sections 2(a) and 2(b) of the Act and must not be narrow restrictive. Accordingly, the Board finds that Isiolo is within the environs of Nanyuki and the Interested Party is entitled to a 15% preference on its price. In view of this finding, the Board holds that the Procuring Entity failed to apply the

evaluation criteria set out in Clause 2.25.1 of the tender document with regard to preference margins in the evaluation of tenders and thereby breached the Provisions of Sections 66(2) of the Act.

The Board notes that the Applicant is based in Nanyuki and the Interested Party is based within the environs of Nanyuki. Both the Applicant and the Interested Party are entitled to 15% preference on their tender prices. When preference is applied the resultant prices are as shown in the table below.

| Item | Bidder                | Quoted price | 15% Preference | Price after preference |
|------|-----------------------|--------------|----------------|------------------------|
| 1.   | Habibani Enterprises  | 260.00       | 39.00          | 221.00                 |
| 2.   | Jackwright (1982) Ltd | 290.00       | 43.50          | 246.50                 |

From the foregoing the Board finds that the Interested Party, M/s Habibani Enterprises Limited is the lowest evaluated bidder with a price of Kshs 221.00 per kilogramme.

### COSTS

The Applicant alleges that as a result of the Procuring Entity's actions, the Applicant is bound to suffer loss and damage that includes:-

- (i) Loss of profit it would have made from the tender and the benefits that could have accrued to the Procuring Entity in terms of quality and quantity supply of meat and at a competitive price;
- (ii) Loss of earnings it would have accrued from this contract as the same has been unfairly awarded to a competitor;
- (iii) The Applicant has been unfairly denied an opportunity of undertaking the contract and probably at a reasonable minimum cost; and
- (iv) The Applicant has expended considerable amounts of money towards preparing and making itself ready for the entire tendering process.

On the issue of costs, the Board wishes to note that tendering is a risk every bidder should be prepared to undertake. A tenderer bears all costs associated with the preparation and the submission of a tender. Thus by choosing to participate in the procurement process, the Applicant, like all the other bidders undertook a commercial risk which included incurring expenses and costs. No other party is therefore liable for the costs incurred by the Applicant in the preparation and submission of the Applicant's tender regardless of the outcome of the tendering process. The costs the Board would order are those costs related to the Request for Review. In the

instant review the orders of the Board are guided by the outcome of the request for review. The Board has made a determination on costs in the final orders of this request for review based on the fact that both parties have succeeded to some extent on the grounds they argued.

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### **FINAL ORDERS**

In view of all the above findings and in the exercise of the powers conferred upon it under Section 98 of the Public Procurement and Disposal Act 2005, the Board makes the following orders on this Request for Review:-

1. The decision of the Procuring Entity's Tender Evaluation Committee to recommend award of the tender to M/S Jackwright (1982) Limited be and is hereby annulled.
2. The decision of the Procuring Entity's Tender Committee to award the tender to M/s Habinani Enterprises Limited be and is hereby set aside.
3. The Procuring Entity's letter of award dated 21<sup>st</sup> September 2015 to the successful bidder and letters of notification of even date to unsuccessful tenderers be and are hereby annulled.
4. In view of the Board's finding that the Interested Party was the lowest evaluated bidder, the Board hereby substitutes the decision of the Procuring Entity with the decision of the Board and awards the tender for the supply of fresh meat (beef) on bone to Nanyuki



based units (Tender No. MOD/423(01022) 2014/2015) to Messrs Habinani Enterprises Limited on the following terms:

- a) The Procuring Entity is directed to enter into contract with Messrs Habinani Enterprises Limited at their bid price of Kshs 260.00 per kilogramme less 15% preference rate, that is, Kshs 221.00 per kilogramme;
- b) The Procuring Entity is directed to complete the process within 15 days of this decision;
- c) The contract shall be for a period of one year from 1<sup>st</sup> December 2015 up to 31<sup>st</sup> November, 2016.

5. The Board makes no orders as to costs.

Dated at Nairobi this 26<sup>th</sup> day of October 2015.

  
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CHAIRMAN, PPARB

  
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SECRETARY, PPARB

