

INDEPENDENT REVIEW PANEL

In the matter of:

New Security Guard Ltd

(Applicant)

v/s

State Property Development Co. Ltd

(Respondent)

(Cause No. 30/09/IRP)

Decision

A. Background

1. The *State Property Development Co. Ltd* invited bids for the provision of Security Services at Port Louis Waterfront, through the restricted bidding process, from 10 Security companies. A site visit was held on 04 November 2009 at 10.00 a.m. The deadline for the submission of bids was 17 November 2009 at 11.00 hours. The bid opening took place on the same day at 15.30 hours at the office of the *State Property Development Co. Ltd* in Port Louis. The time for bid opening was rescheduled from noon on 17 November 2009 to 15.30 hours and all the bidders were informed through an addendum.

2. Three, of the ten Security companies invited, submitted their bids by the closing date of 17 November 2009. Two of the firms were considered to be responsive and were retained for further evaluation by the Bid Evaluation Committee appointed by the *State Property Development Co. Ltd*.

3. Sub-Clause 6.1 of the invitation to bid specifies the evaluation criteria for technical proposals and indicates that the assessment would be on a maximum score of 80 marks. However, only those scoring a minimum of 65 marks would be eligible for further evaluation. For the financial evaluation the lowest bid was allocated the minimum score of 20. Other bidders were allocated marks on a pro-rata basis.

4. On 01 December 2009 bidders were informed that the proposed selected bidder was *G4S Security Services (Mtius) Ltd* for a contract price of Rs. 8,467,200 exclusive of VAT. A dissatisfied bidder, New Security Guard Ltd, challenged the decision of *State Property Development Co. Ltd* on 09 December 2009. The Company replied to the challenge on 21 December 2009 and informed the aggrieved bidder of the reasons for which its bid had not been retained. The bidder still not satisfied with reasons given by *State Property Development Co. Ltd* made an application for review to the Independent Review Panel on 28 December 2009.

5. *State Property Development Co. Ltd* was informed on 29 December 2009 that the procurement proceedings were suspended until the appeal was heard and determined by the Independent Review Panel. A first hearing scheduled for 13 January 2010 was postponed to 18 January 2010 at the request of the respondent.

B. Grounds for Review

The Grounds for Review are as follows:

- (i) G4S Security (Mtius) Ltd has filed financial statements only for the **last two years (Annex E and F)**, in breach of Clause 5.2(g) of the bid document. It should be noted that CEO's response letter dated December 2009 has deliberately or recklessly failed to deal with this ground of objection **(Annex D)**.
- (ii) G4S Security Services (Mtius) Ltd has provided security services only on private sites for companies internal to its Group, and not to public bodies, in breach of Clause 5.2(d) of the bid document. Again, it should be noted that the CEO's response letter dated 21 December 2009 **(Annex D)**, has failed to deal with this issue.
- (iii) G4S Security Services (Mtius) Ltd has existed only since 5 June 2007 and could not therefore have shown the monetary value of services performed for the **last three years**, in breach of Clause 5.2(B) of the bid document **(Annex G)**. The CEO's response to the effect that this does not constitute a material deviation, is wholly untenable in as much as Clause 5.2 makes it mandatory

for this information and relevant documents to be submitted by the bidder.

- (iv) In any case, the company which was taken over by G4S Security Services (Mtius) Ltd, i.e. Reliance Security Services Ltd, on 5 June 2007, showed a 'Total revenue' of '**NIL**' in its financial statements for year ended 30 September 2006 (**Annex H**). The same appears as comparatives in G4S Security Services (Mtius) Ltd financial statements for year ended 30 September 2007 (**Annex E**). The CEO's response in paragraph 2(ii) to the effect that G4S Security Services (Mtius) Ltd forms part of the global entity of G4S Security Services (Mtius) Ltd is not only irrelevant but also inaccurate in as much as the Company is owned jointly by Rogers and Company Ltd (50%) and G4S International Holdings Ltd (50%). The CEO's assertion is amazingly not referred to by G4S Security Services (Mtius) Ltd themselves. It should also be known whether the international company would be legally responsible i.e. liable for the actions of the Mauritian entity.
- (v) Although some of the directors of G4S Security Services (Mtius) Ltd state that they are 'Mauritian citizens', it appears that this is incorrect and actually they reside in Delhi, India (**Annex 1**).
- (vi) G4S Security Services (Mtius) Ltd has filed annual return only for the years ended 30 September 2007, 30 September 2008.
- (vii) Intermanagement (Mtius) Ltd was incorporated on 1 July 1982 as a public company, with main activities being providing computer services, including software development and maintenance contracts (Annex J1 and J2).

Reliance Security Services Ltd and its status from public to private company. (annex K and L) on the 5 June 2007, reliance Security Services Ltd changed its name again to G4S Security Services (Mtius) Ltd (Annex G).

- (viii) Rogers and Company Limited was the only shareholder of of G45 Security services (Mtius) Ltd prior to the issue of shares to G4S International Holdings Ltd on 7 August 2007. therefore, the ownership structure of the changed whereby Rogers and Company Limited and G4S International Holdings Ltd each owns 50% shareholder G4S International Holdings Ltd is a company based in Crawley, Surrey in the United Kingdom. (**Annex M (i) and M (ii)**).

C. The Evaluation Process

1. The *State Property Development Co. Ltd* appointed a two-member Bid Evaluation Committee to evaluate the three bids received by the closing date of 17 November 2009. The bids received were as follows:

Table 1			
Sr No	Bidder	Price MUR (Including VAT)	Bid Security the sum of Rs.100,000.00 valid for 90 days
1	Rapid Security Services Ltd	11,757,600.00	ELVBEE/CJ PBL09/01665 valid up to 14.02.2010
2	New Security Services Ltd	10,614,297.60	004TENG09000119 from MPCB valid up to 15.02.2010
3	G4S security Services (Mtius) Ltd	9,737,280	TEBPTL090694 from HSBC valid up to 28.02.2010

The Bid Evaluation Committee rejected the bid of Rapid Security Services Ltd because of major deviations in the bid Security it submitted.

2. Sub-Clause 5.2 of Clause 5: Qualifications of the bidder, lists the 10 items of information and documents that a bidder has to include in its bid.

Sub-clause 5.4 lists the four minimum qualifying criteria that a bidder must satisfy to qualify for the award of the contract.

The Bid Evaluation Committee observed the following with respect to bid of *G4S Security Services (Mtius) Ltd* when it examined it against the qualification criteria of sub-Clause 5.2.

Sr No	Qualification Criteria	Comments
2	Total monetary value of services performed for each of the last three years	Submitted for 2 years only since it is an international company which has been incorporated in 2007
4	Experience in services of a similar nature and size for each of the last five years, and details of services under way or contractually committed; and clients who may be contacted for further information on those contracts	Submitted for 2 years only since it is an international company which has been incorporated in 2007

Despite these observations the Bid Evaluation committee considered that both *New Security Guards Ltd* and *G4 Security Services (Mtius) Ltd* were responsive when evaluated against sub-clauses 5.2 and 5.4 referred to above and as such both were retained for detailed evaluation.

3. The two bids were then evaluated technically as per evaluation criteria specified in Section VIII - Evaluation Criteria (pg 59) of the bidding documents. Table 4 (pg 5) of the evaluation report reveals the following with respect to the technical score:

New Security Guards Ltd: 67/80

G4S Security Services (Mtius) Ltd: 72/80

Table 5 of the evaluation report indicates the following with respect to the overall evaluation after the financial offers have been considered:

Rank	Bidder	Price MUR (inclusive of VAT)	Marks (x + y)
1	G4S Security Services (Mtius) Ltd	9,737,280.00	92
2	New Security Guards Ltd	10,614,297.60	85.3

On the basis of this evaluation exercise the Bid Evaluation Committee recommended the award of Contract 0705 – provision of Security Services at Port Louis Waterfront to *G4S Security Services (Mtius) Ltd* in the of Rs.8,467,200 exclusive of VAT.

D. Submissions and Findings

1. A certificate of incorporation on change of name dated 05 June 2007 indicates that *Reliance Security Services Ltd* changed its name by Special resolution into that of *G4S Security Services (Mtius) Ltd*. The shareholders of the company are, according to a Notice of share issue dated 21 August 2007, Rogers & Co. Ltd of Mauritius (company No 706) and G4S International Holdings of UK. Each entity held 250,000 ordinary shares of Rs. 10.00 each.

2. The *State Property Development Co. Ltd* in its assessment of the grounds for review referred the Panel to its reply of 21 December 2009 to the challenge of *New Security Guard Ltd* :

- (i) *The non-submission of the total monetary value of services for each of the last three years by G4S Security Services (Mtius) Ltd does not constitute a material deviation which would have caused its bid to be substantially non-responsive. Refer to ITB Clause 26.2 of the tender Document.*
- (ii) *G4S Security Services (Mtius) Ltd forms part of the global entity of G4S which is an international company with many years of experience in the field of security services.*
- (iii) *The rest of the points raised are not relevant to the procurement of this contract.*

That position was reiterated by Mr. V. Hosanee, Project Officer at *State Property Development Co. Ltd* who was also one of the two Members of the Bid Evaluation Committee.

3. The reference to Clause 26.2 is a poor interpretation of the Clauses of the bidding documents which were prepared by *State Property Development Co. Ltd*.

Sub-Clauses 5.4 (a) and (b), without any ambiguity, specifies two of the four minimum criteria that must be satisfied for award of the contract as follows:

5.4 *To qualify for award of the Contract, bidders shall meet the following minimum qualifying criteria:*

- (a) *An average annual financial amount of services provided over the period specified in the BDS.*

- (b) *Experience as prime contractor in providing services of at least the number of sites of a nature and complexity equivalent to the services required over the period specified in BDS;*

The Bidding Data Sheet indicates the following:

<i>ITB 5.4 (a).</i>	<i>The period is :</i>	<i>Three (3) years</i>
<i>ITB 5.4 (b).</i>	<i>The period is :</i>	<i>Five (5) years</i>

4. In respect of the reference to international company the Panel cannot find any evidence to substantiate the reasons given in the evaluation report to the effect that information has been “submitted for 2 years only since it is an international company which has been incorporated in 2007”. The Panel holds the view that the bid of *G4S Security Services (Mtius) Ltd* must be considered on its own merit as a separate and specific legal entity.

From the documentary evidence available on record, the Panel can safely conclude that *G4S Security Services (Mauritius)*, the selected bidder is a legal entity, in which 50% of shares belongs to *Rogers & Co. Ltd* and the remaining 50% of shares to *G4S International Holdings (UK)*. Admittedly *G4S Services Ltd* is a well known international company having served many years of experience in the field of security services. But the legal entity remains *G4S Security Services (Mauritius)* which was known at its initial incorporation under the name of *Reliance Security Services Ltd*, until 2007, when the latter changed its name by special resolution into that of *G4S (Mauritius) Ltd*.

Therefore the contention by the Public body that it can retain the bid of *G4S Security Services (Mauritius) Ltd*, because it forms part of the global entity *G4S*, an international company, is misconceived and cannot stand.

5. The Panel considers that in the light of the above precise conditions the company *G4S Security Services (Mtius) Ltd* does not qualify for the award of the contract. In the words of the evaluation committee of *State Property Development Co. Ltd* itself, the company has submitted the required information and documents for 2 years only.

Based on all the above and in accordance with Section 45 (10) (b) of the PPA 2006, the Panel recommends the annulment of the award in favour of *G4S Security Services (Mtius) Ltd.*

(Dr. M. Allybokus)
Chairperson

(H. D. Vellien)
Member

(Mrs. E. Hanoomanjee)
Member

Dated this 11th February 2010