

20 October 2020



## **CPBN DISMISSES ALLEGATIONS OF MISCONDUCT IN THE AWARD OF AN ENGINEERING PROCUREMENT AND CONSTRUCTION (EPC) CONTRACTOR FOR THE OMBURU 20 MW PHOTOVOLTAIC (PV) POWER PLANT**

The Central Procurement Board of Namibia (CPBN) has taken note with great concern the allegations leveled against the institution in the Namibian newspaper of Friday, 16 October 2020 with regard to the above-mentioned procurement matter. This communication serves to address the allegations made and inform the public on what had transpired with regard to the award of the above-mentioned procurement.

### **1. Allegation #1: The Central Procurement Board is accused of deliberately changing procurement rules to disadvantage companies in this tender. This includes claims that the board sent objection emails or communication in the last minutes. Why is the board flouting basic regulations such as the right to hear complaints from bidders?**

These allegations are baseless, devoid of any truth and are rejected with the contempt that it deserves.

CPBN operates its procurement processes in accordance with the Public Procurement Act (PPA) of 2015 (Act No. 15 of 2015) and with the highest levels of integrity and professionalism as has been evident over the last three years since its inception.

In terms of Section (55) 8 read together with Regulation 39 (1&2) of the PPA, the Board or public entity must publish on its website and on any other print media widely circulated in Namibia a notice of every procurement together with the executive summary of the bid evaluation report within seven days of the procurement award. The notice must include the subject matter of the procurement or disposal, the name and address of the successful bidder and the contract price.

The notice of this particular bid was published in the New Era newspaper on 23 July 2020 as well as on the CPBN website and social media platforms (Twitter, Facebook and LinkedIn). Furthermore, the notice was forwarded by e-mail to all bidders including the bidder in question. An Executive Summary was also attached to the notice, which informed unsuccessful bidders of the reasons why their bids were unsuccessful.

In terms of Section 55 of the PPA read together with Regulation 39(1), unsuccessful bidders may lodge an application for reconsideration with the Board within seven (7) days (stand-still period) after the publication of the notice. The stand-still period for this particular bid was from 24 July 2020 at 08h00 AM to 30 July 2020 at 17h00 PM.

CPBN received two (2) objections from unsuccessful bidders within the prescribed 7-day standstill period while one bidder, (Shining Energy PTY Ltd) submitted their objections three (3) days after the standstill period had lapsed. The two objections that were received within the 7-day standstill period were addressed accordingly and the late applicant was informed that the Board will not consider its objection as it was late.

A final Notice of Award was published on 03 September by the CPBN and bidders were given an opportunity of another 7-day (08-14 September 2020) to approach the Review Panel should they still feel aggrieved by the decision made by the Board. Unfortunately, no review application/s were filed with the Review Panel, hence CPBN proceeded to award the bid in line with Section 55 of the PPA to Hopsol Africa and Tulive Private Equity (Pty) Ltd JV.

### **2. Allegation #2: One of the bidders for the contract is Shining Energy which is accusing the board of several irregularities. These allegations are contained in letters written on 24 August 2020 and 8 September 2020. Shining Energy raised the following concerns:**

- a) What basis did the board use to conclude the N\$483.03 per KWH?
- b) Using flimsy cooked up reasons to disqualify companies from competing for the tender

2 (a) What basis did the Board use to conclude the N\$ 483.03 per KWH?

CPBN: The bidders were required to submit an energy cost metric in accordance with Instructions To Bid (ITB) 34.2 and as outlined in Section III of the Bidding Documents. The energy cost metric was an evaluation tool to evaluate the bid price against the energy produced by the Power Voltaic (PV) plant in year 1. The energy cost metric for all the substantially responsive bidders was checked and verified by the Bid Evaluation Committee (BEC) to correct for all arithmetic errors in line with the Bidding Documents and Section 52 of the PPA.

2 (b) The Namibian: CPBN is accused of using flimsy cooked up reasons to disqualify companies from competing for the tender

CPBN: The accusations by the Shining Energy (PTY) Limited are unfounded and baseless and thus CPBN wishes to reject such allegations. All bids were evaluated in line with the evaluation criteria of the Standard Bidding Document (SBD) and the PPA. It is expected of all bidders that take part in the bidding processes to not only understand the bid but to be prudent, competent and diligent when they take part in the bidding process.

### **3. Allegation #3 It is alleged that the board Chairperson and Deputy Chairperson threatened Shining Energy (PTY) Limited with being blacklisted if they continue questioning this tender.**

This allegation is unfounded and CPBN wishes to request the aggrieved party to come forth with evidence to prove the allegations by using the appropriate channels which have been made available by the PPA.

In conclusion, CPBN wishes to reiterate that as an organisation we carry out our mandate with the highest levels of integrity and professionalism and by adhering to the PPA. It is evident that the objection by Shining Energy (PTY) Limited was received beyond the standstill period and thus it would have been unethical for CPBN and unfair towards other unsuccessful bidders for the Board to entertain the late application received from Shining Energy (PTY) Limited. The PPA requires that all bidders be treated fairly, hence the decision by the board not to entertain Shining Energy (PTY) Limited late application.

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