

NPS loses NUST tender

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A local security company, whose three-year contract to provide security services to the Namibia University of Science and Technology was revoked by the Central Procurement Board of Namibia's review panel, has succeeded with its court challenge to have the cancellation set aside.

The Windhoek High Court on Tuesday set aside a decision taken by the review panel on 10 August to nullify the tender award to PIS Security Services and have the process start afresh.

In December last year, PIS was awarded the tender by the CPBN on behalf of NUST. However, the award was challenged by NPS Security Services and Shilimela Security and Debt Collection CC who applied to the review panel to have the CPBN to reconsider its decision.

The procurement Act makes provision for unsuccessful bidders to submit applications for review of the selection if they are unhappy with the award.

This should be done within seven days of the notice of award. However, on 23 January, the review panel declined their request.

After the panel's decision, the procurement board proceeded to give a notice of award on 21 July to PIS Security Services.

The procurement board gave the unsuccessful bidders an additional seven days to approach the review panel if they were still aggrieved by the decision.

This time around only NPS approached the review panel and on 10 August the matter was heard. The review panel found that the chairperson of CPBN Patrick Swartz failed to comply with the procurement regulations – that the deadline for bids is 29 days instead of the mandatory 30 days from the publication of the invitation to bid. The review panel also found Swartz used an evaluation criteria and methodology which was not set out in the bidding document. Thus, the evaluation of the bids was not completed in accordance with the criteria set out in the bidding documents. Based on the findings, the review panel took a decision that the procurement process should start afresh. Consequently, the tender awarded to

PIS Security Services was set aside. PIS Security Services challenged this decision by arguing that the review lodged by NPS was non-compliant, citing it was done within the seven days provided for illegally by the procurement board. “This was ultra vires the Act and fundamentally flawed because the seven-day period for review had already been provided and a purported review application, which was totally and materially non-compliant with the act and law,” PIS Security Services had argued in their High Court application. In the meantime, NUST and NPS entered into a short-term contract while the matter was before court. The CPBN and NPS opposed the High Court application by PIS Security Services, arguing the review panel had acted within the confines of the law when it nullified the tender award to PIS Security Services.

Acting Judge Esi Schimming-Chase ordered the CPBN and NPS to pay the costs of the applicant jointly and severally. “One third of the costs are to be paid by the first and second respondents jointly and severally, the one paying the other to be absolved. Two thirds of the costs are to be paid by the fifth respondent.”

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Settled... The NUST security tender has been awarded to PIS Security Services.

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