

INDEPENDENT REVIEW PANEL

In the matter of:

Estee Co. Ltd

(Applicant)

v/s

Ministry of Health & Quality of Life

(Respondent)

(Cause No. 05/08/IRP)

Decision

A. Background

On 15 April 2008 the Ministry of Health & Quality of Life invited quotation (reference MHPQ/NMED/07-08/Q 146) for the following items:

1. Folders and Prongs with colour strips (400 units)
2. Folders and Prongs without colour strips (120 units)

A previous exercise was launched by the Ministry in October 2007, but finally was cancelled because all the bidders did not comply with the specifications. In respect of the present exercise, the submissions of the quotations ended 14 May 2008. The Applicant and three other suppliers responded to the invitation for tender.

B. Grounds for Review

In its application for Review, the Applicant alleged that the successful bidder did not comply with conditions regarding submission of samples.

Case for the Public Body

In a letter dated 13 June 2008, Mr P. Mawah, of the Ministry of Health & Quality of life in reply to the application for Review made by the Applicant explained that Meem Ltd was successful due to the fact that it submitted the lowest compliant bid along with the sample, which has been found to be acceptable by the evaluation team.

C. The Evaluation Process

The Evaluation Report is as follows:

1. Observations:

a. Polo Shirt Co. Ltd

- i. Specimen of colour strips imprinted on the front cover has not been submitted as per Annex A of the tender document.*
- ii. Labeling of rear of front cover not submitted as per Annex A1 of the tender document.*

b. Innovator Ltd

- i. Only one specimen for colour strip is provided which is red.*
- ii. The line border on front cover should not be included*
- iii. Metal fastener is not provided.*

c. Meem Ltd

- i. Specimens of colour strips are on white paper annexed to the specimen folder instead of being imprinted on it.*
- ii. Inside label of the front cover is printed on white paper and annexed to the specimen folder.*

d. Estee Co. Ltd

- i. The positioning of colour strips is about 2 cms from the extreme edge of the front cover while it should have been at the extreme edge of the front cover.*
- ii. Prepunched holes are not centered along the length of the spine fold.*

2a. *As suppliers Polo Shirt Ltd and Innovator Ltd have not complied with observations at paragraph 1(a) and 1(b), proper evaluation could not be carried out. The two proposals are therefore not retained.*

b. *The remaining two proposals are retained and listed hereunder according to the cheapest price:*

i. For 400,000 Folders and prongs with colour strips (Red, Blue, Bright Green and Yellow)

<u>Supplier</u>	<u>Amount(Rs)</u>
<i>Meem Ltd</i>	<i>1,276,000.00</i>
<i>Estee Co. Ltd</i>	<i>4,748,000.00</i>

ii. For 120,000 Folders and Prongs without colour strips (Plain)

<u>Supplier</u>	<u>Amount(Rs)</u>
<i>Meem Ltd</i>	<i>350,400.00</i>
<i>Estee Co. Ltd</i>	<i>816,000.00</i>

3a. *We, therefore recommend for the procurement of 400,000 folders and prongs with colour strips to Meem Ltd for the amount of Rs1,276,000.*

b. *We also recommend for the procurement of 120,000 folders and prongs without colour strips to Meem Ltd for the amount of Rs350,400.*

D. Submissions

Mr K. Tegally of Counsel for the Applicant referred to a previous tender exercise in respect of similar items which was cancelled and wherein it had submitted sample as it would have be used by the Ministry. Mr P. Mawah, representative of the Ministry conceded that the samples of both Applicant and Meem Ltd are not consistent with the specifications provided in the compliance sheet.

For instance for the position of colour strips in the sample of the applicant is about 2 cms from the extreme edge of the front cover. He pointed out that it was important for the users who are going to use the folders to see the colour strips even if the folders are in a filing cabinet.

In such a position as shown by the sample of the applicant, the users will not be able to see the colour strips.

As far as the successful bidder is concerned, he agreed that the latter is not fully compliant because the colour strips are on white paper annexed to the specimen folder instead of being imprinted on it. Since both bids contained minor deviations, the Evaluation Committee recommended the lowest evaluated

E. Findings

We have considered all the documents produced. It is clear from the evaluation report and from the statement of Mr Mawah who in all fairness conceded that both samples submitted by Applicant and the successful bidder are not compliant with the specifications mentioned in Part 2 (statement of requirements) and Part 3 Contract. It is also significant to note that according to special condition of the contract, the sample submitted for evaluation purposes must be similar in terms of make/manufacture's name/origin/size, as proposed in the tender. Any discrepancy between samples and offer may result in the rejection of the offer for the item.

For all these reasons, we find that both bids are not compliant. In fairness to all bidders, we therefore hold that the two bids were not responsive being given that they were not compliant with specifications and in these circumstances, we recommend the annulment of the decision of the public body to award the contract to Meem Ltd.

(Dr. M. Allybokus)
Chairperson

(H. D. Vellien)
Member

(Mrs E. Hanoomanjee)
Member

Dated this 30th of July 2008