

INDEPENDENT REVIEW PANEL

In the matter of:

RUGMA Ltd

(Applicant)

v/s

Ministry of Education, Culture & Human Resources

(Respondent)

(CN 25/09/IRP)

Decision

A. Background

Quotations for the Supply of Broom Coco and Broom Fatac were sent to the following eight bidders on 30 July 2009 by the Management (Procurement and Supply) Central Supplies Division of the Ministry of Education, Culture & Human Resources.

List of Bidders

<i>Name of Bidders</i>	<i>Address</i>
<i>Preet Enterprises Mtius Attn: Mr S. Khorugdharry</i>	<i>41, Dr Reid Street, Beau Bassin</i>
<i>Vidiawatee Luckeenarain</i>	<i>Bassin Road, Quatre Bornes</i>
<i>Rugma Ltd</i>	<i>Soobara Lane, Palma, Quatre Bornes</i>
<i>Maxi Clean Co. Ltd</i>	<i>Grande Rosalie, D'Epinay</i>
<i>Mr R. Budoo</i>	<i>Cromble Homes Rd, Nouvelle France</i>
<i>Young Bros Co. Ltd</i>	<i>Paille en Queue Rd, Elizabethville, Baie du Tombeau</i>

<i>Golden Hill Ltd</i>	<i>24 Queen Street, Port Louis</i>
<i>Best Dealers Co. Ltd</i>	<i>34 Deschartes Street, Port Louis</i>

The closing date was 18 August 2009 at 10.30 hours at the latest. The quotations were to be deposited at the Quotation/Tender Box located at **Level III, Ministry of Education, Culture & H.R. IVTB House, Phoenix**. A Bid Security was not required.

As stated in the bid document, the Evaluation of Quotations will be done in accordance with the Technical Compliance Selection methodology as detailed below:

- “(a) preliminary examination to determine compliance with the Technical compliance of this Request for Quotations*
- (b) detailed evaluation to determine commercial and technical responsiveness; and*
- (c) Financial comparison of quotations to determine the best evaluated bid.*

Quotations failing stages (a) and (b) above will be eliminated and not considered in subsequent stages.”

The technical requirements are clearly stated in Section IV. Specification and Compliance Sheet, Procurement Reference Number: MOECHR/C. Materials/SQ 30/2009 as

“Broom Fatac - Standard weight (450 – 500) approx. When dry overall length (85 – 90 cm). Handle circumference 15 cms approx.”

B. Grounds for Review

The Applicant’s grounds for review are as follows:

“The price offered by our company is Rs35.00 per unit compared to Rs41.60 which has been awarded to next lowest offer.”

C. The Evaluation Process

The Applicant had submitted a challenge under Section 43 of the Public Procurement Act 2006 on 3 October 2009 and he was informed by the Ministry of Education, Culture & HR that *“the reason for the rejection of your offer is that your sample of broom fatac submitted does not meet our specifications. The handle circumference is less than 15 cms.”*

According to the Respondent, the reasons for rejecting the Bid of the Applicant as stated in their dated 23 October 2009 letter to the IRP are as follows:

- “(ii) The aggrieved bidder has failed on compliance of specification in respect of handle circumference which was 15 cms approximately. This fact has been acknowledged by the latter in Section IV (Specification and Compliance Sheet) of the tender document.*
- “(iii) During the evaluation of the offers, both samples of both bidders were examined according to our specifications and it was found that the sample of Preet Enterprise was fully compliant.*
- “(iv) Tenders for broom fatac have been launched for several years now with the same specifications and request to bidders to submit samples as a result of which satisfactory products have been obtained over the years. Moreover in our covering letter inviting the quotations for Broom Coco and Broom Fatac of 30 July 2009, there was the express mention of a provision for the submission of any queries to us prior to the closing date.”*

The bid did not satisfy the mandatory requirements and was therefore not considered for further evaluation.

D. Submissions and Findings

The point to be considered is whether albeit the lower price quoted by the Appellant, the failure to abide by a technical requirement should have eliminated his quotation. Since there were only two technical requirements and the bidder could have asked for clarifications, it is considered that the decision of the Respondent was justified.

There is therefore no merit in this appeal.

(Dr. M. Allybokus)
Chairperson

(H. D. Vellien)
Member

(Mrs. E. Hanoomanjee)
Member

Dated this of December 2009