

INDEPENDENT REVIEW PANEL

In the matter of:

ABC Motors Co. Ltd

(Applicant)

v/s

Central Electricity Board

(Respondent)

(Cause No. 34/10/IRP)

Decision

A. Background

1. The Central Electricity Board using the open advertised bidding method invited sealed bids on 05 August 2010 from local suppliers/dealers for the supply and delivery of new vehicles. The deadline for the submission of bids was 08 September 2010 at 13.30 hrs and the opening of bids was scheduled for the same day at 13.45 hrs. The procurement was for the supply of the following three items under contract OAB No. PROD/3148:
 - (i) 18 Pick up single cab 2x4
 - (ii) 3 Lorry cranes
 - (iii) 1 Lorry equipped with aerial platform
2. Sealed bids were received from six bidders by the deadline for the submission of bids. The bids received are as indicated below.

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			Bidders					
Item No.	Vehicle Type	Quantity	ABC Motors Co. Ltd	Toyota Mts Ltd	Iframac Ltd	United Motors Ltd	Goodway Ltd	Axess Ltd
1	Pickup single cab 2x4	18	2(offers)	1	1	1	NQ	1
2	Lorry cranes	3	1	NQ	2	NQ	1	1
3	Lorry Equipped with aerial platform	1	2	NQ	1	NQ	NQ	NQ

A three member Bid Evaluation Committee was appointed by the Central Electricity Board on 15 September 2010 to evaluate the bids received.

- The Bid Evaluation Committee submitted its evaluation report to the Chairman of the Tender Committee of the Central Electricity Board on 14 October 2010. The recommendations of the Bid Evaluation Committee are found at pg 7, paragraph 6 of the Evaluation Report and are as follows:

“The Evaluation Committee therefore recommends that the contract for the procurement of vehicles be awarded to the preferred bidders as below:

- 18 pick up single cab 2x4 to Iframac Ltd for the total showroom price of Rs9,317,250 (excluding VAT)*
- 3 lorry cranes to Iframac Ltd for the total showroom price of Rs8,840,700 (excluding VAT)*
- 1 lorry with aerial platform to ABC Motors Ltd for the total showroom price of Rs4,208,830 (excluding VAT).”*

- The Tender Committee of the Central Electricity Board examined the evaluation report at its meeting of 29 October 2010 and approved the recommendations made for the award of the procurement contract. The Finance Committee of the Central Electricity Board endorsed the reports of the Bid Evaluation Committee and the Tender Committee and recommended them to the Board for approval.
- The Board of the Central Electricity Board at its meeting of 26 November 2010 approved the recommendations of the Finance

Committee for the award of the tender on the basis of Net Present Value calculation as follows:

- *“18 Pick Up Single Cab 2x4 to Iframac Ltd for the total price of Rs9,848,250 inclusive of Road Tax and Registration, but excluding VAT & Insurance*
- *3 Lorrycranes to Iframac Ltd for the total price of Rs8,947,950 inclusive of Road Tax and registration, but excluding VAT & Insurance*
- *1 Lorry with aerial platform to ABC Motors Ltd for the total price of Rs4,240,130 inclusive of Road Tax and registration, but excluding VAT & Insurance.”*

Pursuant to Section 40(3) of the Public Procurement act 2006 all bidders were notified accordingly.

6. ABC Motors Co. Ltd an aggrieved bidder challenged the decision of the Central Electricity Board with respect to the award for Item 1: single cab pick up 2x4 on 08 December 2010. The Central Electricity Board replied ABC Motors Ltd on 14 December 2010 explaining in details the reasons as to why its two offers had not been retained.

The aggrieved bidder still dissatisfied with the decision of the Central Electricity Board made an application for review to the Panel on 17 December 2010.

7. The Panel informed all parties concerned about the application for review on 23 December 2010 and pursuant to Section 45(4) of the Public Procurement Act 2006 suspended the procurement proceedings until the appeal was heard and determined. Hearings were held by the Panel on 25 and 27 January 2011 respectively.

B. Grounds for Review

The Grounds for Review are as follows:

“Our initial quotation on price was lowest and we are not satisfied with CEB’s reply. We request for full clarification regarding CEB’s evaluation that based on a full life cycle cost of vehicles, ABC Motors Co. Ltd was not the cheapest bidder.”

C. The Evaluation Process

1. The Central Electricity Board appointed a Bid Evaluation Committee to evaluate the offers received from the six bidders in accordance with the Evaluation Methodology described in the bidding documents at ITB 36.3(a), Section II(E). Evaluation and Comparison of Bids (pg 32).
2. The Bid Evaluation Committee carried out the evaluation process in strict accordance to the methodology described and submitted its report with the detailed calculations for arriving at the Net Present Value of each offer. The report was approved by the Tender Committee, the Finance Committee and the Board finally approved the recommendations of the Finance Committee at its meeting of 26 November 2010.
3. From Annex 2 of the evaluation Report with respect to Item 1 – 2x4 single cab pick up the following is noted:

NET PRESENT VALUE Adjusted on warranty	ABC Motors Co. Ltd (Option 1)	ABC Motors Co. Ltd (Option 2)	Iframac Ltd
	873 166	887 243	832 581

Hence, the decision to recommend Iframac Ltd for the award as it was the lowest evaluated responsive bidder.

D. Submissions and Findings

1. At the hearing held on 27 January 2011, Miss V. Bunwaree of Counsel for the aggrieved bidder, ABC Motors Co. Ltd, raised two issues:
 - (i) There appears to be a serious error in the calculations leading to the determination of the NET PRESENT VALUE. For ABC Motors Co. Ltd the total acquisition cost has been calculated over a period of seven years as specified in the bidding documents. Hence the costs of Rs873,166 and Rs887,243 for options 1 and 2 respectively. However, for Iframac Ltd the calculations have been carried out over a period of five years only instead of seven and hence the costs of Rs832,581 instead of the correct cost of Rs891,652.

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ABC MOTORS (Opt 1)

		0	1	2	3	4	5	6	7
PV of acquisition cost		497,693	90,525	80,102	70,886	62,733	55,512	49,129	22,320
NET PRESENT VALUE of acquisition cost	928,900								
Warranty (minimum = 40000 km)									
Proposed Warranty	100,000								
Percentage	6								
NET PRESENT VALUE adjusted on warranty	873,166								

ABC MOTORS (Opt 2)

		0	1	2	3	4	5	6	7
PV of acquisition cost		514,100	90,378	79,972	70,771	62,632	55,422	49,049	21,553
NET PRESENT VALUE of acquisition cost	943,876								
Warranty (minimum = 40000 km)									
Proposed Warranty	100,000								
Percentage	6								
NET PRESENT VALUE adjusted on warranty	887,243								

IFRAMAC

		0	1	2	3	4	5	6	7
PV of acquisition cost		517,625	79,252	70,126	62,058	54,921	48,599	43,011	16,060
NET PRESENT VALUE of acquisition cost	832,581								
Warranty (minimum = 40000 km)									
Proposed Warranty	40,000								
Percentage	0								
NET PRESENT VALUE adjusted on warranty	832,581								

- (ii) The prices quoted by Iframac Ltd for spare parts appeared to be on the very low side. As an example it is observed that ABC Motors Ltd quoted Rs2,014.63 for a fuel filter while Iframac Ltd quoted Rs265.00.
2. For its part, the Panel drew the attention of the Respondent to Section 36.3(e) of the Instruction to Bidders which provides for the Respondent to check prices on spare parts from various sources.
 3. Following consultation between the representatives of the Central Electricity Board and their Counsel, Mr R. Peeroo S.C, in respect of errors of calculations, the Respondent conceded that there appears to be an error in its calculations and that the Central Electricity Board is prepared to carry out a fresh evaluation of the bids taking into consideration the two points raised by ABC Motors Ltd.
 4. In these circumstances, the Panel can only conclude that there is merit in this application and in accordance with paragraph 10(b) and (c) of Section 45 of the Public procurement Act 2006 recommends the annulment of the decision of the Central Electricity Board to award Item 1 of the contract OAB No. PROD/3148 for the Procurement of New Vehicles to Iframac Ltd and a re-evaluation of the bids received in respect of Item 1.

(Dr. M. Allybokus)
Chairperson

(H. D. Vellien)
Member

(Mrs. E. Hanoomanjee)
Member

Dated 23 February 2011