

INDEPENDENT REVIEW PANEL

In the matter of:

Rainwear Ltd

(Applicant)

v/s

Mauritius Police Force

(Respondent)

(Cause No. 26/09/IRP)

Decision

A. Background

1. The Police Department invited request for sealed quotations for the supply of raincoat from eight suppliers on 13 May 2009. The deadline for the submission of quotations was 03 June 2009 at 13.30 hrs.
2. The Bid Evaluation Committee appointed by the Public Body met on 15 June 2009 and informed the Chairman of the Police Tender Unit that in the absence of samples from the bidders the evaluation exercise cannot be carried out. The Public Body requested two clearly labelled samples from each bidder for each offer on 17 June 2009. The deadline for the submission of the samples was 23 June 2009.
3. The samples received were coded and one sample received per offer was sent to the Mauritius Standards Bureau on 10 July 2009 for testing with respect to the following parameters:

- (i) Material: Woven Nylon Polyurethane with waterproof coating on one side
- (ii) Thickness
- (iii) Double seams with fully waterproof taping

The Mauritius Standards Bureau's TEST REPORT is dated 30 July 2009.

4. The Bid Evaluation Committee met on 14 September 2009 and observed with respect to Item 3: Rain suit for SMF that two of the bidders did not satisfy the specifications. The samples supplied by the other two bidders were not exactly as per the design provided.

The Bid Evaluation Committee suggested that these two suppliers be required to provide a pre-production sample as per design before making a final recommendation.

5. The Bid Evaluation Committee met on 06 October 2009 and after examining the new samples received finalised its recommendations. Bidder *KNIGHT TRADING AGENCY CO. LTD* was recommended for the award of all three items for which quotations were requested as per following details:

- (i) Raincoat for Woman Police @ Rs 760 per unit (800 units)
Constable
- (ii) Raincoat for Police @ Rs 750 per unit (4400 units)
Constable
- (iii) Rain Suit for SMF @ Rs 1200 per unit (2000 units)

All the prices are exclusive of VAT.

The total contract sum for the supply of the raincoats was Rs 8,174,200.00 (inclusive of VAT).

Following the recommendation of the Bid Evaluation Committee *Knight Trading Agency Co. Ltd* was awarded the contracts for supply of raincoat to Woman Police Constable and Police constable on the same day as per above details.

6. However, in respect of Rain Suit for SMF the Departmental Tender Committee did not approve the recommendations of the Bid Evaluation Committee and instead awarded the contract to Rainwear Ltd for the supply of 2000 units of Rain Suit for SMF @ Rs1,380 per unit on 14 October 2009.

7. *Rainwear Ltd* a dissatisfied bidder challenged the decision of the Public Body to award the contracts for raincoat to *Knight Trading Agency Co. Ltd* on 16 October 2009. The Public Body replied to the challenge on 26 October 2009 and informed the aggrieved bidder that all samples received had been tested at the Mauritius Standards Bureau to ascertain compliance with laid down specifications.

8. The aggrieved bidder still dissatisfied with the decision of the Public Body made an application for review to the Independent review Panel on 09 November 2009.

The Panel feels that there is sufficient documentary evidence available on records to reach a determination and as such there is no need to call for a hearing.

B. Grounds for Review

The Grounds for Review are as follows:

As per annex sheet No. 8 plus to re-check fabric composition for selected bidders by Mauritius Standard Bureau a public body and SGS a private body a private body and applicant will bear the cost.

C. The Evaluation Process

1. The Public Body appointed a Bid Evaluation Committee to evaluate the proposals received from the four bidders that responded to the invitation to quote for the Supply of raincoats. In its first report to the Chairman of the Police Tender Unit, dated 15 June 2009, the Bid Evaluation Committee informed that no assessment could be carried out in the absence of Samples. It went on to suggest that samples be requested from the four bidders.

2. From the second report of the Bid Evaluation Committee dated, 02 July 2009, it is indicated that twelve samples were checked with the required specifications. It was also recommended that samples submitted by bidder 1, 2 & 4 be forwarded to the Mauritius Standards Bureau for verification.

A letter to Mauritius Standards Bureau dated 10 July 2009 indicates that 14 samples were sent for testing. A specification and compliance sheet dated 02 July 2009 indicates that bidder no.3 did not submit samples of raincoat for Woman Police Constable. There is no code given to the sample of Rain Suit for SMF for bidder no.3.

3. The report of the Bid Evaluation Committee dated 14 September 2009 recommends as follows:-

- (i) Raincoat for Woman Police Constable
The lowest responsive bidder, *Knight Trading Agency Co. Ltd*, was recommended for an award for 800 units @ Rs 874.00 /unit (excluding VAT).
- (ii) Raincoat for Police constable
The lowest responsive bidder, *Knight Trading Agency Co. Ltd*, was recommended for an award for 4400 units @ Rs 862.50/unit (excluding VAT).
- (iii) Rain Suit for SMF
Bidders no.3 *Outlander (INT) Ltd* and no.4 *Global & Strategic Procurement Ltd* were considered to be non-responsive.

The one option submitted by bidder no.1, *Knight Trading Agency Co. Ltd*, and the offer of bidder no.2, *Rainwear Ltd* were considered to be responsive with respect to the composition of the material, thickness of material and provision of double seams with waterproof taping. However, both samples supplied had shortcomings when compared to the design proposed in the bidding documents.

The two bidders were requested to supply samples compliant with the design proposed to enable a final recommendation to be made.

4. The Bid Evaluation Committee submitted its final report on 06 October 2009 and confirms that both suppliers have carried out the necessary modifications to their samples. The samples provided were

now fully compliant with the design proposed in the bidding documents. The report indicates that:

- (i) Both bidders have quoted the same price: Rs.1,380.00 per unit (VAT inclusive)
- (ii) “When compare to sample of Rainwear Ltd, Rain Suit provided by *Knight Trading Agency Ltd* appears to be of better quality. Zip is sturdy and heavy duty. The suit is soft and being provided with living”

It is recommended that the 2000 units of Rain suits be procured from *Knight Trading Agency Co. Ltd* @ Rs 1,380.00 per unit (VAT inclusive).

D. Findings

1. The Provisions of Regulations 12 of PPA 2006 indicate that equal access shall be provided to all eligible and qualified bidders irrespective of their nationality. However, in the present matter provisions are specially made to protect small and medium enterprises. The bidding documents clearly indicate at Section 11, Margin of Preference that:

“For national bidding, small and medium enterprises having an annual turnover not exceeding Rs 50 million, shall receive a margin of preference of 10%, where the value of local inputs in respect of labour and/ or materials account for 30% and above”.

2. The aggrieved bidder, *Rainwear Ltd*, benefited from this provision in the bidding documents and was awarded the contract for the supply of 1200 rain suit for the SMF.

The other responsive bidder, *Knight Trading Agency Co. Ltd*, had quoted the same price of Rs 1,380 per unit for imported rain suit. The Departmental tender committee of the police was correct to have ignored the recommendation made by the Bid Evaluation Committee in its report dated 06 October 2009.

3. The Panel considers that the Public Body has acted according to the provisions of the bidding documents. The price quoted by the aggrieved bidder for raincoat for Woman Police Constable and Police Constable were Rs 1,100 (VAT exclusive) and even after the application of the Margin preference it will not be the lowest responsive bidder.

The Panel considers that the Public Body has acted according to the provisions of the bidding documents all along and as such finds no merit in this application.

(Dr. M. Allybokus)
Chairperson

(H. D. Vellien)
Member

(Mrs. E. Hanoomanjee)
Member

Dated this of February 2010