

## INDEPENDENT REVIEW PANEL

In the matter of:

**FTM (MAURITIUS) LTD**

**(Applicant)**

**v/s**

**Ministry of Health & Quality of Life**

**(Respondent)**

**(Cause No. 22/10/IRP)**

### Decision

#### **A. Background**

1. The Ministry of Health & Quality of Life invited bids for the Supply, Installation and Commissioning of Biomedical Equipment at the Plaine Verte Medi Clinic through restricted bidding from contractors having the capacity to undertake such works with the closing date being 03 March 2010, 13.30 hours at the Ministry of Health & Quality of Life and the public opening being on the same day at 13.35 hours.

The estimated cost of the Project comprising seven separate items is MUR 5,400,000. Bids were valid for 90 days that is up to 13 May 2010.

2. Eight suppliers, were invited through Restricted Bidding, namely:

- Azur Medical Ltd
- IBL Healthcare
- VNS Diagnostics Ltd
- Robert Le Maire Ltd
- Ducray Lenoir Ltd
- Chem-Tech Ltd
- FTM (Mtius) Ltd
- Oregon Trading Ltd

3. All the eight suppliers submitted bids but only the following four bids met the mandatory requirements.

Table 1

SN	Offer	Amount (Rs)	Remarks
1.	Robert Le Maire Ltd	955,000	Inclusive of 5 years maintenance. Labour only
2.	FTM (Mtius) Ltd Offer 3	1,015,000	Biomelieux MTX3 inclusive of 5 years maintenance. Labour only
3.	FTM (Mtius) Ltd Offer 2	1,050, 000	Sigma inclusive of 5-year maintenance. Labour only
4.	Oregon Trading Ltd	1,218,493.48	Complete with UPS and maintenance 5 years. Labour only

4. Based on the recommendations of the Evaluation Committee, the Ministry of Health & Quality of Life on 14 July 2010, **confirmed the** order for the supply, installation and commissioning of the Automated Coagulometer complete with Printer to Messrs Robert Le Maire Ltd. for the total amount of Rs 900,000 inclusive of all applicable charges, duties and taxes. Exclusive of 15 % VAT.

**Table 2**

Item No.	Description	Quantity	Amount (Rs)
1	Automated Coagulometer complete with printer Make: Sysmex Model: CA 510 Origin: Japan	1 unit	900,000

5. The letter also provided for maintenance of the equipment “*after the warranty period for an initial period of one year, subject to satisfactory servicing and maintenance of the equipment during the*

*warranty period, on a labour only contract, inclusive of VAT 15 % as follows:*

*Year 1: Rs 5,000*

*(b). The contract may be renewed on a yearly basis for a further period of four years as follows:*

*Year 2: 5,000*

*Year 3: 10,000*

*Year 4: 10,000*

*Year 5: 25,000*

6. Learning of the procurement of the equipment from the Notice Board of the Ministry on 23 August 2010, FTM (Mtius) Ltd submitted its challenge in accordance with Regulations 48 of the Public Procurement Regulation 2008 on 27 August 2010, *‘we want to know if the award winner, Robert Le Maire Ltd has included cost of reagents in their offer Rs900,000. Which model has been quoted by them? We also need clarification why our offer has been rejected’.*

7. Based on the report of the Evaluation Committee, the Ministry of Health & Quality of Life, in reply to the Challenge, informed the applicant that:

*“(i) Item 7 – Fully automated Coagulation Analyser*

*The model quoted by Messrs Robert Le Maire is Sysmex – CA – 510 and the quoted price of Rs900,000 includes cost of reagents.*

*As regard your bids, you had made three offers for this item. Offer 1 – Make Dialab did not meet specifications, as it was not FDA approved. The other two offers met specifications, but were not the lowest evaluated bids.”*

8. The aggrieved bidder still unsatisfied with the decision of the Public Body lodged an application for review on 14 September 2010 before the Independent Review Panel which was heard on 28 September 2010.

**B. The Evaluation Process**

1. The Ministry of Health & Quality of Life set up an Evaluation Committee comprising five members, which met on 18 May 2010.
2. The quotations received from the two bidders that were fully responsive can be summarized in Table 3.

<b>No.</b>	<b>Subject</b>	<b>Quote from ROBERT LE MAIRE</b>	<b>Quote from FTM (Mauritius) Ltd Offer 3</b>
1	<i>Cost of the Instrument inclusive of Reagents, Consumables and for 10,000 PT, 5,000 PTTK &amp; 1,000 Fibrinogen</i>	900,000.00	1,035,000.00
2	<i>Cost of the Labour for 1 year</i>	5,000.00	3,000.00
3	<i>Cost of the Labour for 4 years after the warranty period</i>	50,000.00	12,000.00
	<b>TOTAL PRICE for items 1 - 3</b>	<b>955,000.00</b>	<b>1,050,000.00</b>
4	<i>Quote for the Reagents, Consumables, Spares, QC Samples for 5 successive years assuming 300 working days per year, 1 QC run oblique level per day assume 100 PT, 50 PTTK &amp; 5 Fibrinogen per day. Total Price for Item no. 4 (As per 2.5 of TSR (Pg59))</i>	1,272,096.00	768,000.00
5	<b>TOTAL PRICE</b>	<b>2,227,096.00</b>	<b>1,818,000.00</b>

**C. Submissions and Findings**

The bid price of the aggrieved bidder was Rs 1,015,000 as compared to Rs 955,000 from the successful bidder. On this basis Robert Le Maire Ltd was the lowest evaluated responsive bidder. However, ITB 7.2.5 states very clearly that “*in order to compare long term economical use companies to quote for cost of reagents, consumables, spares, QC sample for 5 successive years assuming 300 working days/year, one QC run/level per day. Assume 100PT, 50PTTK and 5 fibrinogen per day*”. If now the cost of the reagents, consumables and quality control equipment was added to the price quoted by the

successful bidder it would have been **Rs 2,227, 096.00** as compared to **Rs 1,818,000.00** quoted by the aggrieved bidder.

The Public Body on 24 September 2010 provided the aggrieved bidder with its comments on the application for review. According to the Public Body in its comments in reply to the application for review, the mandatory specifications were for “*an automated coagulometer with one year warranty along with 4 years maintenance, cost of labour only after the warranty period and instrument to be supplied with start up reagents, consumables, QC samples for 10,000 PT, 5,000 PTK and 1000 Fibrinogen.*”

*Item 4 of the specifications was only meant to enable the Ministry to forecast estimated cost of reagents and consumables for future years”.*

For the panel, the price quoted as per specifications, should include the cost of the reagents. In such cases, the offer No. 3 of the aggrieved bidder as highlighted above, constitutes the lowest evaluated responsive bid.

For these reasons, the Panel finds that there is merit in the application and that the contract should have been awarded to the applicant. However being given that the contract has already been awarded to the selected bidder, the Panel in accordance with section 45(10)(2)(d), of the Public Procurement Act of 2006, recommends the payment of the sum of Rs 10,000 which the Panel considers as a fair and reasonable figure for costs incurred by the aggrieved bidder in participating in the bidding process.

**(Dr. M. Allybokus)**  
***Chairperson***

**(H. D. Vellien)**  
***Member***

**(Mrs. E. Hanoomanjee)**  
***Member***

**Dated: 8 April 2011**