

## INDEPENDENT REVIEW PANEL

In the matter of:

**TFP International Ltd**

**(Applicant)**

**v/s**

**Ministry of Public Infrastructure, Land Transport & Shipping**

**(Respondent)**

**(Cause No. 02/09/IRP)**

### **Decision**

#### **A. Background**

On 12 November 2008, the Ministry of Public Infrastructure, Land Transport & Shipping (Public Infrastructure Division) invited by open advertised bidding, bids for the supply of blinds for the New Customs House. The technical specifications and conditions were defined by the Project Manager appointed by the Ministry of Finance. The two bids received by the closing date were opened in public on the same day. The public opening was not attended by the bidders or their representatives.

#### **B. The Evaluation Process**

A Bid Evaluation Committee was appointed to evaluate the two bids received. The Committee submitted its evaluation report to the Departmental Tender Committee (DTC) on 19 December 2008. The DTC wrote to the Chairperson of the Bid Evaluation Committee on 26 December 2008 with respect to the non-compliance of the bid of TFP International Ltd. The Bid Evaluation Committee submitted a supplementary report on 30 December 2008. The Committee maintained the recommendations made in its first report of 19 December 2008 which

was that the contract for the procurement of blinds for the New Customs House at Mer Rouge be awarded to IDECO Centre Ltd for a fixed sum of Rs839,327.50 inclusive of VAT (Rupees eight hundred and thirty nine thousand, three hundred and twenty seven and fifty cents).

A letter of award was sent to the selected bidder on 07 January 2009. The aggrieved bidder wrote to the Public Body on 05 January 2009 to enquire about the outcome of the bidding exercise. It was informed on 22 January 2009 that an award had been made to Messrs IDECO Centre Ltd for the sum of MUR 839,327.50 inclusive of VAT. The bidder was also informed that its bid has not fully complied with the bidding documents and was not substantially responsive.

However, pending a reply to its letter dated of 05 January 2009, the aggrieved bidder challenged the decision of the Public Body on 13 January 2009. The Public Body responded to the challenge on 14 January 2009. The aggrieved bidder still dissatisfied with the decision of the Public Body made an application for review to the Independent Review Panel on 16 January 2009.

### **C. Grounds for Review**

The Applicant's grounds for review are as follows:

*“Lowest bidder twice for same tender and biased consultant (Judge/Party)”.*

### **D. Submissions and Findings**

1. The bidders were invited to bid for four items:
  - (i) Venetian Blinds Type 1
  - (ii) Venetian Blinds Type 2
  - (iii) Roller Shade (motorised system)
  - (iv) Roller Shade (manually operated)

The Consultant, Maurice Design Ltd, and the Project Manager were invited by the DTC to give their views on the technical specifications of the bids received. In her report the Consultant states with respect to the Roller Shades (motorised system and manually operated) that “two samples of black out fabric were submitted but do not correspond with our colour scheme.” However, the Panel notes that this criterion for selection of the roller shades was not retained by the Bid Evaluation Committee.

Thus, the opinion of the Consultant did not have a bearing on the decision reached by the Bid Evaluation Committee.

2. The Bid Evaluation Committee states at paragraph 9, pg 3 of its report dated 19 December 2008, “TFP International Ltd is the lowest bidder (Rs780,000.00 inc. VAT) but is not substantially responsive as he has not submitted all the technical information required and has not quoted for one of the items as per table 3 above.”

The Panel considers that the missing information on voltage for the motorised roller shade system could have been obtained at the clarification stage. The Panel has examined the bidding documents and concurs with the Bid Evaluation Committee that there is no provision for splitting of the tender. The Panel considers that the bid from TFP Ltd cannot be considered to substantially responsive as it has omitted to quote for the item “Venetian Blinds Type 2”.

3. The Panel considers that the Bid Evaluation Committee has been consistent in its approach and has examined the bids received in strict accordance with the provision of the bidding documents. The bid from the aggrieved bidder cannot be considered to the lowest as it has not quoted for one of the items listed. As the bidding documents do not provide for splitting of the tender the evaluation cannot be carried out on an item by item basis.

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***

**(Mrs. E. Hanoomanjee)**  
***Member***

**Dated this 18th of March 2009**