

INDEPENDENT REVIEW PANEL

In the matter of:

Roadster Ltd

(Applicant)

v/s

Ministry of Health & Quality of Life

(Respondent)

(Cause No. 30/08/IRP)

Decision

A. Background

On 20 August 2008, the Ministry of Health & Quality of Life invited tenders for the supply of Anaesthetic Facemasks and Syringes to meet its annual requirements for the period 2008-2009. Out of 47 items, no responsive bids were received for 10 items. The Applicant submitted bids for 16 items and made alternative offers in respect of items no. 35 and 37.

B. The Evaluation Process

On 01 November 2008, the Bid Evaluation Committee appointed by the Central Procurement Board submitted its report, recommending the contract to be awarded to different suppliers. In a letter dated 20 November 2008, the Senior Chief Executive Officer of the Ministry of Health & Quality of Life informed the Applicant that its bids have not been retained for award.

C. Grounds for Review

The Applicant's grounds of review are as follows:

"The contents of the MOH letter dated 14th August 08 in reply to our demand of clarifications are not to our satisfaction at all.

A fortnight has now lapsed and we are still awaiting for "a reply which would be forwarded to us in due course" and same as per the contents of the MOH letter (reply to the challenge) dated 9th December 2008. Applicant feels that it is unethical for the MOH to have to say that the CPB has to forward the details."

D. Submissions and Findings

The Applicant's grounds for review is misconceived in Law. The provisions of the Public Procurement Act Section 45 cater for situations where the bidder is not satisfied with the decision, but the decision should be the decision by the Senior Chief Executive Officer of the Ministry of Health & Quality of Life in the context of the challenge which is not the case in the present matter.

Moreover, because of the prescribed limit governing delays to lodge an application for review, the Applicant cannot evoke contents of a letter from the Ministry of Health & Quality of Life dated 14 August 2008.

The Applicant's feeling that it is unethical for the Ministry of Health & Quality of Life to have to say that the Central Procurement Board has to forward the details does not constitute a ground of appeal as contemplated in the Public Procurement Act, in as much it does not relate to an alleged breach of duty as contemplated by Section 43(1) of the Public Procurement Act 2006.

The representative of the Applicant, Mr S. Bunwaree stated that in the light of the reasons put forward by the Public Body to reject the bids of the Applicant, he could no longer insist that the application for review be heard further.

We have for our part perused the bid documents as well as the evaluation report. We are satisfied that the evaluation process was carried out in accordance with the relevant prevailing legislation. As far as the queries raised in respect of the quality of syringes, there is evidence to indicate that both the Director of Health Services and the

Evaluation Committee did in fact check the quality of the syringes and ascertain that the specifications have been complied with.

For all these reasons, we find that there is no merit in the application which is accordingly dismissed.

(Dr. M. Allybokus)
Chairperson

(H. D. Vellien)
Member

Dated this 27th of January 2009