

REPUBLIC OF KENYA
PUBLIC PROCUREMENT ADMINISTRATIVE REVIEW BOARD
APPLICATION No.18 OF 2018 DATED 25TH JANUARY 2018

BETWEEN

PHOOLTAS-DMA JOINT

VENTURE.....APPLICANT

AND

KENYA RAILWAYS (KR)..... PROCURING ENTITY

Review against the decision of Kenya Railways in the Matter of Tender Number KRC/WB/PLM/014B/2014-2015 For the Provision of a Track Recording Car.

BOARD MEMBERS PRESENT

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

IN ATTENDANCE

- | | |
|---------------------|-------------------------------|
| 1. Philemon Kiprop | - Holding Brief for Secretary |
| 2. Maryanne Karanja | - Secretariat |

PRESENT BY INVITATION

Applicant – Phooltas-Greco DMA joint Venture

- | | |
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| 1. Irene Kashindi | - Advocate, HH Advocates |
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Procuring Entity– Kenya Railways(“KR)”

1. Godfrey Nyaanga - Advocate, Mwaniki Gachoka & Co. Advocates
2. Brenda Wambui - Pupil
3. David Njogu - Legal Counsel

INTERESTED PARTY

1. Kelvin Anami - Advocate, MER MEC S.P.A

THE BOARD’S FINAL ORDERS

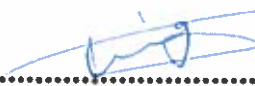
Upon reading the Applicant’s request for review dated, 25th January, 2018 together with the supporting statement and all the documents attached thereto and upon reading the original tender documents, evaluation reports and all the documents in response to the Request for Review and upon considering the submissions made by all the parties, the Board makes the following final orders in this request for review in the exercise of the powers conferred upon it by the provisions of Section 173 of the Public Procurement and Asset Disposal Act, 2015.

1. The Request for Review dated 25th January, 2018 and filed with the Board on the same date by the Applicant, M/s Phooltas-Greco-DMA Joint Venture, in the Matter of Tender Number KRC/WB/PLM/014B/2014-2015 for the Provision of a Track Recording Car for Kenya Railways be and is hereby allowed.
2. The procuring Entity’s decision to award the said tender to the successful bidder herein M/s Mer Mec S.P.A be and is hereby annulled.

3. The Procuring Entity's decision to declare the Applicant's tender as non-responsive vide its letter dated 10th January 2018 be and is hereby annulled and the Board finds that the Applicant met all the preliminary mandatory requirements as set out in the tender document and is accordingly readmitted back into the evaluation process.
4. The Procuring Entity is directed to carry out a fresh technical and financial evaluation of the Applicant's and the successful bidder's tenders and complete the entire evaluation process including the making of an award within fourteen days from the date of this decision.
5. The Procuring Entity is directed to extend the tender and tender security validity periods by a further period of 30 days to enable it complete the procurement process herein.
6. For the reasons stated in the body of this decision, each party shall bear its own costs of this Request for Review.

Dated at Nairobi on this 15th day of February 2018.


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CHAIRMAN
PPARB


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SECRETARY
PPARB

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