

**SCHEDULE 1**

**FORM 4**

**REPUBLIC OF KENYA**

**PUBLIC PROCUREMENT COMPLAINTS, REVIEW AND  
APPEALS BOARD**

**APPLICATIONS NOS.47, 48 AND 49 /2005 OF 21<sup>ST</sup>**

**DECEMBER 2005**

**BETWEEN**

**WINDSOR INDUSTRIAL HOLDINGS LIMITED... APPLICANT**

**AND**

**KENYA MEDICAL SUPPLIES AGENCY... PROCURING**

**ENTITY**

Appeal against the decisions of the Tender Committee of Kenya Medical Supplies Agency (KEMSA) dated 25<sup>th</sup>, 30<sup>th</sup> November 2005 and 1<sup>st</sup> December 2005 in the matter of the following tenders:

- |                          |                                    |
|--------------------------|------------------------------------|
| 1. KEMSA OIT 1/2005-2006 | -Supply of Dispensary Kit 1        |
| 2. KEMSA OIT 4/2005-2006 | -Supply of Health Centre Kit       |
| 3. KEMSA OIT 5/2005-2006 | -Supply of Pharmaceutical<br>Drugs |

**BOARD MEMBERS PRESENT**

Mr. Richard Mwongo	-	Chairman
Mr. Adam S. Marjan	-	Member
Mr. John W. Wamaguru	-	Member
Ms. Phyllis N. Nganga	-	Member
Mr. J.W.Wambua	-	Member
Ms. C.A.Otungu	-	Holding brief for Secretary

## **BOARD'S DECISION**

Upon hearing the representations of the parties and interested candidates herein, and upon considering the information in all the documents before it, the Board hereby decides as follows: -

## **BACKGROUND**

These were open tenders advertised in the local dailies on 27th July and 12<sup>th</sup> August 2005 for supply of Health Center Kit 1, Dispensary Kit 1 and Pharmaceutical Drugs. The tender closing dates were as follows:

- |                                   |   |                                 |
|-----------------------------------|---|---------------------------------|
| 1. Supply of Dispensary Kit 1     | - | 7 <sup>th</sup> September 2005  |
| 2. Supply of Health Center Kit 1  | - | 7 <sup>th</sup> September 2005  |
| 3. Supply of pharmaceutical drugs | - | 12 <sup>th</sup> September 2005 |

## **FOR SUPPLY OF DISPENSARY KIT 1**

The underlisted eight firms participated in this tender:

1. Ida Foundation
2. Ely's chemical industries Limited
3. Beta Healthcare International Limited
4. Misionpharma A/S
5. Harleys Limited
6. Cosmos Limited
7. Windsor Industrial holdings limited
8. Dawa limited

## **FOR SUPPLY OF HEALTH CENTER KIT 1**

The underlisted eight bidders submitted bids for this tender:

1. Ida Foundation
2. Ely's Chemical Industries Limited
3. Beta Healthcare International Limited
4. Misionpharma A/S
5. Harleys Limited
6. Cosmos Limited
7. Windsor Industrial Holdings Limited
8. Dawa limited

## FOR SUPPLY OF PHARMACEUTICAL DRUGS

The underlisted forty-four firms submitted bids for this tender:

	<b>Name of bidder</b>		<b>Name of bidder</b>
1	Autosterile (EA) Limited	23	Medisel Kenya Limited
2	Bakpharm Limited	24	Medox Pharmaceuticals Limited
3	Beta Health Care International Limited	25	Nairobi Pharmaceuticals Limited
4	Blodeal Laboratories Limited	26	Pharma Vision Limited
5	Bulk Medicals Limited	27	Philips Pharmaceuticals Limited
6	Cosmos Limited	28	Ranbaxy Laboratories Limited
7	Dawa Limited	29	Regal Pharmaceuticals Limited
8	Eipico Egyptian Pharmaceutical Industries Limited	30	Sai Pharmaceuticals Limited
9	Elys Chemical Industries Limited	31	Sphinx Pharmaceuticals Limited
10	Europa Healthcare Limited	32	Sunnyland Pharmaceuticals Limited
11	Glaxosmithkline	33	Sunpar Pharmaceuticals Limited
12	Goodman Agencies	34	Supersleek Limited
13	Harley's Limited	35	Surgilinks Limited
14	Indoco Remedies Limited	36	Surgiparm Limited
15	Infusion Kenya Limited	37	Syner-Med Pharmaceuticals Limited
16	Itans Pharmaceuticals Limited	38	Tablets (India) Limited
17	Jet Chemicals	39	Unifax Chemicals
18	Jos.Hansen&Soehne (EA) Limited	40	Universal Corporation Limited
19	Lord's Healthcare Limited	41	KAM Pharmacy Limited
20	Laboratory & Allied Limited	42	C.Mehta and Company Limited
21	Management Solutions (K) Ltd T/A Pharma	43	Howse&Mc George Laborex Limited
22	Medivet Products Limited	44	Windsor Industrial Holdings Limited

## THE EVALUATION

### FOR SUPPLY OF DISPENSARY KIT 1

Out of the eight bidders who submitted bids, seven went through the detailed technical evaluation. These were:

1. Ida Foundation
2. Ely's Chemical Industries Limited
3. Misionpharma A/S
4. Harleys Limited
5. Cosmos Limited

6. Windsor Industrial Holdings Limited
7. Dawa limited

Beta Healthcare International Limited was disqualified for failure to provide tender security.

Samples were coded to conceal their identity before being taken for technical evaluation.

The seven bidders were taken through the next stages of evaluation that involved the examination of the bid documents for completeness and responsiveness and technical evaluation of the samples/ products. Firms whose samples did not meet the required minimum score of 80% were disqualified from financial evaluation.

### **RECOMMENDATION FROM THE TECHNICAL EVALUATION**

Bidders code Nos GBST, GFTE, HRXY and GPTA scored at least 80% of samples with a minimum technical score of 80% and therefore qualified for financial evaluation.

### **FINANCIAL EVALUATION**

Financial evaluation involved comparison of the prices offered by the four bidders who had passed the technical evaluation as follows:

<b>Bidder code</b>	<b>Name</b>	<b>Total Price quoted (Kshs.)</b>
GBST	Elys Industries Limited	160,893,270.00
GPTA	Dawa limited	161,450,700.00
GFTE	Cosmos limited	210,827,231.28
HRXY	Mission Pharma	211,585,827.30

The evaluation committee recommended Elys Chemical Industries Limited for award at the price of Kshs.160, 893,270.00 on account of being the lowest evaluated responsive bidder.

### **TENDER COMMITTEE'S DECISION**

The Tender Committee in its meeting held on 25<sup>th</sup> November 2005 awarded the tender for supply of Dispensary Kit 1 to Elys Chemical Industries Limited at the price of Kshs.160, 893,270.00 being the lowest evaluated responsive bidder.

## **FOR SUPPLY OF HEALTH CENTER KIT 1**

Out of the eight bidders who submitted bids, seven went through the detailed technical evaluation. These were:

1. Ida Foundation
2. Ely's Chemical Industries Limited
3. Misionpharma A/S
4. Harleys Limited
5. Cosmos Limited
6. Windsor Industrial Holdings Limited
7. Dawa limited

Beta Health Care Limited was disqualified for failure to provide tender security.

Samples were coded to hide their identity before the same were taken for technical evaluation.

The seven bidders were taken through the next stages of evaluation that involved the examination of the bid documents for completeness and responsiveness and technical evaluation of the samples/ products. Firms whose samples did not meet the required minimum score of 80% were disqualified and did not qualify for financial evaluation.

Bidders code Nos GBST, GFTE, HRXY and GPTA scored at least 80% of samples with a minimum technical score of 80% and therefore qualified for financial evaluation.

### **FINANCIAL EVALUATION**

Financial evaluation involved comparison of the prices offered by the four bidders who had passed the technical evaluation as follows:

<b>Bidder code</b>	<b>Bidders name</b>	<b>Price offered in Kenya schillings</b>
GPTA	Dawa Limited	115,296,000.00
GBST	Elys Industries limited	130,744,800.00
GFTE	Cosmos Limited	138,754,153.92
HRXY	Mission Pharma	146,952,798.98

The evaluation committee recommended the award of the tender to Dawa Limited on account of being the lowest evaluated responsive bidder at its price of Kshs. 115,296,000.00.

## **TENDER COMMITTEE'S DECISION**

The Tender Committee in its meeting held on 25<sup>th</sup> November 2005 awarded the tender for supply of Health Centre Kit 1 to Dawa Limited at the price of Kshs. 115,296,000.00 being the lowest evaluated responsive bidder.

### **FOR SUPPLY OF PHARMACEUTICAL DRUGS**

The evaluation was carried out in three stages as follows:

- a. Preliminary examination
- b. Technical evaluation- documents
- c. Technical evaluation -products

Preliminary evaluation involved confirmation of the following:

- a. Tender form duly completed and signed
- b. Adequate bid bond provided
- c. Value of bid bond is 2% of the bid amount
- d. Business questionnaire duly completed
- e. Copy of registration certificate
- f. Copy of trade license
- g. Copy of VAT registration certificate
- h. Copy of PIN certificate
- i. Copy of local authority license
- j. Copy of tax compliance certificate.

Out of the 44 candidates who submitted their bids, 39 bidders provided all the relevant documentation and therefore qualified for the next stage of evaluation. The following bidders were disqualified at this stage:

1. Unifax Chemicals
2. Beta Health Care International Limited
3. Auto sterile (EA) Limited
4. Sphinx Pharmaceuticals Limited
5. Sunnyland Pharmaceuticals Limited

Bidders Number 1 and 2 above were disqualified for failing to provide a bid bond whereas 3,4 and 5 failed to sign their tender form.

The Applicant quoted for the following items:

Item No.	Name of product	Item No.	Name of product
1	Acetylsalicylic acid 300mg Tablets, 1000s	42	Diazepam 10mg/2ml Inj
2	Adrenaline 1mg/ml Ampoule	44	Diclofenac Sodium 75mg/3ml Injection
3	Albendazole 400mg Tablets	49	Erythromycin Stearate Tablets 1000's,
5	Amodiaquine 50 mg/5ml suspension 1 litre	50	Erythromycin 125mg/5ml Powder for suspension, 100ml
6	Amoxicillin / 125mg/5ml, Powder for suspension 100ml	51	200gm Ferrous Sulphate Tablets 1000's.
7	Amoxicillin 500mg + Clavulanic Acid 125mg Tablets	53	Folic Acid 5mg Tablets, 1000's
8	Amoxicillin / Clavulanic Acid	54	Fortified procaine penicillin 4miu
9	Amoxicillin 500mg capsules 500's	59	Griseofulvin 500mg Tablets 100's
10	Amoxicillin 250mg capsules 1000's	70	Ibuprofen 200mg Tablets 30's
14	Benzyl Benzoate Emulsion 25%, 100ml	73	Ketoconazole 200mg Tablets, 30's
15	Benzyl penicillin 1 Miu Powder for injection	74	Lignocaine 2% injection, 30ml
21	Ceftriaxone 250 mg 1 g injection	75	Lysol 44% Cresol in soap solution
23	Cetrimide 15% + Chlorhexidine 1.5% Solution, 5 litres	79	Methylated Spirit 94% 5 litres
24	Chlorhexidine Gluconate 5% solution, 5 litres	86	Metronidazole 200mg Tablets, 1000's
25	Chlorpheniramine Maleate 10mg/ml, 1ml Inj	93	Nystatin 1000 iu/ml Oral suspension, 30ml
27	Chlorpropamide 250mg Tablets 1000's	98	Paracetamol Syrup 120mg/5ml/1 litre
32	Clotrimazole 1% Cream	108	Quinine 200mg Tablets 1000's
33	Compound Magnesium Trisilicate 250/120mg Tablets	112	Salbutamol 2mg/5ml Oral Solution, 100ml
34	Co-trimoxazole 200 + 40 mg/5ml, suspension 50 ml	120	Tetracycline Eye Ointment, 5g tube
35	Co-trimoxazole 400 + 80 mg Tablets 1000's	124	Vitamin K1 10mg/ml injection
41	Dextrose 50%		

Samples were coded and submitted to the technical evaluation committee for evaluation

## **PRODUCT EVALUATION**

Evaluation was done on item per item. A summary of evaluation for the items under this appeal is as follows:

1. Acetylsalicylic acid 300mg Tablets, 1000s

This item attracted five bidders namely: Beta Healthcare International Limited, Laboratory & Allied Limited, MS Pharma, Regal Pharmaceuticals Limited and Windsor Industrial Holdings Limited. The Applicant submitted a sample, which was evaluated. However it did not quote its price and was therefore not financially evaluated. The evaluation team recommended Regal Pharmaceuticals Limited for award for being the lowest evaluated bidder.

2. Item No. 2: Adrenaline 1mg/ml Ampoule

This item attracted four bidders namely: Windsor Industrial Holdings Limited, Harleys Limited, Laboratory & Allied Ltd and Nairobi Pharmaceuticals Ltd. The Applicant did not indicate its price for this item in its form of tender. The evaluation team recommended Harleys Limited being the lowest responsive bidder.

3. Item No. 3: Albendazole 400mg Tablets

This item attracted ten bidders namely: Windsor Industrial Holdings Limited, Philips Pharmaceuticals Limited, Glaxosmithkline, Indoco Remedies Limited, Medox Pharmaceuticals Limited, Cosmos Limited, Laboratory & Allied Limited, Bulk Medicals Limited, Medisel Kenya Limited and Universal Corporation Limited. The Applicant was disqualified because it submitted only one tablet, which was not acceptable. The Evaluation team recommended the award to Medisel Kenya Limited being the lowest responsive bidder.

4. Item No. 5: Amodiaquine 50 mg/5ml suspension 1 litre

This item attracted nine bidders namely: Windsor Industrial Holdings Limited, Medivet Products Limited, Laboratory & Allied Limited, Regal Pharmaceuticals Limited, Elys Chemical Industries Limited, Bulk Medicals Limited, Dawa Limited, Biodeal Limited and Sphinx Pharmaceuticals Limited. The Applicant did not indicate the price for this item in its form of tender. The evaluation team recommended the award to Medivet Products Limited for being the lowest responsive bidder.



5. Item No. 6: Amoxicillin / 125mg/5ml, Powder for suspension 100ml

This item attracted twelve bidders namely: Windsor Industrial Holdings Limited, Medivet Products Limited, Glaxosmithkline, MS Pharma, Elys Chemical Industries Limited, Laboratory & Allied Ltd, Regal Pharmaceuticals Ltd, Medisel (K) Ltd, Bak Pharm Ltd, Syner Med Pharmaceuticals, Sphinx Pharmaceuticals Limited and Harleys Limited. The evaluation team recommended the award to Elys Industrial Chemicals Limited being the lowest responsive bidders.

6. Item No. 7: Amoxicillin 500mg + Clavulanic Acid 125mg Tablets

This item attracted ten bidders namely: Windsor Industrial Holdings Limited, C.Mehta and Company Ltd, Glaxosmithkline, Egyptian International: Pharma, MS Pharma, Medisel (K) Ltd, Syner-Med Pharmaceuticals, Ranbaxy Labs Ltd, Goodman Agencies and Sunnyland Pharmaceuticals. The Applicant provided 375mg and was disqualified. The evaluation team recommended the award to Ranbaxy Labs Limited being the lowest responsive bidder.

7. Item No. 8: Amoxicillin / Clavulanic Acid

This item attracted four bidders namely: Windsor Industrial Holdings Limited, Glaxosmithkline, Medisel (K) Ltd and Sunnyland Pharmaceuticals. The Applicant was the second lowest. The evaluation team recommended the award to Medisel (K) Limited being the lowest evaluated responsive bidder.

8. Item No. 9: Amoxicillin 500mg capsules 500's

This item attracted seven bidders namely: Windsor Industrial Holdings Limited, Laboratory & Allied Limited, Regal Pharmaceuticals Ltd, Elys Chemicals Industries Limited, Dawa Limited, Sphinx Pharmaceuticals Limited and Harleys Limited. The Applicant was second lowest. The evaluation team recommended the award to Elys Chemical Industries Limited for being the lowest responsive bidder.

9. Item No. 10: Amoxicillin 250mg capsules 1000's

This item attracted eleven bidders namely: Windsor Industrial Holdings Limited, Medivet Products Ltd, MS Pharma, Laboratory & Allied Limited, Regal Pharmaceuticals Ltd, Elys Chemicals Industries Limited, Dawa Limited, Biodeal Laboratories, Sphinx Pharmaceuticals Limited,

Harleys Limited and Goodman Agencies. The evaluation team recommended the award to Elys Chemical Industries Limited being the lowest evaluated responsive bidder.

10. Item No. 14: Benzyl Benzoate Emulsion 25%, 100ml

This item attracted eight bidders namely: Windsor Industrial Holdings Ltd, Medivet Products Ltd, KAM Pharmacy, Laboratory & Allied Ltd, Beta Healthcare Limited, Biodeal Laboratories, Syner-Med Pharmaceuticals and Sphinx Pharmaceuticals. The evaluation team recommended the award to Medivet Products Limited being the second lowest responsive bidder as the lowest bidder i.e. the Applicant had poor quality performance record.

11. Item No. 15: Benzyl penicillin 1 Miu Powder for injection

This item attracted four bidders namely: Windsor Industrial Holdings Limited, MS Pharma, Medisel (K) Ltd and Bak Pharm Limited. The Applicant was the second lowest evaluated bidder. The evaluation team recommended the award to Medisel being the lowest responsive bidder.

12. Item No. 21: Ceftriaxone 250 mg 1 g injection

This item attracted seventeen bidders namely: Windsor Industrial Holdings Limited, Philips Pharmaceuticals Limited, Sunpar Pharmaceuticals Limited, C.Mehta and Company Limited, Medox Pharmaceuticals Limited, Sai Pharmaceuticals Limited, Egyptian International Pharma, Howse & Mc George Laborex, laboratory & Allied, Bulk Medical Ltd, Beta Healthcare International Ltd, Medisel (K) Ltd, Syner-med Pharmaceuticals, Ranbaxy Labs Ltd, Harleys Ltd, Sunnyland Pharmaceuticals and Goodman Agencies. No recommendation for award was made.

13. Item No. 23: Cetrime 15% + Chlorhexidine 1.5% Solution, 5 litres

This item attracted nine bidders namely: Windsor Industrial Holdings Limited, Medivet Products Limited, KAM Pharmacy, MS Pharma, Regal Pharmaceuticals Limited, Elys Chemical Industries Limited, Biodeal Laboratories, Syner-Med Pharmaceuticals and Sphinx Pharmaceuticals. Applicant who was the lowest bidder was disqualified on the basis of past performance. The evaluation team recommended the award to Medivet Products Limited being the second lowest responsive bidder.

14. Item No. 24: Chlorhexidine Gluconate 5% solution, 5 litres

This item attracted eight bidders namely: Windsor Industrial Holdings Limited, KAM Pharmacy, MS Pharma, SurgiPharm Ltd, Elys Chemical Industries Limited, Biodeal Laboratories, Syner-Med Pharmaceuticals and Sphinx Pharmaceuticals. The Applicant who was the lowest evaluated bidder was disqualified based on poor past performance. The evaluation team recommended the award to Biodel Laboratories being the second lowest responsive bidder.

15. Item No. 25: Chlorpheniramine Maleate 10mg/ml, 1ml Inj

This item attracted five bidders namely: Windsor Industrial Holdings Ltd, Laboratory & Allied Ltd, Nairobi Pharmaceuticals Ltd, Medisel (K) Ltd Harleys and Ltd. The Applicant was the third lowest bidder. The evaluation team recommended the award to Medisel (K) Ltd being the lowest responsive bidder.

16. Item No. 27: Chlorpropamide 250mg Tablets 1000's

This item attracted four bidders namely: Windsor Industrial Holdings Limited, Cosmos Ltd, Laboratory & Allied Ltd and Elys Chemical Industries Limited. The Applicant did not submit a sample. The evaluation team recommended the award to Cosmos Limited.

17. Item No. 32: Clotrimazole 1% Cream

This item attracted eleven bidders namely: Unifax Chemicals, Windsor Industrial Holdings Limited, Medivet Products Ltd, Surgipharm Ltd, Cosmos Ltd, Laboratory & Allied Ltd, Regal Pharmaceuticals Ltd, Elys Chemical Industries Limited, Bulk Medicals Limited, Biodeal Laboratories and Universal Corporation Limited. The Applicant was lowest evaluated. The evaluation team recommended the award to Universal Corporation Limited.

18. Item No. 33: Compound Magnesium Trisilicate 250/120mg Tablets

This item attracted five bidders namely: Windsor Industrial Holdings Limited, SAI Pharmaceuticals Limited, Regal Pharmaceuticals Limited, Elys Chemical Industries Ltd and Bak Pharm Limited. The Applicant who was the lowest bidder was disqualified for poor past performance. The evaluation team recommended the award to Sai Pharmaceuticals being the second lowest responsive bidder.

19. Item No. 34: Co-trimoxazole 200 + 40 mg/5ml, suspension 50 ml

This item attracted thirteen bidders namely: Windsor Industrial Holdings Limited, Medivet Products Ltd, GlaxoSmithkline, MS Pharma, Laboratory & Allied Ltd, Regal Pharmaceuticals Ltd, Elys Chemical Industries Limited, Beta Health Care Limited, Medisel (K) Limited, Biodeal Laboratories, Universal Corporation Limited, Sphinx Pharmaceuticals and Tablet India. The Applicant's sample among those of other bidders did not meet the minimum required score. The evaluation team recommended the award to Elys Chemical Industries Limited.

20. Item No. 35: Co-trimoxazole 400 + 80 mg Tablets 1000's

This item attracted eleven bidders namely: Windsor Industrial Holdings Limited, GlaxoSmithkline, MS Pharma, Laboratory & Allied Ltd, Regal Pharmaceuticals Ltd, Elys Chemical Industries Limited, Dawa Limited, Beta Health Care Limited, Medisel (K) Limited, Biodeal Laboratories and Bak Pharm. The Applicant's sample among those of other bidders did not meet the minimum required score. The evaluation team recommended the award to Elys Chemical Industries Limited.

21. Item No. 41: Dextrose 50%

This item attracted two bidders namely: Windsor Industrial Holdings Limited and Infusion (K) Limited. The Applicant's bid was rejected because sample was plastic bags which have proved to be unreliable and had leakage problems. The evaluation team recommended the award to Infusion (k) Limited being the lowest bidder.

22. Item No. 42: Diazepam 10mg/2ml Inj

This item attracted six bidders namely: Windsor Industrial Holdings Limited, Egyptian International, Pharma, Howse & Mc George Laborex, Laboratory & Allied Limited, Nairobi Pharmaceuticals Ltd and Medisel (K) Ltd. Applicant's sample did not meet the required technical score of 80%. It scored 5%. The evaluation team recommended the award to Medisel (K) Limited being the lowest recommended bidder.

23. Item No. 44: Diclofenac Sodium 75mg/3ml Injection

This item attracted eleven bidders namely: Windsor Industrial Holdings Limited, Europa Healthcare, Indoco Remedies, Laboratory & Allied Ltd, Surgilinks Ltd, Intas Exports Limited, Bulk Medicals Ltd, Beta

Healthcare Limited, Medisel (K) Limited, Harleys Limited and Goodman Agencies. The Applicant's product was not registered as required and was disqualified. The evaluation team recommended the award to Medisel (K) Limited being the lowest responsive bidder.

24. Item No. 49: Erythromycin Stearate Tablets 1000's,

This item attracted nine bidders namely: Unifax Chemicals Limited, Windsor Industrial Holdings Limited, C.Mehta & Co. Limited, Indoco Remedies, Laboratory & Allied Limited, Elys Chemical Industries Limited, Dawa limited, Syner-Med Pharmaceuticals and Harleys Limited. The sample for Applicant was disqualified on the basis of colour. The evaluation team recommended the award to Elys Chemical Industries Limited.

25. Item No. 50: Erythromycin 125mg/5ml Powder for suspension, 100ml

This item attracted nine bidders namely: Windsor Industrial Holdings Limited, Medivet Products Limited, Cosmos Limited, Laboratory & Allied Ltd, Regal Pharmaceuticals Ltd, Elys Chemical Industries Limited, Dawa Limited, Biodeal Laboratories and Bak Pharm. The Applicant's sample among others did not meet the required 80% minimum score. The evaluation team recommended the award to Elys Chemical Industries Limited.

26. Item No. 51: 200gm Ferrous Sulphate Tablets 1000's.

This item attracted three bidders namely: Windsor Industrial Holdings Limited, Harleys Limited and Goodman Agencies. The Applicant's sample did not meet the required 80% score. The evaluation team recommended the award to Harleys Limited being the only responsive bidder.

27. Item No. 53: Folic Acid 5mg Tablets, 1000's

This item attracted five bidders namely: Windsor Industrial Holdings Limited, Laboratory & Allied Ltd, Regal Pharmaceuticals Ltd, Elys Chemical Industries Limited and Bak Pharm. The Applicant's bid among others did not score required 80 %. The evaluation team recommended the award to Regal Chemicals Limited being the only responsive bidder.

28. Item No. 54: Fortified procaine penicillin 4miu

This item attracted four bidders namely: Windsor Industrial Holdings Limited, Medisel (K) Limited, Bak Pharm Limited and Harleys Limited. There were no recommendations for award. User department recommended that the purchase of the item be halted.

29. Item No. 59: Griseofulvin 500mg Tablets 100's

This item attracted five bidders namely: Windsor Industrial Holdings Limited, SAI Pharmaceuticals Limited, Cosmos Limited, Laboratory & Allied Ltd and Elys Chemical Industries Limited. There were no recommendations for award.

30. Item No. 70: Ibuprofen 200mg Tablets 30's

This item attracted ten bidders namely: Windsor Industrial Holdings Limited, Unifax Chemicals, SAI Pharmaceuticals, MS Pharma, Laboratory & Allied Limited, Regal Pharmaceuticals Limited, Elys Chemical Industries Limited, Bak Pharm Limited, Syner-Med Pharmaceuticals and Harleys Limited. The sample of the Applicant did not meet the minimum 80% score. The evaluation team recommended the award to Elys Chemicals Industries Limited being the lowest responsive bidder.

31. Item No. 73: Ketoconazole 200mg Tablets, 30's

This item attracted seven bidders namely: Windsor Industrial Holdings Limited, Medox-Pharm, Cosmos Limited, Intas Exports Limited, Elys Chemical Industries Limited, Bulk Medical Limited and Harleys Limited. The Applicant was the fourth lowest bidder. The evaluation team recommended the award to Intas Exports being the lowest responsive bidder.

32. Item No. 74: Lignocaine 2% injection, 30ml

This item attracted two bidders namely: Windsor Industrial Holdings Limited and Medisel (K) Limited. The Applicant who was the lowest bidder was disqualified on the basis of poor past performance. The evaluation team recommended the award to Medisel being the second lowest bidder.

33. Item No. 75: Lysol 44% Cresol in soap solution

This item attracted five bidders namely: Windsor Industrial Holdings Limited, Biodeal Laboratories Limited, Syner-Med Pharmaceuticals, Sphinx Pharmaceuticals and Harleys Limited. The Applicant who was the lowest bidder was disqualified on the basis of poor past performance. The evaluation team recommended the award to Harleys being the second lowest responsive bidder.

34. Item No. 79: Methylated Spirit 94% 5 litres

This item attracted seven bidders namely: Windsor Industrial Holdings Limited, Unifax Chemicals, KAM Pharmacy, Beta Healthcare Limited, Biodeal Laboratories, Syner-med Pharmaceuticals and Sphinx Pharmaceuticals. No award recommendation was made and re-tender was recommended after the only technically responsive firm Biodeal Labs was disqualified for submitting an unsigned tender form.

35. Item No. 86: Metronidazole 200mg Tablets, 1000's

This item attracted seven bidders namely: Windsor Industrial Holdings Limited, MS Pharma, Laboratory & Allied Ltd, Regal Pharmaceuticals Ltd, Elys Chemical Industries Limited, Medisel (K) Limited and Bak Pharm. The evaluation team recommended the award to Elys Chemicals Industries Limited being the only responsive bidder.

36. Item No. 93: Nystatin 1000 iu/ml Oral suspension, 30ml

This item attracted ten bidders namely: Windsor Industrial Holdings Limited, Medivet Products Limited, Cosmos Limited, Egyptian International Pharma, Laboratory & Allied Ltd, Lords Healthcare Ltd, Elys Chemical Industries Limited, Bulk Medical Ltd, Biodeal laboratories and Sphinx Pharmaceuticals. The Applicant was the second lowest bidder. The evaluation team recommended the award to Elys Chemicals Industries Limited being the lowest evaluated bidder.

37. Item No. 98: Paracetamol Syrup 120mg/5ml/1 litre

This item attracted nine bidders namely: Windsor Industrial Holdings Limited, Medivet Products Limited, MS Pharma, Laboratory & Allied Ltd, Regal Pharmaceuticals Ltd, Elys Chemical Industries Limited, Bulk Medical Limited, Beta Healthcare Limited and Sphinx Pharmaceuticals. The lowest bidder Laboratory & Allied Limited was disqualified on the basis of poor past performance. Applicants sample failed to meet the

minimum score. The evaluation team recommended the award to Regal Pharmaceuticals Limited being the second lowest bidder.

38. Item No. 108: Quinine Sulphate 200mg Tablets 1000's

This item attracted five bidders namely: Unifax Chemicals, Windsor Industrial Holdings Limited, Cosmos Limited, Laboratory & Allied Limited and Elys Chemical Industries Limited. The Applicant was disqualified for providing sample for 300 mg strength and not 200mg as required. The evaluation team recommended the award to Elys Chemical Industries Limited being the lowest evaluated bidder.

39. Item No. 112: Salbutamol 2mg/5ml Oral Solution, 100ml

This item attracted eleven bidders namely: Windsor Industrial Holdings Limited, Medivet Products Limited, GlaxoSmithKline, Cosmos Limited, Laboratory & Allied Ltd, Regal Pharmaceuticals Ltd, Elys Chemical Industries Limited, Bulk Medical Limited, Dawa Limited, Biodeal Laboratories and Sphinx Pharmaceuticals. The Applicant who was the lowest bidder was disqualified on the basis of poor past performance. The evaluation team recommended the award to Biodeal Laboratories being the second lowest bidder.

40. Item No. 120: Tetracycline Eye Ointment, 5g tube

This item attracted three bidders namely: Windsor Industrial Holdings Limited, SAI Pharmaceuticals and Medisel (K) Limited. The Applicant who was the lowest was disqualified on the basis of poor past performance. The evaluation team recommended the award to SAI Pharmaceuticals being the second lowest bidder.

41. Item No. 124: Vitamin K1 10mg/ml injection

This item attracted two bidders namely: Windsor Industrial Holdings Limited and Howse & McGeorge Laborex. The evaluation team recommended the award to Howse & McGeorge Laborex being the only qualified bidder.

### **TENDER COMMITTEE'S DECISION**

The tender committee had two meetings on 30<sup>th</sup> November 2005 and 1<sup>st</sup> December 2005 and awarded the tenders as follows:



<b>Item no.</b>	<b>Name of bidder</b>	<b>Amount</b>
1.	Regal Pharmaceuticals Limited	Kshs.275, 500
2.	Harleys Limited	4,557 dollars
3.	Medisel Kenya	Kshs.8, 278,785.60
4.	Not awarded as enough stock are available	
5.	Medivet Products	Kshs.21, 600,000.00
6.	Elys Chemical Industries Limited	US\$ 711,700
7.	Ranbaxy Laboratories Limited	224,000 dollars
8.	Medisel Kenya	Kshs.7, 300,000
9.	Elys Chemical Industries Limited	US\$ 54,000
10.	Elys Chemical Industries Limited	US\$18,000
11.	Biodeal Labs Limited	KShs.100, 800.00
12.	Drug no longer recommended for use	
13.	Cosmos Limited	US\$21,200
14.	Medivet Products	Kshs.360, 000
15.	Medisel Kenya	Kshs.7, 654,500.00
16.	Re-tender	
17.	Sai Pharmaceuticals Limited	Kshs. 39 per pack
18.	Nairobi pharmaceuticals Limited	Kshs.58, 300
19.	Cosmos Limited	US\$1,320
20.	Sai Pharmaceuticals Limited	Kshs.3, 318,000
21.	Syner Med Pharmaceuticals	Kshs.6, 251,850.00
22.	Medisel Kenya	Kshs.1, 503,810.00
23.	Medivet Products	Kshs.9, 310,000
24.	Biodeal Labs Limited	Kshs.15, 773,100.00
25.	Medisel Kenya	Kshs.240, 300.00
26.	Elys Chemical Industries Limited	24,750 dollars
27.	Use quotations	
28.	C.Mehta and Company Limited	Kshs.19, 914 per pack
29.	C.Mehta and Company Limited	Kshs.5, 163 per pack
30.	Harleys Limited	Kshs.5.24 per pack
31.	Ranbaxy Laboratories Limited	11,200 dollars
32.	Universal Corporation Limited	16,000 dollars
33.	Sai Pharmaceuticals Limited	Kshs.075, 800
34.	Elys Chemical Industries Limited	501,704 dollars
35.	Elys Chemical Industries Limited	35,1000 dollars
36.	Re-tender ordered	
37.	Harleys Limited	88,000 dollars
38.	Sai Pharmaceuticals Limited	Kshs.26, 900
39.	Quotations be used	
40.	Re-tender ordered	
41.	Infusion K Limited	Kshs.8, 643,600
42.	Medisel Kenya	Kshs.1, 624,350.00
43.	Medisel Kenya	Kshs.1, 586,200.00
44.	Harley's Limited	Kshs. 1,444,606.88
45.	Re-tender ordered	
46.	Re- tender ordered	
47.	Universal Corporation Ltd (on request by user)	10 dollars

48.	Universal Corporation Limited	17,703 dollars
49.	Elys Chemical Industries Limited	45,900 dollars
50.	Elys Chemical Industries Limited	72,150 dollars
51.	Harleys Limited	22,160 dollars
52.	Dawa Limited	Kshs. 2,430,000
53.	Regal Pharmaceuticals Limited	Kshs.215, 040
54.	Not to be procured (its use discouraged)	
55.	Medisel Kenya	Kshs.489, 270.00
56.	Harleys Limited	2,330 dollars
57.	Harleys Limited	26,650 dollars
58.	Award stopped	
59.	Award stopped	
60.	Infusion K Limited	Kshs. 5,600,000
61.	Re-tender ordered	
62.	Re-tender ordered	
63.	Infusion K Limited	Kshs.1, 426,000
64.	Cosmos Limited	US\$8,800
65.	Medivet Products	Kshs.2, 400,000
66.	Medisel Kenya	Kshs.349, 440
67.	SynerMed Pharmaceuticals Ltd	Kshs.4, 443,375
68.	Elys Chemical Industries Limited	42,400 dollars
69.	Harleys Limited	13,868 dollars
70.	Elys Chemical Industries Limited	43,875 dollars
71.	Philips Pharmaceuticals Limited	Kshs.2, 820,000
72.	Philips Pharmaceuticals Limited	Kshs.4, 559,000
73.	Intas Pharmaceuticals limited	24,000 dollars
74.	Medisel Kenya	Kshs.2, 616,900.00
75.	Stopped Award	
76.	KAM Pharmacy (on request from user)	Kshs. 179 per Unit
77.	Cosmos Limited	US\$49,400
78.	Sai Pharmaceuticals Limited	Kshs.174, 240
79.	Re-tender ordered	
80.	Cosmos Limited	US \$14,400
81.	Bakpharm Limited	US\$59,706.38
82.	Sai Pharmaceuticals Limited	Kshs.48, 600
83.	R-tender ordered	
84.	Surgilinks Limited	Kshs.13, 341,978
85.	Universal Corporation Limited	66,000 dollars
86.	Elys Chemical Industries Limited	38,507 dollars
87.	Re-tender ordered	
88.	Medisel Kenya	Kshs.2, 264,000
89.	Regal Pharmaceuticals Limited	Kshs.2, 853,500
90.	Award stopped	
91.	Elys Chemical Industries Limited	24,180 dollars
92.	Infusion K Limited	Kshs.16, 171,200.00
93.	Elys Chemical Industries Limited	185,094 dollars
94.	Universal Corporation Limited	15,543 dollars
95.	Harleys Limited	25,000 dollars
96.	Regal Pharmaceuticals	Kshs. 9,900,000.00

97.	Elys Chemical Industries Limited	48,128 dollars
98.	Refer award back to evaluation committee	
99.	Dawa Limited	Kshs. 9,435,000
100.	Re-tender ordered	
101.	Re-tender ordered	
102.	Nairobi pharmaceuticals Limited	Kshs.5, 830
103.	Medivet Products	Kshs.6, 290,000
104.	Cosmos Limited	US \$5,400.00
105.	Re-tender ordered	
106.	Intas Pharmaceuticals limited	136,002 dollars
107.	Suspended award	
108.	Elys Chemical Industries Limited	52,470 dollars
109.	SynerMed Pharmaceuticals Limited	Kshs.1, 952,000
110.	Glaxo SmithKline	13,300 dollars
111.	Elys Chemical Industries Limited	4,900 dollars
112.	Biodeal Labs Limited	Ksh.6, 046,875.00
113.	Re- evaluation	
114.	Re- evaluation	
115.	Glaxo SmithKline	171,000 dollars
116.	Re-tender ordered	
117.	Elys Chemical Industries Limited	223,200 dollars
118.	Biodeal Labs Limited	Kshs.720, 000.00
119.	Medisel (K) Limited	1,421,250
120.	Re-tender ordered	
121.	Glaxo SmithKline	2,850 dollars
122.	Re-tender ordered	
123.	Sai Pharmaceuticals Limited	Kshs.174, 240
124.	Howse & McGeorge Laborex	Kshs. 80 per unit
125.	Re-tender	
126.	Harleys Limited	34,500 dollars
127.	Re-tender (on request of user)	

## **THE APPEAL**

The Applicant filed these appeals on 21<sup>st</sup> December 2005 against the Procuring Entity's award of the above tenders. The Board consolidated the three appeals on the grounds and the parties were similar.

The Applicant was represented by Mr. Elijah Njeru Mwangi, Advocate and Mr. Charles Kandie, Chief Executive Officer, Mr. Frederick Wanyonyi, Legal Officer, Mr. Edward Buluma, Procurement Manager and Dr. Maureen Nafula represented the Procuring Entity.

The Applicant sought an order of the Board to reverse the award of the tender to another firm and award to it having been the lowest price-wise and having met all the technical specifications.