

INDEPENDENT REVIEW PANEL

In the matter of:

Worldwide Marketing & Services Ltd

(Applicant)

v/s

Ministry of Health & Quality of Life

(Respondent)

(Cause No. 33/10/IRP)

Decision

A. Background

1. The Ministry of Health & Quality of Life using the open advertised bidding invited bids on 21 September 2010 for the supply of frozen chicken breast and thigh to all hospitals for the period 01 January 2011 to 31 December 2011. The procurement reference number was MHPQ/NMED/2010/Q96. The deadline for the submission of bids was 03 November 2010 at 13.30 hrs and opening of bids was scheduled for the same day at 13.35 hrs.
2. The Public Body appointed a four-member Bid Evaluation Committee to evaluate the three bids received by the deadline of 03 November 2010. The Bid Evaluation Committee submitted its evaluation report on 09 November 2010.
3. On 29 November 2010 the Public Body informed all bidders of the outcome of the bidding exercise and that the successful bidder was "Poulet Arc en Ciel Ltee" for a total contract amount of Rs27,100,900. Worldwide Marketing & Services Ltd as an aggrieved bidder challenged the decision of the Public Body on 02

December 2010. The Public Body replied to the challenge on 09 December 2010 and explained to the bidder why its bid had not been retained.

4. Worldwide Marketing & Services Ltd still dissatisfied with the decision of the Public Body made an application for review to the Panel on 21 December 2010. The Panel pursuant to Section 45(4) of the Public procurement Act 2006 suspended the procurement proceedings on 21 December 2010 and informed all parties concerned accordingly.

The Public Body explained to the Panel on 27 December 2010 the reasons as to why urgent public interest considerations require the procurement proceedings to proceed and this pursuant to Section 45(5) of the Public Procurement Act 2006.

5. The Panel pursuant to Section 45(4)(5)(6) and (7) of the Public Procurement Act 2006 informed all parties concerned on 28 December 2010 that the suspension on the procurement proceedings had been lifted.

B. Grounds for Review

The Grounds for Review are as follows:

“Our price quotation is cheaper by Rs1,229,057 breach of Section 40(1). The contract should be awarded to our company”.

C. The Evaluation Process

1. The Public Body appointed a Bid Evaluation Committee to evaluate the bids received from:
 - (i) Worldwide Marketing & Services Ltd - Rs25,871,849
 - (ii) Poulet Arc en Ciel - Rs27,100,900
 - (iii) Ibrahim Edoo & Sons Ltd - Rs27,659,800
2. The Bid Evaluation Committee submitted its report on 12 November 2010 and it concluded that the bid received from Worldwide Marketing & Services Ltd was non-responsive because of non-compliance with the required delivery period, 01 January 2011 to 31 December 2011. “Poulet Arc en Ciel” was the lowest responsive bidder and thus was recommended for an award for Rs27,100,900. The Public Body approved the recommendation of

the Bid Evaluation Committee and informed all bidders accordingly on 29 November 2010.

D. Submissions and Findings

1. The bid documents at page 53 “Section V Schedule of Requirements contains table 1: List of Goods and Delivery Schedule” where it is specified that the delivery date for the two items were “As per Annex A for the period 01 January 2011 to 31 December 2011”. Bidders are required to indicate their “offered delivery date”. Both “Poulet Arc en Ciel” and “Ibrahim Edoe & Sons Ltd” indicated that they will comply with the required delivery schedule of the Public Body. Worldwide Marketing & Services Ltd for its part indicated the following for both items to be procured: “1st delivery 60 days after receipt of letter of award then immediately”.
2. The Panel concurs with the Bid Evaluation Committee that the bid from Worldwide Marketing & Services Ltd was non-responsive as it failed to comply with the mandatory criterion of delivery period.

For the reason given above the Panel finds that there is no merit in this application and pursuant to section 10 of the Public Procurement Act 2006 dismisses it.

(Dr. M. Allybokus)
Chairperson

(H. D. Vellien)
Member

(Mrs. E. Hanoomanjee)
Member

Dated 10 May 2011