

INDEPENDENT REVIEW PANEL

In the matter of:

Connexions Services Informatique Ltée

(Applicant)

v/s

Ministry of Education, Culture and Human Resources

(Respondent)

(Cause No. 11/09/IRP)

Decision

A. Background

1. The Ministry of Education, Culture and Human Resources invited bids on 30 January 2009 from eligible and qualified local bidders, through open Advertised Bidding, for the supply, installation and commissioning of the following IT equipment (ref: MOECHRE/Equip/OAB 153/2008-2009):

1. 503 sets of Personal Computer
2. 259 units of Laser Printer
3. 259 units of Scanner

The deadline for the submission of bids was Tuesday 03 March 2009 at 10.30 hours. The bids were opened in public on the same day at 10.40 hours.

2. The Public Body appointed a Technical Evaluation Committee to evaluate the 9 bids received by the closing date of 03

March 2009. The Committee submitted a technical evaluation report on 24 March 2009 and recommended at page 13 of the report that “the retained bids after any clarifications be considered for financial evaluation”.

3. The Chairperson of the Technical Evaluation Committee submitted a financial evaluation report on 26 March 2009 and the report was initialled by **three persons** on 03 April 2009. A table of comparative prices of the responsive bidders annexed to the report is signed by the Chairperson on 26 March 2009 and initialled by **two persons** on 03 April 2009. Paragraph C of the Financial Evaluation Report is referred to as “Recommendations to Departmental Tender Committee”. The Panel assumes that this refers to the “Departmental Tender Committee” of the Ministry of Education, Culture and Human Resources.

4. On 08 April 2009 the Public Body notified the bidders that the proposed selected bidder for the supply of the 503 sets of Personal Computers was Leal Communications and Informatics Ltd. Connexions Services Informatique Ltée dissatisfied with the decision of the Public Body lodged a challenge on 09 April 2009. The Public Body replied to the challenge on 28 April 2009 and in its reply refers to a challenge dated 24 April 2009. The bidder still not satisfied with the reasons given by the public body made an application for review to the Independent Review Panel on 15 May 2009.

5. The Public Body was informed by the Panel on 15 May 2009 that the procurement proceedings were suspended until the appeal was heard and determined by the Independent Review Panel. A first hearing scheduled for 04 June 2009 was postponed to 08 June 2009 at the request of the public body.

B. Grounds for Review

1. *Non Compliance of ITB 35.6, bidder Leal Communications submitted two separate prices for same lot of PCs.*
2. *Non Compliance of technical specification per tender documents which specifies brand Intel and trademark Core 2 Duo.*

C. The Evaluation Process

1. The Public Body appointed a Technical Evaluation Committee chaired by its Manager (ICT) to evaluate the 9 bids received by the closing date of 03 March 2009. There were three other members on the Bid Evaluation Committee. One was an Assistant Manager (ICT) of the Public Body and the two others were Project Managers from the

Central informatics Bureau (CIB). The committee submitted its report on 24 March 2009.

2. Paragraph 3 (Pg 4) of the report specifies the Technical Evaluation Procedure used to evaluate the nine proposals submitted for evaluation as follows: *“The Technical analysis was based on a list of set evaluation criteria, which were used to assess the technical performance of the services proposed as well as to gauge the expertise of team of technical staff to provide quality service in terms of their qualifications and experience, understanding of the assignment, firm’s general experience. The qualifying criteria are enclosed at Annex I.”*

3. Paragraph 5 (Pg 6) of the report gives the observations of the Committee with regard to each bidder. In respect to Personal Computers it is noted that:

- (i) No observation is made on the bid of Connexions Services Informatique Ltée. Thus, this bid must be considered to be fully compliant (paragraph 5.1).
- (ii) Two observations made with respect to the bid from Leal Communications and Informatics Ltd
 - *Bidder has proposed two options for PCs with different processors namely Intel Core 2 Duo 2.8 GHz and AMD Athlon X2 5200+ (2.7 GHz)*
 - *According to our records, large purchases of computer equipment with processor of type AMD have not been effected in the Civil Service*
- (iii) Bidders no. 3 and 9 were also considered to be non-responsive and should have been included in table of Personal Computers at Paragraph 6 (pg 8) “Eliminated Proposals”

The recommendations of the Technical Evaluation Committee are found at Paragraph 8 (pg 13) of the report: *“the Technical Evaluation Committee recommends that the retained bids after any clarifications be considered for financial evaluation”*.

4. The Financial Evaluation Report dated 26 March 2009 appears to have been carried out by the Chairperson of the Technical Evaluation Committee alone and is endorsed by 2 or 3 persons on 03 April 2009. The recommendation is to award the tender for the supply of 503 sets of

Personal Computer for the quoted price of Rs 10,637,695 to Leal Communications and Informatics Ltd for its option 2. This option 2 is referred to at Paragraph 7 (Pg 4) of the Technical Evaluation Report as “*PCTECH (Processor: AMD Athlon X2 5200+ 2.7 GHz)*”

D. Submissions and Findings

1. Annex 1 of the bidding documents gives the technical specification of the PC requested. For the processor the specifications read as follows:

1. Processor

Compatibility (IBM, Apple, set)	IBM
Microprocessor	Min. Intel Core 2 Duo 2.2 GHz or equivalent

2. The bidding documents at paragraph 17.4 (pg 19) allows a bidder to propose equivalent alternative options by stating that: “*standards for workmanship, process, material and equipment, as well as references to brand names or catalogue numbers specified by the Purchaser in the Schedule of Requirements, are intended to be descriptive only and not restrictive. The Bidder may offer other standards of quality, brand names, and/or catalogue numbers, provided that it demonstrates, to the Purchaser’s satisfaction, that the substitutions ensure substantial equivalence or are superior to those specified in the Schedule of Requirements.*”

3. ITB 12 (Pg 35) of the bidding documents confirms that alternative bids shall be considered. However, it goes on to add that: “*A bidder may submit an alternative bid only with a bid for the base case. The Purchaser shall only consider the alternative bids offered by the Bidder whose bid for the base case was determined to be the lowest evaluated bid.*”

4. The Panel considers that a bid for the base case shall be as provided in annex 1 of the specification forms which is as follows: *Min. Intel Core 2 Duo 2.2 GHz*. Then a bidder may propose alternative bids as long as there is conformity with clause 17.4 (Pg 19). It is interesting to note that Leal Communications and Informatics Ltd submitted a responsive base bid and then proposed an alternative.

5. A careful reading of Paragraph A2 of the Financial Evaluation Report leaves no doubt that the base case should be a Microprocessor of Min. Intel Core 2 Duo 2.2 GHz. This contention is supported by the remark made in the Technical Evaluation Report at paragraph 5.4 (pg 6). “*We cannot consider the idea for purchasing limited number of PCs having processor with type AMD since the bidder may have taken the number of*

PCs to be supplied for quotation value. Otherwise we should have gone for a pilot project lasting for 3 or 4 years to assess properly the performance of the hardware.”

6. The Panel fails to understand the recommendation to the Departmental Tender Committee to purchase option 2 from Leal Communications and Informatics Ltd when it appears that the performance of the hardware proposed has yet to be properly assessed.

7. Notwithstanding the above the Panel considers that in strict accordance with ITB 12 (pg 35) the option proposed by Leal Communications and Informatics Ltd cannot be considered as it was not the lowest bidder for the base case. The lowest bid for the base case was from Connexions Services Informatique Ltée at Rs 11,381,381 compared to Rs 11,736,750 for Leal Communications and Informatics Ltd.

For all the reasons stated above the Panel finds that there is merit in the application and in accordance with clause 45 (10)(b) recommends the annulment of the decision to award the contract for the supply of 503 units of Personal Computers to Leal Communications and Informatics Ltd.

(Dr. M. Allybokus)
Chairperson

(H. D. Vellien)
Member

(Mrs. E. Hanoomanjee)
Member

Dated this 22 of June 2009

