



## PRESS RELEASE

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## PUBLIC PROCUREMENT ADMINISTRATIVE REVIEW BOARD UPHOLDS KEMSA'S AWARD ON ARVS TENDER

**Nairobi. 10<sup>th</sup> April 2019.** The Public Procurement Administrative Review Board (PPARB) has upheld Kenya Medical Supplies Authority (KEMSA) award for Tender No.GF ATM HIV NFM 18/19-011-004 for supply of ARV medicines – Adults.

PPARB has further instructed KEMSA to proceed and award the contract to the winning bidder in order to prevent delays which may affect availability of the lifesaving commodities.

The Board entered the Judgement on 9<sup>th</sup> April 2019, after dismissing an application for review dated 18<sup>th</sup> March 2019 filed by Emcure Pharmaceuticals Limited seeking to nullify the award to Mylan Laboratories limited.

"The Procuring Entity is at Liberty to proceed with the Procurement Process to its logical conclusion," read the PPARB ruling.

The applicant failed to proceed to the technical evaluation stage because they attached the Pharmacy and Poisons Board retention certificate for the year 2018 instead of the certificate for the year 2019 and this was a mandatory requirement.

"This essentially means that the Board agreed with our submissions that the tender evaluation committee rightly evaluated the applicant's and indeed all bidders bid in accordance with the Public Procurement and Asset Disposal Act as well as the criteria set out in the tender document," explained Julius Ogamba of MIGOS Ogamba & Co. Advocate who were representing KEMSA.

Mr. Ogamba further observed that the Board also agreed with KEMSA's position that the system the procuring entity adopted complied with Article 227 of the Constitution since it was fair, equitable, transparent, competitive and cost-effective.

KEMSA, Chief Executive Officer Dr Jonah Manjari said the Authority remains firmly committed to follow the rules of procurement to the letter and will make every effort to ensure that evaluations done do not offend the provisions of the law.

Dr Manjari said the medical supply chain provider will continue to uphold the national values in all its procurement process without favoring any entity as it holds its supplier in high esteem.

"In fulfilling our mandate, it is important to have fair play for every bidder and this means that we encourage healthy competition at all levels of our process," he noted.

The ARV's tender was conducted through the Open International Tender (OIT) procedure specified in the Government of Kenya, The Public Procurement and Asset Disposal Act, 2015 and

the Global Fund's Policies on Procurement and Supply Chain Management, June 2012 and had been awarded to Mylan Laboratories Ltd. The same was challenged by Emcure Pharmaceuticals Ltd on 18<sup>th</sup> March of 2019.

Acting on this complaint, on 19<sup>th</sup> March 2019, PPARB had stopped KEMSA from going on with procurement process and entering into any contract with the successful tenderers until the appeal was finalized.

**ENDS...**

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### **About KEMSA**

Kenya Medical Supplies Authority (KEMSA) is a state corporation under the Ministry of Health established under the KEMSA Act 2013 whose mandate is to procure, warehouse and distribute drugs and medical supplies for prescribed public health programs, the national strategic stock reserve, prescribed essential health packages and national referral hospitals. Establish a network of storage, packaging and distribution facilities for the provision of drugs and medical supplies to health institutions. Enter into partnership with or establish frameworks with County Governments for purposes of providing services in procurement, warehousing, distribution of drugs and medical supplies. Collect information and provide regular reports to the national and county governments on the status and cost effectiveness of procurement, the distribution and value of prescribed essential medical supplies delivered to health facilities, stock status and on any other aspects of supply system status and performance which may be required by stakeholders. Support County Governments to establish and maintain appropriate supply chain systems for drugs and medical supplies.