

INDEPENDENT REVIEW PANEL

In the matter of:

Worldwide Marketing & Services Ltd

(Applicant)

v/s

Police Department

(Respondent)

(Cause No. 09/10/IRP)

Decision

A. Background

1. On 03 March 2010 using the Restricted Bidding Method of Procurement, the Police Department invited bids from twenty four firms for the confectioning of ready made uniforms for the Police Department. The deadline for the submission of bids was 31 March 2010 at 13.30 hrs at latest. By the deadline four bids were received and were opened on the same day at 14.00 hrs. The reference of the Public Body for this invitation to bid was Qno. 174 of 2009 and the bid itself comprised twelve items of garments.
2. The Public Body appointed a three-member Bid Evaluation Committee to evaluate the four bids received. The Bid Evaluation Committee submitted its report on 10 May 2010. It recommended the award of line items 1, 2, 3 and 4 to the sole complying bidder, New Bombay Ltd, for a contract sum of Rs7,470,000 inclusive of VAT. The Committee went on to recommend that fresh quotations be launched for the procurement of items 5 to 12.

3. On the recommendation of the Police Tender Committee, the Police Department cancelled the bidding exercise as it considered that the bid of the sole responsive bidder for line items 1 to 4 at Rs7,470,000 was substantially above its updated cost estimate of Rs6,600,000. The decision of the Public Body is in line with Section 39(1)(b) of the Public Procurement Act.

The Public Body launched fresh tenders on 19 May 2010.

4. As a potential bidder, Worldwide Marketing & Services Ltd wrote to the Commissioner of Police on 14 January 2010 to seek information as to why it had not been invited to bid. The Secretary of the Police Tender Committee was requested to submit comments on the letter from the Applicant by the Superintendent of Police, Police Headquarters. The Police Tender Unit explained in a memo dated 22 January 2010 that a policy decision had been taken by the Police Department to discontinue the purchase of fabrics for confection of Police uniforms. Instead quotations are invited for ready made uniforms from potential bidders which are at present dealing with ready made garments. The Police Tender Unit went on to add in this memo that to its knowledge Worldwide Marketing & Services Ltd is not involved in the field of ready made garments. It does not appear that a reply was sent by the Public Body to the Applicant following its letter of 14 January 2010.
5. Worldwide Marketing & Services Ltd challenged the decision of the Public Body on 29 April 2010. The Public Body did not respond to the challenge. The aggrieved potential bidder made an application for review to the Panel on 26 May 2010.
6. The Panel informed all parties concerned on 27 May 2010 that the procurement proceedings for the supply of uniforms were suspended until the appeal had been heard and determined.

B. Grounds for Review

The Grounds for Review are as follows:

“No open advertised bid has been carried out. No reply for our challenge dated 29 May 2010. Breach of Section 15, 19, 20, 49, 50, 51 of the Public Procurement Act.”

C. The Evaluation Process

The Police Tender Unit appointed a three-member Bid Evaluation Committee to evaluate the four bids that were received by the deadline for the submission of bids. It submitted its report on 10 May 2010. Three of the bidders were considered to be non-responsive as they failed to satisfy some of the mandatory requirements. Only one bidder, New Bombay Ltd satisfied all the mandatory requirements and qualified for a detailed technical evaluation of the five items it had put in a bid for (items 1 to 5). The bidder did not quote for items 6 to 12. The Bid Evaluation Committee considered that only the sample for items 1 to 4 complied to all the technical requirements. Sample for item 5 did not comply with the technical requirements and as such the bid for this item was rejected. The Bid Evaluation Committee recommended the bidder for an award for items 1 to 4 for a contract sum of Rs7,470,000 (VAT inclusive). For the procurement of items 5 to 12 the launching of fresh quotations was recommended. The Public Body considered that contract sum for items 1 to 4 was above the updated cost estimate of Rs6,600,000 and decided to cancel the bidding exercise. Fresh invitation to bid was launched on 19 May 2010 for the 12 items.

D. Submissions and Findings

1. The Panel notes that in its memo of 22 January 2010 to the Police Superintendent, at the Police Headquarters the Police Tender Unit refers to a policy decision of the Police Department to procure ready made uniforms in lieu of separate tenders for fabrics and stitching.
2. The list of 24 potential suppliers was prepared by combining the list of those that were invited to bid in 2008/2009 (Qno. 270) with a list of suppliers obtained from the IVTB. The name of Worldwide Marketing & Services Ltd does not appear on either list. The Panel also notes that Worldwide Marketing & Services Ltd did register with the Public Body on 08 October 2009 for seven items including the supply of “Textile Fabrics”. Ready made items was not included in that list. The Police Superintendent, at the Police Headquarters instructed the Police Tender Unit to include the Applicant in the list of suppliers.
3. The Panel considers that there is no merit in this application and set it aside. However, in view of the serious allegations made by the Applicant in its request for review, the Panel urges the Procurement Policy Office to look into the matter.

(Dr. M. Allybokus)
Chairperson

(H. D. Vellien)
Member

(Mrs. E. Hanoomanjee)
Member

Dated 20 August 2010