



Independent Review Panel

Decision No. 06/26

In the matter of:

SETEC (MAURITIUS) LTD

(Applicant)

v/s

**Ministry of Environment, Solid Waste Management and Climate Change
(Solid Waste Management Division)**

(Respondent)

(Cause No. 13/26/IRP)



Decision

A. History of the case

On 21st July 2025, the Ministry of Environment, Solid Waste Management and Climate Change (Solid Waste Management Division) (Respondent, the “**Ministry**”) proceeded with an open advertised bidding for the Selection of Consultant for the Supervision of Works for an Integrated Waste Processing Facility at La Chaumière – Procurement Reference No.: ENV/SWM/PROC/RFP/3/25-26.

The closing date for submission of bids (technical and financial envelopes) was originally fixed for 8th September 2025 and was extended up to 10th September 2025.

Technical envelopes were opened on 18th September 2025.

Six (6) bids were received, of which the Applicant, SETEC (MAURITIUS) LTD was one of the bidders.

B. Evaluation

A Bid Evaluation Committee (BEC) was set up to evaluate the bids received and to identify the lowest evaluated substantially responsive bid.

C. Notification of Award

On 6th March 2026, the Respondent informed all bidders that an evaluation of the bids received had been carried out and the particulars of the Successful Bidder are as given hereunder:

Bidder	Address	Contract Price (MUR)
SEURECA EAST AFRICA LTD	AREA Manager SEURECA Plums Land, Off Ojijo Road, Parklands P.O Box 20913-00202 Nairobi-Kenya	EUR 360,590 (EURO Three Hundred and Sixty Thousand and Five Hundred and Ninety only) less 5% discount, exclusive of VAT

D. Challenge★

On 10th March 2026, the Applicant challenged the opening of bids on the following grounds:

Bidder's grounds for challenge:

- SETEC (MAURITIUS) LTD at the time of bidding held the provisional CIA certification in Civil & Structural Engineering services and project management in construction, whereas the selected bidder – SEURECA EAST AFRICA LTD – holds no certification from the CIA, whilst this was a mandatory requirement prior to bidding.

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- b. The selected bidder's offer was stated in EUR in the letter of award. SETEC (MAURITIUS) LTD was therefore at a disadvantage because it quoted its services in Mauritian Rupees in the standard financial letter. The EURO is currently appreciating on a highly volatile foreign exchange market such that SETEC (MAURITIUS) LTD's bid may currently be lower than the successful bidder's offer.
- c. Both bidders scored the identical technical score of Ninety-Eight decimal Eight (98.8) marks, which is very unusual. Had the Ministry of Environment, Solid Waste Management and Climate Change (Solid Waste Management Division) applied the proper marking weightage, SETEC (MAURITIUS) LTD would have scored more marks than the successful bidder and consequently won the bid.
- d. SETEC (MAURITIUS) LTD Provided for 5 nationals out of 6 key personnels and was not awarded any marks therefor which has put it at a disadvantage compared to the successful bidder.
- e. Moreover SETEC (MAURITIUS) LTD being a local company and having provided a national as team leader amongst its key personnel, would have provided better liaison with the client, design review and closer project supervision compared to the successful bidder.

E. Reply to Challenge:

On 13th March 2026, the Respondent, in reply to the challenge of the Applicant, stated that: -

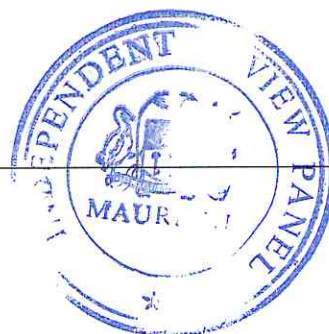
8	Bidder's Ground for Challenge	
a	SETEC (MAURITIUS) LTD at the time of bidding held the provisional CIA certification in Civil & Structural Engineering services and project management in construction, whereas the selected bidder – SEURECA EAST AFRICA LTD – holds no certification from the CIA, whilst this was a mandatory requirement prior to bidding.	Seureca holds a Provisional Registration with the CIA in accordance with Instruction to Consultant 1.8.1 
b	The selected bidder's offer was stated in EUR in the letter of award. SETEC (MAURITIUS) LTD was therefore at a disadvantage because it quoted its services in Mauritian Rupees in the standard financial letter. The EURO is currently appreciating on a highly volatile foreign exchange market such that SETEC (MAURITIUS) LTD's bid may currently be lower than the successful bidder's offer.	As stipulated in Clause 5.6 of the Instruction to Consultants (Instruction to Consultant), all prices expressed in different currencies were converted into Mauritian Rupees (MUR) using the selling exchange rates issued by the Bank of Mauritius prevailing on the deadline for submission of proposals. This conversion was applied uniformly to all bidders for the purpose of financial evaluation so as to ensure fairness and comparability.

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c	Both bidders scored the identical technical score of Ninety-Eight decimal Eight (98.8) marks, which is very unusual. Had the Ministry of Environment, Solid Waste Management and Climate Change (Solid Waste Management Division) applied the proper marking weightage, SETEC (MAURITIUS) LTD would have scored more marks than the successful bidder and consequently won the bid.	It is averred that both Seureca East Africa Ltd and SETEC (MAURITIUS) LTD scored similar marks based on the criteria, sub-criteria and point system for the evaluation of the Simplified Technical Proposal as provided under Instruction to Consultant 5.2 and the derived detailed evaluation matrix.
d	SETEC (MAURITIUS) LTD Provided for 5 nationals out of 6 key personnels and was not awarded any marks therefor which has put it at a disadvantage compared to the successful bidder.	The evaluation criteria as set out at Instruction to Consultant 5.2 does not include for marking of nationals. Evaluation of all bids have been conducted as per set out criteria.
e	Moreover SETEC (MAURITIUS) LTD being a local company and having provided a national as team leader amongst its key personnel, would have provided better liaison with the client, design review and closer project supervision compared to the successful bidder.	The evaluation of bids was conducted as per the provisions of the Request for Proposal in accordance with Instruction to Consultant 5.2 for technical component of the bid.



F. Grounds for Review:

On 18th March 2026, the Applicant seized the Independent Review Panel for review on the following grounds: -

1. The Public Body failed to ensure that SEURECA EAST AFRICA LTD (hereinafter referred to as the « Successful Bidder ») was compliant with a prerequisite of the bidding process, and duly held its provisional certification, from the CONSTRUCTION INDUSTRY AUTHORITY (CIA) both in CIVIL & STRUCTURAL ENGINEERING SERVICES and PROJECT MANAGEMENT IN CONSTRUCTION, at the time of bid submission.
2. The Public Body's failure to: -
 - a. Consider all the elements of the technical proposal of SETEC (MAURITIUS) LTD; and
 - b. Comply with the marking range provided for in the standard bidding document of the procurement policy office,

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resulted in a wrong calculation of the Technical Scores of SETEC (MAURITIUS) LTD.

3. The Public Body failed to:

- a. Consider specific elements of the technical proposal of SETEC (MAURITIUS) LTD; and
- b. Allocate marks in respect thereof in accordance with the marking range provided for in the standard bidding document of the procurement policy office.

4. The Successful Bidder's offer was expressed in EURO (€) and the Public Body failed to take into account that: -

- a. the bid document did not lock the conversion rate into Mauritian Rupees for a specific date;
- b. the variation in the highly volatile currency market could substantially increase the Successful Bidder's offer; and
- c. SETEC (MAURITIUS) LTD submitted its offer in Mauritian Rupees.

G. The Hearing

The hearing was held on 7th April 2026 and continued on 10th April 2026.

The Applicant was represented by Mr T. Saminaden, Counsel whilst Mrs A. Sungkur Daby, Senior State Counsel appeared for the Respondent. Mr E. Ribot Jr assisted the successful bidder at the second hearing.

Mr V.M. Daby, Technical Executive (Construction Industry Authority), Mr F. Tranquille, Executive Manager and Mr T. Ganeshan, Engineer deposed as witnesses for the Applicant whilst Mr D. Dookee, Deputy Director deposed for the Respondent.

H. Findings

The present case has been heard together with the connected matter bearing Cause Number 14/26 involving the same Applicant and the same Ministry. The factual matrix of the two cases are, as near as makes no difference, the same and, by agreement of the parties, we will proceed to issue a single determination which will bear directly on the sequentially second case (14/26) – CN 14/26 relates to a bidding exercise for the Selection of Consultant for the Supervision of Works for an Integrated Waste Processing Facility at Laventure – Procurement Reference No.: ENV/SWM/PROC/RFP/2/25-26

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The present case highlights a very uncommon, and we do hope it shall be a one-off, mistake that has been made by different units within the Ministry. Indeed, the successful bidder's very identity has had to come into play because of what has been stated to be an administrative error at various levels of the Ministry.

Having thoroughly perused the successful bidder's bid, we can only authoritatively find that it was Seureca (a French entity) which submitted the bid. This is apparent throughout the bid as submitted, beginning on the first page itself.

As it happens, the president of Seureca (the French and, dare we say, main office) gave powers of attorney to the Area Manager and person in charge of Seureca East Africa Ltd to do the needful for the submission of bids in the two tender exercises. The latter person thus became the **"agent"** of Seureca (of France).

The agent proceeded to comply with the powers given to him and the bids were successfully submitted in the format required in the Bidding Documents. The powers of attorney submitted in Mauritius (originating in France and given to the agent in Kenya) have not been disputed, and the Panel has proceeded on that basis.

Confusion arose, at various levels of the Ministry, because the agent, upon signing the bid submission forms affixed the seal of Seureca East Africa Ltd. The confusion, which contradicts the bid as submitted, crept up as early as the bid opening exercise and up to the Statement of Reply given by the Ministry assisted by the Attorney-General's Office. Amongst others, the financial bid opening meeting, the replies by the Ministry to the Applicant's challenge (prior to the application for review), and even the Statement of 'Defence' before this Panel followed suit and wrongly stated the successful bidder to be Seureca East Africa Ltd.

The thrust of the Applicant's case (the foreign currency-based ground of review having been dropped) is on the fact that Seureca East Africa Ltd could not be selected for award. One reason advanced was that Seureca East Africa Ltd does not hold the required registration with the Construction Industry Authority. This is, we find, to be correct. It goes without saying that the proper registration requirements are, however, met by Seureca (of France), the true bidder.

The Panel conducted a full hearing of the matter and both parties were able to present their respective cases on all the grounds for review still live. The successful bidder (which we take to be Seureca (of France)) also participated, and we must say that both its Counsel and representative were of great assistance to the Panel to shed light on the sequence of events, which then made apparent the confusion

we have alluded to above. We must also express our gratitude to all Counsel appearing for the three parties before us at the hearing, and the written submissions received.

In light of our determination below, we will refrain from expressing any finding on the technical marking carried out by the Bid Evaluation Committee although we would state that Applicant's Counsel suggestion that the overarching confusion casts doubts over other, or all, tasks performed by the evaluation committee, is unfounded. The members of the Bid Evaluation Committee acted, we find, in a professional and sound manner, one we have come to expect from public bodies. Equally, one of the points advanced by the Applicant – that it was 'unusual' that both Seureca and the Applicant got the same marks which contained decimals – does not hold; indeed, the evaluation matrix used by the Bid Evaluation Committee being expressed as percentage bands, it follows that final marks would often end up being in decimals.

However, our final determination of this case must necessarily focus on the process rather than the assessment of the factual findings (that is, the marking) of the Bid Evaluation Committee.

It is our considered view that the Ministry should consider a re-evaluation of the bids because of the confusion between the real bidder and the stated successful bidder. Many documents of major import issued by the Ministry have been so issued with what, frankly, is regrettable error. No less the notification of award sent to the successful bidders and the unsuccessful bidders.

The Panel here subscribes, to some extent, to the statement ably made by Mr Frédéric Tranquille (who represented the Applicant) that the Applicant, as an unsuccessful bidder, only decided to make its challenge when it saw that the successful bidder was Seureca East Africa Ltd, an entity it knew did not hold the necessary registration. The Applicant and the successful bidder (both the real and the stated one) are part of competing global groups of companies, and such knowledge is to be expected and, dare we say, all the better for it. The procurement process is meant to be as transparent as possible and one of its hallmarks is that bidders, and not only reviewing entities such as the Panel, can and must ensure that public bodies act in compliance with the law and the principles of public procurement.

At the stage these proceedings have now reached, one can hardly see how the Ministry would be able to correct the mistake made in various documents it was required to issue under the Public Procurement Act 2006 and the accompanying 2008 Regulations. While perusing the chain of documents and correspondence issued by the Ministry, we did also come across a couple of letters which the author correctly addressed the Seureca (of France). That the confusion did not become apparent and corrected at that point in time is most certainly a matter of regret.

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I. Conclusion

In light of the above, we can only recommend that a re-evaluation of the bids be carried out. We say so based on a greater consideration of the integrity and transparency of the process and to support confidence of bidders and the public at large in public procurement, rather than of a reproach towards the Bid Evaluation Committee's discharge of its functions in the present case.

We have borne in mind, and given anxious consideration to, the centuries old practice of courts of law not to interfere with public policy and set their own policy unless very exceptional circumstances exist; with, of course, quasi-judicial bodies such as ours having an even higher threshold for intervention than constitutionally-established courts. However, we firmly hold that, in the most exceptional circumstances of these two matters before us, our above recommendation is warranted.

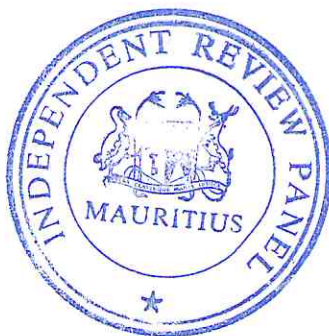
We make the same recommendation in the case bearing Cause Number 14/26.



J. Ramano
(Chairperson)



A.K. Namdarkhan
(Member)



R. Mungra
(Member)

Dated: 16th April 2026