

PUBLIC PROCUREMENT ADMINISTRATIVE REVIEW BOARD

APPLICATION NO. 69 OF 24th JULY, 2017

BETWEEN

**CENTRE FOR POPULATION HEALTH
RESEARCH AND MANAGEMENT LIMITED.....APPLICANT**

AND

MINISTRY OF HEALTH.....PROCURING ENTITY

Review against the decision of the Ministry of Health in the matter of Tender No. MOH/DDPC/NTLD-P/002/GF-ONT/2016-2017 for the provision of tuberculosis training consultancy services.

BOARD MEMBERS PRESENT

1. Mr. Paul Gicheru - Chairman
2. Mr. Peter Bitu Ondieki, MBS - Member
3. Mr. Hussein Were - Member
4. Mr. Paul Ngotho - Member

IN ATTENDANCE

1. Stanley Miheso - Holding Brief for Secretary
2. Maureen Namadi - Secretariat

PRESENT BY INVITATION

**Applicant: M/s Centre for Population Health Research and Management
Limited**

1. Samuel Karuga - Advocate, Wambugu & Muriuki Advocates

2. Sylvia Waiganjo - Advocate, Wambugu & Muriuki Advocates
3. Samuel Kairu - Advocate, Wambugu & Muriuki Advocates

Procuring Entity: Ministry of Health

1. Betty Soi - Senior State Counsel
2. Dr. Richard Muthoka - DCP
3. Dr. Kiogora Gatimbu - DO
4. Dr. Kamane Kimenye - ADMS
5. Lucy N. Ndungu - SCMO

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:-

BACK GROUND INFORMATION

The Ministry of Health through the support of Global Fund – New Funding Model (NFM) plan to train 2500 health workers on integrated tuberculosis curriculum and guidelines in all counties starting 1st July – 30 August, 2017.

The National Tuberculosis, Leprosy and Lung Disease Program has developed an integrated training curriculum for TB, Leprosy and Lung disease. It covers diagnosis, treatment, infection prevention control, nutrition assessment counselling and support, commodities supply chain pharmaceutical management, engaging communities, patients and non-state actors, advocacy and communication, monitoring and evaluation, social protection, poverty alleviation and actions on other determinants of the three diseases. The curriculum will be used to train frontline health care workers in

all the Counties. To ensure quality, standard and consistent trainings, sessions will be directly supervised by national trainers and will be held per County. The services of training firms, institutions or organizations will be required in consultation with NTLD-P to coordinate, plan, and implement the training of frontline health workers in target counties. To ensure quality, standard and consistent trainings, sessions will be held regionally being directly facilitated by national trainers. The exercise is scheduled to commence in the month of July and completed in the month of August, 2017.

This activity is supported by Global Fund grants – the New Funding Model (NFM), reallocation and extended work plan, the funds are available under integrated curriculum training re-allocation budget activity 1.4.5 of the approved work plan.

Authority to use the open tendering method of procurement was sought and granted by the Principal Secretary vide memo dated 1st February 2017.

Bidding

The tender was advertised in the Daily Nation on Tuesday 23rd May 2017 with the closing date being 5th June 2017 at 11:00am.

Tender Opening and Processing Committee:

The Accounting Officer appointed the tender opening committees vide letter Ref. No. MOH/PROC/6/3/1.Vol.III (27) of 26th May 2017 and tender evaluation committees vide letter Ref. No. Ref. No. MOH/PROC/6/3/1.Vol.III(28) to carry out the opening and evaluation of the tenders in accordance with the provision of the Public Procurement and Disposal ACT, 2005, Section 16 (2) of Disposal ACT and Regulations 2006 and Legal Notice No. 106 of 18th June 2013.

Regions to be trained

The training will be held in all the counties in Kenya as follows;

Region	No of participants	Class Sessions [25 Participants each]	Counties	No of Counties
Rift valley South	150	6	Bomet,, Kajiado, Narok,	3
Rift Valley North	150	6	E/Marakwet, Nandi, T/Nzoia, U/Gishu, W/Pokot, Turkana	6
Rift valley Central	150	6	Nakuru, Laikipia, Kericho, Baringo, Samburu	5
Nyanza South	175	7	Kisii, Migori, Nyamira	3
Nyanza North	175	7	Kisumu, Siaya, Homabay	3
Western 1	175	7	Bungoma, Busia,	2
Western 2	175	7	Kakamega, Vihiga	2
Coast North	125	5	Kilifi, Tana river, Lamu	3
Coast South	125	5	Mombasa, Kwale, Taitataveta	3
Upper Eastern	150	6	Isiolo, Marsabit, Meru, Tharakanithi, Embu	5
Lower Eastern	175	7	Machakos, Makueni, Kitui	3
Central 1	150	6	Kiambu, Muranga,	2
Central 2	150	6	Nyeri, Nyandarua, Kirinyaga	3
Nairobi 1	175	7	Dagoreti, Westlands, Langata, Kamukunji	1
Nairobi 2	175	7	Embakasi, Starehe, Kasarani, Makadara	1
North Eastern	125	5	Garissa, Wajir, Mandera	3
TOTAL	2500	100		47

NB

- Bidders were required to indicate in writing the preferred region they are bidding for
- For each region bided for, bidders were required to prepare separate bid documents with independent team members (Trainers should not be listed in more than one bid)
- Bidders who were technically responsive but due to competition failed to get their preferred region were required to indicate in writing that they were willing to take a different region as shall be allocated by the client (Ministry of Health)

Firms which submitted Bids

1. Jasmel Limited
2. Alcor Pharmaceuticals Limited
3. Jaclin Technologies Ltd.
4. Centre for Population Health Research and Management.
5. Africa Institute for Global Health Research Development.
6. Yellow Fiber Africa Limited
7. Health Masters Ltd.
8. Igembe Chemist Ltd.
9. Mission for Essential Drugs and Supplies.
10. North Consult Company Ltd.
11. Amara Africa.
12. Cygnas Healthcare Limited
13. Bespoke Interactive
14. Eversome (K) Ltd.
15. Sema Ltd.
16. North Consult Company.

17. Lisa Training Institute.
18. Akhimi Limited
19. Zagato Health Consulting Ltd
20. Hyspectra Ltd.
21. Epi Solutions Ltd.
22. Ujumbe Ten Investments Company Limited
23. Mirage Enterprises Ltd.
24. Mirage Enterprises Ltd.
25. Centre for Population Health Research and Management.
26. Jaclin Technologies Ltd.
27. Zagato Health Consulting Ltd.
28. Hand In Hand Solutions.
29. Africa Institute for Global Health Research Development.
30. Visions Scope Technologies.
31. Brisils Limited
32. Centre For Business Continuity & Disaster Mgt
33. Kenlan Holdings Ltd
34. Centre for Business Continuity & Disaster Mgt
35. Mission for Essential Drugs and Supplies
36. Edzes (K) Ltd.
37. Edzes (K) Ltd.
38. Health Strat.
39. Hyspectra Ltd.
40. Harkin Ltd
41. Vitality Institute of Education and Training.
42. Vitality Institute of Education and Training.
43. Safines Business Services

44. African Development & Emergency Organisation.
45. Ultimate Odyssey Health Solutions Ltd.
46. Current Customs Ltd.
47. Bolland Group Ltd.
48. Afrique Health Care Ltd.
49. Meta Communications Ltd
50. First Data Research Consultant Ltd
51. Health Track Consultancy.
52. First Data Research Consultant Ltd
53. Geosan Solutions Ltd
54. Cornerstone Training Institute Ltd
55. Tharmar Investments Ltd
56. Kenya Association For Prevention of TB And Lung Disease
57. Agena Investments.
58. TBag Limited
59. Dominion Services Ltd.
60. Zizzi Business Solution
61. Forward Ever Group Ltd.
62. Tharmar Investments Ltd
63. Bon Santé Consulting
64. Afri Health Consulting Ltd
65. Persim Limited General Supplies and Consulting.
66. Current Customs Ltd.
67. Kenya Association for Prevention of TB and Lung Disease
68. Piton Top Management Company Ltd
69. Four Logic Strategies.
70. Daktari Media Africa Ltd

71. Green Eden Limited
72. Marvon Company Limited
73. Epton Technologies.
74. I-Kart Health Solution Limited.
75. Yellow Fiber Africa Limited
76. Total Hospital Solution.
77. Bon Sante Consulting
78. The Business Platform Ltd
79. Northern Management Consultants.
80. Zizzi Business Solution
81. Tatum Investments Ltd.
82. Afrique Health Care Ltd.
83. Health Masters Ltd.
84. Afrique Health Care Ltd.

Preliminary Evaluation

Evaluation Criteria

- 1) Certificate of registration /Incorporation
- 2) VAT Certificate
- 3) Submission of an original tender document and a copy of the same
- 4) Valid Tax Compliance Certificate
- 5) Bid Bond of Kshs. 200,000.00

Preliminary Evaluation Results

Bid No	Firm	Tender Responsiveness	Remarks
1	M/S Jasmine Limited	Responsive	
2	M/S ALCOR Limited	Responsive	
3	M/S Jaclin Technologies ltd	Responsive	
4	M/S Centre for Population Health Research	Non Responsive	The firm did attach bid security of tender No MOH/DDPC/NTLD-P/001/GF-ONT/2016-2017 and the required tender No was MOH/DDPC/NTLD-P/002/GF-ONT/2016-2017
5	M/S Africa Institute For Global Health Research	Non Responsive	The firm did attach bid security of tender No MOH/DDPC/NTLD-P/001/GF-ONT/2016-2017 and the required tender No was MOH/DDPC/NTLD-P/002/GF-ONT/2016-2017
6	M/S Yellow Fiber Africa	Responsive	
7	M/S Health Masters	Responsive	
8	M/S Igembe Chemist	Responsive	
9	M/s Meds	Responsive	
10	M/S North Consult Co ltd	Responsive	
11	M/s Amara Africa ltd	Responsive	
12	M/S Cygnas health	Responsive	
13	M/S Bespoke Interactive	Responsive	
14	M/S Eversome K. Ltd	Responsive	
15	M/S Sema ltd	Responsive	
16	M/S North Consult Co	Responsive	
17	M/s Lisa Training Institute	Responsive	
18	M/S Akhimi Ltd	Responsive	
19	M/S Zagato Health	Responsive	
20	M/S Hyspectra ltd	Responsive	
21	M/S EPI Solutions	Responsive	
22	M/S Ujumbe Ten Invest	Responsive	
23	M/S Mirage Enterprise	Responsive	
24	M/S Mirage Enterprise	Responsive	
25	M/S Center Population Health	Non Responsive	The firm did attach bid security of tender No MOH/DDPC/NTLD-P/001/GF-ONT/2016-2017 and the required tender No was MOH/DDPC/NTLD-P/002/GF-ONT/2016-2017

Bid No	Firm	Tender Responsiveness	Remarks
26	M/S Jaclin	Responsive	
27	M/S Zagato Health Consultants	Responsive	
28	M/S Hand in Hand Solution	Non Responsive	The firm did not attach PIN, Tax Compliance and Registration Certificate
29	M/S Africa Institute For Global Health	Non Responsive	The firm did attach bid security of tender No MOH/DDPC/NTLD-P/001/GF-ONT/2016-2017 and the required tender No was MOH/DDPC/NTLD-P/002/GF-ONT/2016-2017
30	M/S Visions Scope Technology	Responsive	
31	M/S Brisils Ltd	Non Responsive	Firm did not attach Tender Bid Security
32	M/S Centre for Business Continuity & Disaster Mgt	Non Responsive	The firm did attach bid security of tender No MOH/DDPC/NTLD-P/001/GF-ONT/2016-2017 and the required tender No was MOH/DDPC/NTLD-P/002/GF-ONT/2016-2017
33	M/S Kenland Holdings Ltd	Non Responsive	Firm did not attach Tender Bid Security
34	M/S Centre for Business Continuity & Disaster Mgt	Non Responsive	The firm did attach bid security of tender No MOH/DDPC/NTLD-P/001/GF-ONT/2016-2017 and the required tender No was MOH/DDPC/NTLD-P/002/GF-ONT/2016-2017
35	M/S MEDS	Responsive	
36	M/S Edzes K. Ltd	Non responsive	Submitted same bid bond for 2 regions; bid bond addressed to KEMSA as procuring entity
37	M/S Edzes K. Ltd	Non responsive	Submitted same bid bond for 2 regions; bid bond addressed to KEMSA as procuring entity
38	M/S Health Strat Ltd	Responsive	
39	M/S Hyspectra Ltd	Responsive	
40	M/S Harkin Ltd	Responsive	

Bid No	Firm	Tender Responsiveness	Remarks
41	M/S Vitality Institute of Education and Training	Responsive	
42	M/S Vitality Institute of Education and Training	Responsive	
43	M/S Safines Business Services	Responsive	
44	M/S African Development & Emergency	Non Responsive	The firm did attach expired Tax Compliance Certificate and bid security of tender No MOH/DDPC/NTLD-P/001/GF-ONT/2016-2017 and the required tender No was MOH/DDPC/NTLD-P/002/GF-ONT/2016-2017
45	M/S Ultimate Odyssey Health Solutions	Responsive	
46	M/S Current Customs Ltd	Responsive	
47	M/S Bolland Group Ltd	Responsive	
48	M/S Afrique Healthcare	Non Responsive	The firm did attach bid security of tender No MOH/DDPC/NTLD-P/001/GF-ONT/2016-2017 and the required tender No was MOH/DDPC/NTLD-P/002/GF-ONT/2016-2017
49	M/S Meta Communications Ltd	Responsive	
50	M/S First Data Research	Responsive	
51	M/S Health Track Consultancy	Responsive	
52	M/S First Data Research	Responsive	
53	M/S Geosan Solutions Ltd	Responsive	
54	M/S Conerstone Training Institute	Responsive	
55	M/S Tharmar	Responsive	
56	M/S Kenya Association For Prevention Of Tb And Lung Disease	Non Responsive	The firm did attach bid security of tender No MOH/DDPC/NTLD-P/001/GF-ONT/2016-2017 and the required tender No was MOH/DDPC/NTLD-P/002/GF-ONT/2016-2017
57	M/S Agena Consulting	Responsive	
58	M/S Tbag Ltd	Responsive	
59	M/S Dominion Services Ltd	Responsive	

Bid No	Firm	Tender Responsiveness	Remarks
60	M/S Zizzi Business Solution	Non Responsive	The firm did attach bid security of tender No MOH/DDPC/NTLD-P/001/GF-ONT/2016-2017 and the required tender No was MOH/DDPC/NTLD-P/002/GF-ONT/2016-2017
61	M/S Forward Ever Group Ltd	Responsive	
62	M/S Tharma	Responsive	
63	M/S Bonsante	Responsive	
64	M/S Afri Health Consulting Ltd	Responsive	
65	M/S Persim General Supply	Responsive	
66	M/S Current Customs	Responsive	
67	M/S Kenya Association For Prevention Of Tb And Lung Disease	Non Responsive	The firm did attach bid security of tender No MOH/DDPC/NTLD-P/001/GF-ONT/2016-2017 and the required tender No was MOH/DDPC/NTLD-P/002/GF-ONT/2016-2017
68	M/S Piton Top Management Company	Non Responsive	Firm did not attach Tender Bid Security
69	M/S Four Logic Strategy	Responsive	
70	M/S Daktari Media Africa	Responsive	
71	M/S Green Eden	Responsive	
72	M/S Marvon Company	Non Responsive	The firm did attach bid security of tender No MOH/DDPC/NTLD-P/001/GF-ONT/2016-2017 and the required tender No was MOH/DDPC/NTLD-P/002/GF-ONT/2016-2017
73	M/S Epton Technology	Responsive	
74	M/S I-Kart Health Solution	Responsive	
75	M/S Yellow Fiber Africa	Responsive	
76	M/S Total Hospital Solution	Non Responsive	The firm did attach bid security of tender No MOH/DDPC/NTLD-P/001/GF-ONT/2016-2017 and the required tender No was MOH/DDPC/NTLD-P/002/GF-ONT/2016-2017
77	M/S Bonsante	Responsive	

Bid No	Firm	Tender Responsiveness	Remarks
78	M/S Business Platform Ltd	Responsive	
79	M/S Northern Mgt	Responsive	
80	MS ZizziBusiness Solution	Non Responsive	The firm did attach bid security of tender No MOH/DDPC/NTLD-P/001/GF-ONT/2016-2017 and the required tender No was MOH/DDPC/NTLD-P/002/GF-ONT/2016-2017
81	M/S Tatum	Responsive	
82	M/S Afrique Healthcare Ltd	Non Responsive	The firm did attach bid security of tender No MOH/DDPC/NTLD-P/001/GF-ONT/2016-2017 and the required tender No was MOH/DDPC/NTLD-P/002/GF-ONT/2016-2017
83	M/S Health Masters Ltd	Responsive	
84	M/S Afrique Healthcare Ltd	Non Responsive	The firm did attach bid security of tender No MOH/DDPC/NTLD-P/001/GF-ONT/2016-2017 and the required tender No was MOH/DDPC/NTLD-P/002/GF-ONT/2016-2017

Observations

- Bids 4,5,25,28,29,32,34,48,56,60,67,72,76,80,82,84 were non responsive because they attached bid bond for tender No MOH/DDPC/NTLD-P/001/GF-ONT/2016-2017 instead of MOH/DDPC/NTLD-P/002/GF-ONT/2016-2017 as specified in the tender document.
- Bids 31, 33 and 68 were non responsive because they did not submit bid bond as was required in the mandatory requirements.

- **Bids 36 and 37** submitted same bid bond for two regions; the bid bonds were addressed to KEMSA as the procuring entity, therefore non responsive
- **Bid 44** was non responsive because they attached an expired tax compliance certificate and bid bond of tender No MOH/DDPC/NTLD-P/001/GF-ONT/2016-2017 and the required tender No was MOH/DDPC/NTLD-P/002/GF-ONT/2016-2017.
- **Bid 3** did not submit financial proposal as per the tender opening minutes, this was documented during tender opening
- **62 bids** therefore proceeded to technical evaluation

Technical Evaluation

Technical Evaluation criteria

Parameters	points
<p>1. Qualification of trainers: For the purpose of this tendering process, a team of six is required. A team shall comprise of 2 medical officer/clinical officer, pharmacist/pharmaceutical technologist, a laboratory technologist, a nurse and a nutritionist <i>score</i> 0 = Have no trainers 4 = Have a complete team of 6 as above. (Attach Degree/Diploma Certificates and Registration certificates with the relevant regulatory board for each person)</p>	<p>Max. 4 points</p>
<p>2. Number of training teams available for the trainings: <i>score</i> 0 = 0 Have no team -Disqualify 1 = 1 team of 6 3 = 2 teams of 6 5 = 3 teams and above (NB: a team is composed of a minimum of 5 different groups of cadres as grouped above)</p>	<p>Max. 5 points</p>

Parameters	points
<p>3. Past experience in any certified trainings at least 3 days' duration (Show Proof of the firm's past contracts) <i>score</i> 0 = No training experience 1 = 1 contract 2 = 2 contracts 3 = 3 contracts</p>	<p>Max. 3 points</p>
<p>4. Presentation of a comprehensive work plan with timelines for training <i>score</i> 0 = Have no plan 2 = Have a basic plan 4 = Have a comprehensive Plan (60 working days)</p>	<p>Max. 4 points</p>
<p>5. Past experience in Health Related trainings (Show Proof of the firm's past contracts) <i>score</i> 0 = No training experience 2 = One health training contract 4 = 2 and more health training contracts</p>	<p>Max. 4 points</p>
<p>6. Individual trainers post qualification experience * (Attach copies of Degree/Diploma certificates) 0 = Below 3 years 1 = Over 4 years' experience post-graduation (Each trainer 0.5 marks)</p>	<p>Max 6 points</p>
<p>7. Trainers professional background¹ (Attach copies of Degree/Diploma certificates) Diploma or Degree = 0.5 per trainer Masters and above = 1 per trainer</p>	<p>Max 4 points</p>

Total Score 30 points

*The least experienced trainers in each cadre shall be grouped into a team that will be evaluated using the above criterion

¹ The lowest scoring team shall be used for the evaluation

For the purpose of this tender pass mark will be 26 points and above.

Technical Evaluation Schedule

Bid No.	Name of the Firm	Region	TOTAL
1	M/S Jasmine Limited	Lower Eastern	27
2	M/S ALCOR Limited	South Coast	27
6	M/S Yellow Fiber Africa	Central 2	15
7	M/S Health Masters	Upper Eastern	13
8	M/S Igembe Chemist	North Eastern	17
9	M/s Meds	Rift Valley South	22
10	M/S North Consult Co ltd	Upper Eastern	20
11	M/s Amara Africa ltd	Western 2	21
12	M/S Cygnus health	North Coast	27
13	M/S Bespoke Interactive	Nyanza North	13
14	M/S Eversome K. Ltd	Rift Valley North	25
15	M/S Sema ltd	Western 1	30
16	M/S North Consult Co	Nyanza South	29
17	M/s Lisa Training Institute	Rift Valley North	28
18	M/S Akhimi Ltd	Upper Eastern	21
19	M/S Zagato Health	North Coast	0
20	M/S Hyspectra ltd	Central 2	30
21	M/S EPI Solutions	Upper Eastern	30
22	M/S Ujumbe Ten Invest	Rift valley central	30
23	M/S Mirage Enterprise	Rift Valley South	22
24	M/S Mirage Enterprise	Rift Valley Central	11
26	M/S Jaclin	Lower Eastern	28
27	M/S Zagato Health Consultants	South Coast	11
30	M/S Visions Scope Technology	North Coast	30
35	M/S MEDS	Nairobi 2	30
38	M/S Health Strat Ltd	Central 2	0

Bid No.	Name of the Firm	Region	TOTAL
39	M/S Hyspectra Ltd	North Coast	30
40	M/S Harkin Ltd	Nyanza South	30
41	M/S Vitality Institute of Education and Training	Rift Valley South	30
42	M/S Vitality Institute of Education and Training	Rift Valley Central	30
43	M/S Safines Business Services	South Rift Region	15
45	M/S Ultimate Odyssey Health Solutions	South Coast	0
46	M/S Current Customs Ltd	Rift Valley Central	23
47	M/S Bolland Group Ltd	Western 1	24
49	M/S Meta Communications Ltd	Western 2	22
50	M/S First Data Research	Upper Eastern	27
51	M/S Health Track Consultancy	Nyanza North	26
52	M/S First Data Research	Lower Eastern	30
53	M/S Geosan Solutions Ltd	Nyanza South	20
54	M/S Conerstone Training Institute	Nairobi 1	28
55	M/S Tharmar	Rift Valley Central	28
57	M/S Agena Consulting	Nairobi 1	30
58	M/S Tbag	Nyanza South	15
59	M/S Dominion Services Ltd	Upper Eastern	28
61	M/S Forward Ever Group Ltd	Western 1	27
62	M/S Tharma	Central 2	30
63	M/S Bonsante	Coast South	28
64	M/S Afri Health Consulting Ltd	Nyanza North	30
65	M/S Persim General Supply	South Nyanza	0
66	M/S Current Customs	Nyanza South	21
69	M/S Four Logic Strategy	Lower Eastern	21
70	M/S Daktari Media Africa	South Nyanza	28
71	M/S Green Eden	Coast South	2
73	M/S Epton Technology	Coast North	28
74	M/S I-Kart Health Solution	Rift Valley South	30
75	M/S Yellow Fiber Africa	North Eastern	15
77	M/S Bonsante	Central 1	28

Bid No.	Name of the Firm	Region	TOTAL
78	M/S Business Platform Ltd	North Rift	21
79	M/S Northern Mgt	North Eastern	16
81	M/S Tatum	Western 2	30
83	M/S Health Masters Ltd	North Coast	13

Observation:

1. Firms No's; 19, 38, 45, and 65, had no teams and were disqualified.
2. Firms No's: 6, 7, 8, 9, 10, 11, 13, 18, 22, 27, 43, 46, 47, 49, 53, 58, 66, 69, 71, 75, 78, 79, and 83 scored below 26 points and therefore could not proceed to financial evaluation.
3. 32 bids passed the technical evaluation criteria (minimum score 26 out of 30) were therefore invited for financial proposal opening on 3rd July 2017 at Afya House Annex Boardroom 406

Financial Evaluation

Financial opening was done on 3rd July 2017 and evaluation immediately thereafter.

Formulae for Financial Evaluation

As per the bid document, each responsive proposal was given a technical score (St) as the percentage of their total score.

The formulae for determining the Financial Score (Sf) was calculated as follows; $Sf = 100 \times FM/F$

where:

Sf is the financial score;

FM is the lowest priced financial proposal and

F is the price of the proposal under consideration.

Proposals will be ranked according to their combined technical (S_t) and financial (S_f) scores using the weights (T=the weight given to the Technical Proposal: P= the weight given to the Financial Proposal; $T + p = 1$) $\approx (0.8 + 0.2) = 1$

The combined technical and financial score, S, is calculated as follows:- $S = S_t \times T \% + S_f \times P \%$.

Bid No	Region	St%	Financial Amount	Sf%	TS(80%St+20%St)	Remarks	Budget	Difference	Total Award (Kshs)	Firm Name
77	Central 1	93%	10,802,250	100%	95%	Recommend for award	12,113,238	1,310,988	10,802,250	Bon Sante Consulting Ltd
20	Central 2	100%	12,618,000	74%	95%		-		-	
62	Central 2	100%	9,302,700	100%	100%	Recommend for award	12,113,238	2,810,538	9,302,700	Tharmar Investment Ltd
63	Coast South	93%	9,004,375	100%	95%					
Firm already recommended for award in Central 1										
2	South Coast	90%	9,475,000	95%	91%	Recommend for award	10,094,365	619,365	9,475,000	Alcor Pharmaceutica Is Ltd
1	Lower Eastern	90%	13,881,000	100%	92%		-		-	
26	Lower Eastern	93%	13,861,250	100%	95%	Recommend for award	14,132,111	270,861	13,861,250	Jaclin Technologies Ltd
52	Lower Eastern	93%	21,060,500	66%	88%		-		-	
54	Nairobi 1	93%	6,376,404	100%	95%					
Budget does not cater for the participants accommodation, transport and incidental cost										
57	Nairobi 1	100%	13,993,000	46%	89%	Recommend for award	14,132,111	139,111	13,993,000	Agena Consulting Ltd
35	Nairobi 2	100%	14,129,500	100%	100%	Recommend for award	14,132,111	2,611	14,129,500	MEDS Epton Technologies Ltd
73	North Coast	93%	9,892,500	65%	86%	Recommend for award	10,094,365	201,865	9,892,500	
12	North Coast	90%	9,500,000	68%	86%		-		-	

Bid No	Region	St%	Financial Amount	Sf%	TS(80%St+20%St)	Remarks	Budget	Difference	Total Award (Kshs)	Firm Name
39	North Coast	100%	12,091,500	53%	91%					
30	North Coast	100%	6,454,500	100%	100%					
51	Nyanza North	87%	8,277,500	100%	89%					
64	Nyanza North	100%	15,134,000	55%	91%	Recommend for award - Subject to negotiation	14,132,111	(1,001,889)	14,132,111	Afri Health Consulting Ltd
70	South Nyanza	93%	14,924,000	52%	85%					
16	South Nyanza	87%	7,706,825	100%	89%					
40	South Nyanza	100%	12,644,000	61%	92%	Recommend for award	14,132,111	1,488,111	12,644,000	Harkin Ltd
42	Rift Valley Central	100%	11,514,000	95%	99%					
55	Rift Valley Central	93%	11,222,700	98%	94%					
22	Rift valley central	100%	10,978,240	100%	100%	Recommend for award	12,113,238	1,134,998	10,978,240	Ujunge Ten Investment Company Ltd
41	Rift Valley South	100%	11,670,000	100%	100%	Recommend for award	12,113,238	443,238	11,670,000	Vitality Institute of Education and Training
74	Rift Valley South	100%	11,940,000	98%	100%					

Tax Compliance found to be invalid

Budget not sufficient to cover the 6 days accommodation required per training

Bid No	Region	St%	Financial Amount	Sf%	TS(80%St+20%St)	Remarks	Budget	Difference	Total Award (Kshs)	Firm Name
21	Upper Eastern	100%	12,493,000	96%	99%	Recommend for award - Subject to negotiation	12,113,238	(379,762)	12,113,238	Epi Solutions Ltd
50	Upper Eastern	90%	18,208,500	66%	85%		-		-	
59	Upper Eastern	87%	11,937,000	100%	89%		-		-	
15	Western 1	100%	14,105,000	49%	90%	Recommend for award	14,132,111	27,111	14,105,000	Sema Ltd
61	Western 1	90%	6,970,000	100%	92%	Budget not sufficient to cover the 6 days accommodation required per training				Tatum Investments Ltd
81	Western 2	100%	12,950,000	100%	100%	Recommend for award	14,132,111	1,182,111	12,950,000	Tatum Investments Ltd
17	Rift Valley North	93%	6,391,200	100%	95%	Recommend for award - subject to quality check	12,113,238	5,722,038	6,391,200	Lisa Training Institute
	North Eastern was non-responsive, and bids 20, 42 & 74 were recommended for re-evaluation based on highest technical scores									
20	North Eastern	100%	12,618,000	74%	95%		-		-	
42	North Eastern	100%	11,514,000	95%	99%	Firm already recommended for award in Rift Valley South				
74	North Eastern	100%	11,940,000	98%	100%	Recommend for award - Subject to negotiation (Region & No of Training)	10,094,365	(1,845,635)	10,094,365	I-Kart Health Solutions Ltd

Bid No	Region	St%	Financial Amount	Sf%	TS(80%St+20%St)	Remarks	Budget	Difference	Total Award (Kshs)	Firm Name
						Total	201,887,300	12,125,660	186,534,354	Total Award

Observations:

1. Bid 39 - submitted an invalid Tax Compliance Certificate and was disqualified at this stage.
2. Bids 54, 30 and 61 budgets were too low; on further evaluation, it was noted that the budgets did not cater for all days of training as well as leaving out specific aspects like participants accommodation, transport & incidental costs. The firms were therefore disqualified at this stage and the reasons noted.

Recommendation for Award

The evaluation committee therefore recommends consideration for award of the provision of TB training consultancy services to the highest ranked evaluated bidders as appended below:

Bid No.	Name of the Firm	Region	No of Trainings	Total Cost	Weighted Score	Comments
77	BON SANTE CONSULTING	CENTRAL 1	6	10,802,250	95%	BEING THE HIGHEST RANKED BIDDER
62	THARMAR INVESTMENTS LTD	CENTRAL 2	6	9,302,700	100%	BEING THE HIGHEST RANKED BIDDER
2	ALCOR PHARMACEUTICALS LIMITED	COAST SOUTH	5	9,475,000	91%	SECOND HIGHEST BIDDER ,SINCE HIGHEST RANKED BIDDER ALLOCATED TO ANOTHER REGION
26	JACLIN TECHNOLOGIES LTD	LOWER EASTERN	7	13,861,250	95%	BEING THE HIGHEST RANKED BIDDER
57	AGENA INVESTMENTS	NAIROBI 1	7	13,993,000	89%	BEING THE HIGHEST RANKED BIDDER
35	MISSION FOR ESSENTIAL DRUGS AND SUPPLIES (MEDS)	NAIROBI 2	7	14,129,500	100%	BEING THE HIGHEST RANKED BIDDER
73	EPTON TECHNOLOGIES	NORTH COAST	5	9,892,500	88%	BEING THE HIGHEST RANKED BIDDER
64	AFRI HEALTH CONSULTING LTD	NYANZA NORTH	7	14,132,111	91%	BEING THE HIGHEST RANKED BIDDER, subject to negotiation

Bid No.	Name of the Firm	Region	No of Trainings	Total Cost	Weighted Score	Comments
40	HARKIN LTD	NYANZA SOUTH	7	12,644,000	92%	BEING THE HIGHEST RANKED BIDDER
22	UJUMBE TEN INVESTMENTS COMPANY LIMITED	RIFT VALLEY CENTRAL	6	10,978,240	100%	BEING THE HIGHEST RANKED BIDDER
41	VITALITY INSTITUTE	RIFT VALLEY SOUTH	6	11,670,000	100%	BEING THE HIGHEST RANKED BIDDER
21	EPI SOLUTIONS LTD	UPPER EASTERN	6	12,113,238	99%	BEING THE HIGHEST RANKED BIDDER, subject to negotiations
15	SEMA LTD	WESTERN 1	7	14,105,000	92%	BEING THE HIGHEST RANKED BIDDER
81	TATUM INVESTMENTS LTD	WESTERN 2	7	12,950,000	100%	BEING THE HIGHEST RANKED BIDDER
17	LISA TRAINING INSTITUTE	RIFT VALLEY NORTH	6	6,391,200	95%	BEING THE HIGHEST RANKED BIDDER
74	I-KART HEALTH SOLUTION LIMITED	NORTH EASTERN	5	10,094,365	100%	RECOMMENDED FOR AWARD SUBJECT TO NEGOTIATION ON REGION & NO OF TRAININGS

Observations:

1. Bid 63 was the highest evaluated bidder for South Coast region but since they had already been awarded Central 1 region the recommendation for award was to second highest bidder No 2.
2. All the three firms that bid for North Eastern Region did not attain minimum technical score of 26 (87%): Three firms that scored 100% technical but had no award were considered for North Eastern;

3. Outcome; Bid 42 scored highest but had already been awarded South rift region, therefore bid 74 (being second highest score) was recommended for award subject to negotiation
4. Bidder No 64 and 21 were recommended for award for Nyanza North and Upper Eastern respectively subject to negotiation to lower their bid price.

THE REQUEST FOR REVIEW

The Request for Review was lodged by M/s Centre for Population Health Research and Management Limited on 24th July, 2017 in the matter of the tender no. MOH/DCDPC/NTLD-P/002/GF-ONT/2016-2017/TRAINING CONSULTANCY/TB- Provision of Tuberculosis Training Consultancy Services.

The Applicant sought for the following orders:

1. *The Board in exercise of its discretion to annul the entire tender process as undertaken by the Procuring Entity in contravention of the Constitution, the Act, the Regulations and the tender document;*
2. *The Board in exercise of its discretion to give directions to the Accounting Officer of the Procuring Entity to commence the tendering process afresh and to ensure compliance with the law and the tender document;*
3. *In the alternative, the Procuring Entity be directed to undertake the technical evaluation of the Applicant's technical proposal and to subsequently undertake the financial evaluation of the Applicant's financial bid alongside the bids opened on 3rd July, 2017.*

4. *That the Respondent immediately notifies the Applicant of the outcome of evaluation of its technical proposal;*
5. *That the Respondent be compelled to pay the costs to the Applicant arising from/ and incidental to this Application; and*
6. *The Board to make such and further orders as it may deem fit and appropriate in ensuring that the ends of justice are fully met in the circumstances of this Request for Review.*

The Board has considered the submissions made by all the advocates and the parties who appeared before it and finds that the tender in question was one for the provision of tuberculosis training consultancy services.

The Board further finds that the tender was first advertised on 2nd May, 2017 with a closing date of 15th May, 2017 but the same was cancelled on 15th May, 2017. The tender was then re-advertised on 23rd May, 2017 with a closing date of 5th June, 2017. The Applicant among other bidders submitted their tenders to the Procuring Entity pursuant to the re-advertised tender and under the provisions of Section 126 of the Public Procurement and Asset Disposal Act 2015, the Procuring Entity ought to have evaluated the tenders submitted to it and conclude the evaluation process within twenty one (21) days from the date of tender opening.

It is however clear from all the documents placed before the Board that although a recommendation of award was made on 4th July, 2017, no professional opinion under Section 84 of the Act has been given to date and the tender has not been awarded by the Procuring Entity to any of the bidders.

The High Court held in the case of **Republic –vs- The Public Procurement Administrative Review Board and the Kenya Revenue Authority (Nai HC Misc. Appl. No. 540 of 2008)** that the failure by a Procuring Entity to complete the evaluation process within the period prescribed by law is fatal to the entire process and that any award made after the period of evaluation has lapsed is fatal.

The court also held that there was a presumption of prejudice where a Procuring Entity evaluates bids beyond the period provided for evaluation has been exceeded. The Procuring Entity's submission that the Applicant has not suffered any prejudice cannot therefore stand.

The Board was of a similar holding in the case of **Parity Performance and Compliance Limited –vs- Ministry of Devolution and Planning, State Department of Devolution (PPRB Appl. No. 62 of 2017)**. Further the provisions of 176(1)(c) of the Public Procurement and Disposal Act also makes the failure to complete the evaluation process within time an offence under the Act.

The said Section 176(1)(c) of the Act provides as follows:-

“176. (1) A person shall not—

(c) delay without justifiable cause the opening or evaluation of tenders, the awarding of contract beyond the prescribed period or payment of contractors beyond the contractual period and contractual performance obligations;”

The procurement process herein therefore came to an end of 26th June, 2017.

The Board has finally taken into account the Procuring Entity's argument that the funds for this procurement may not be available by the end of December,

2017. The Board however regrets that this reason cannot justify a breach of the provisions of Section 126(3) of the Act as read together with the provisions of Section 176(1)(c) of the same Act. The best that this Board can do is to immediately terminate the entire procurement process and direct the Procuring Entity to embark on a fresh process.

It is the Board's further view that the period between now and December 2017 is sufficient to complete the procurement process depending on the procurement method used so long as the Procuring Entity strictly follows the law which has now prescribed very strict timelines within which procurement processes should be completed.

FINAL ORDERS

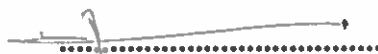
In view of the above findings and the law, the Applicant's Request for Review succeeds and is allowed on the following terms:-

- a) **The Applicants Request for Review dated 24th July, 2017 be and is hereby allowed.**

- b) **The procurement process in respect of Tender Number No. MOH/DDPC/NTLD-P/002/GF-ONT/2016-2017 for the provision of tuberculosis training consultancy services be and is hereby terminated forthwith on the ground that the Procuring Entity breached the provisions of Section 126(3) of the Public Procurement and Asset Disposal Act 2015.**

- c) The Procuring Entity is directed to re-tender the subject tender and complete the entire procurement process including the making of an award within a period of not more than 45 days from today's date.
- d) In view of the fact that the Applicant will have an opportunity to participate in the fresh tender process and in view of the public interest involved in this matter, the Board orders that each party shall bear its own costs of this Request for Review.

Dated at Nairobi on this 4th day of August, 2017.



CHAIRMAN
PPARB



SECRETARY
PPARB