

INDEPENDENT REVIEW PANEL

In the matter of:

Les Versailles Ltd

(Applicant)

v/s

Ministry of Health & Quality of Life

(Respondent)

(Cause No. 01/10/IRP)

Decision

A. Background

1. The Ministry of Health & Quality of Life using the open International Advertised Bidding Method invited tenders for the Procurement of Crepe Bandages, Absorbent Gauze, etc. The deadline for the submission of bids was 08 September 2009 at 13.30 hours and bids were opened at 14.00 hours on the same day.
2. The Goods were grouped under 19 separate line items. The application for review under Section 45 of the PPA 2006 is for Item No: 11 Plaster of Paris Bandages, non-sterile, packed individually with water proof and air tight material, size 10 cms x 2.7m.
3. There were nine bidders for the supply of Item No: 11 of which four were found to be non compliant as their bids did not meet the required specifications. This included the bid from the applicant.
4. The applicant's bid for the supply of Item 11 was at Rs 71.68 per dozen and at a total cost of Rs. 716,800 for 10,000 dozens. The

Price for inland transportation to convey the Goods to the final destination was Rs 30,000.

5. The applicant was informed by a letter dated 29 January 2010 that his bid for Item No: 11 was not retained for award and that the successful bidder was City Services Ltd. with a Contract Price of Rs. 755, 000.00 for 10,000 dozens.
6. A Challenge dated 30 January 2010 by the applicant was received by the Public Body on 5 February 2010. The Public Body informed the applicant by a letter dated 15 February 2010 that his bid was considered to be non-responsive as *“the samples submitted by you do not meet specifications due to high plaster loss during wetting and poor setting time”*.

B. Grounds for Review

. The Grounds for Review are as follows:

“Our price is cheaper for item 11 but has not been selected for award. Our price is Rs. 746, 800 for item 11 but you propose to award at Rs. 755,000.”

In addition the applicant considers that there has been:

“Breach of Section 36 and 37 of the Instructions to Bidders to determine the most successful bid.”

C. The Evaluation Process

Further to the evaluation exercise carried out at the Ministry of Health & Quality of Life on 18 October 2009, the Evaluation Committee decided to have the samples assessed at the hospital level. The Bids Evaluation Committee appointed by the Ministry of Health & Quality of Life submitted its report on 23 November 2009 and indicated that the supplies from the applicant *“does not meet specifications high plaster loss during wetting and poor setting time”*.

D. Submission and Findings

The main complaint of the applicant is that the evaluation committee has grounded its recommendation, inter alia, on a test carried out by a panel of medical practitioners on samples submitted by the bidders which was not provided for in the bidding documents.

Though it is highly desirable, that such a test be mentioned beforehand in the bidding documents, its absence in the present matter does not in our view impair significantly the bidding process. A committee comprising of several medical practitioners who are end users of the goods carried out the test. There is no evidence adduced by the applicant to suggest that the evaluation committee could not rely on its findings.

For these reasons the Panel finds that there is no merit in the application which is accordingly set aside.

However, the panel wishes to draw the attention of the authorities concerned, in a spirit of fairness and transparency, of the need to insert in the bidding documents all tests, which would be carried out during the evaluation process.

(Dr. M. Allybokus)
Chairperson

(H. D. Vellien)
Member

(Mrs. E. Hanoomanjee)
Member

Dated this 15th April 2010