

INDEPENDENT REVIEW PANEL

In the matter of:

New Security Guard

(Applicant)

v/s

Central Water Authority

(Respondent)

(Cause No. 08/12/IRP)

Decision

A. Background

1. The Central Water Authority, using the open advertised bidding process, invited bids on 31 October 2011 from qualified bidders for the “procurement of Security Services” (contract no. CWA/C2011/71). Bids were to be submitted not later than 13.00hrs local time on 06 December 2011. Bid opening was scheduled for the same day at 13.05 hrs in the presence of bidders or bidders representative who choose to attend.

2. The Central Water Authority organised a pre-bid meeting followed by a visit to all the sites on 23 November 2011 for the bidders which had purchased the bidding documents.

Addendum No. 1 was issued to all prospective bidders on 01 December 2011.

3. The Public Body received six bids by the deadline for the submission of bids and the details as read out at the public opening are as per table below:

SN	Bidders	BID VALUE (VAT INCL) Rs				Total Bid Value as per Bid Submission Sheet (Rs)
		Lot 1	Lot 2	Lot 3	Lot 4	
1	Defense Hightec Security Services Ltd	20,893,062.00	15,473,480.00	15,910,250.00	2,338,042.00	54,614,834.00
2	RSL Security Services Ltd	19,252,380.00	13,912,700.00	15,183,680.00	2,277,460.00	50,626,220.00
3	New Security Guard Ltd	33,834,840.00	24,924,686.00	25,918,700.00	3,848,452.00	88,526,678
4	Central Security Guard Ltd	23,187,795.00	16,984,235.00	17,683,550.00	2,422,015.00	60,277,595.00
5	Rapid Security Services Ltd	29,131,800.00	21,192,200.00	22,558,400.00	3,006,100.00	75,888,500.00
6	Proguard Co. Ltd	27,521,463.10	19,748,737.39	21,925,862.37	2,765,793.15	71,961,856.01

A three member Bid Evaluation Committee was then appointed to evaluated the six bids received.

4. The Bid Evaluation Committee submitted its evaluation report on 08 February 2012 and recommended the award of the contract CWA/C2011/71 to the lowest evaluated and technically complying bidder, RSL Security Services Ltd, for the sum of Rs52,355,360 (VAT inclusive).
5. All bidders were notified of the outcome of the bidding exercise on 05 March 2012. New Security Guard, as an aggrieved bidder, challenged the decision of the Public Body on 13 March 2012. The Public Body replied to the challenge on 16 March 2012. An additional query of the aggrieved bidder on 19 March 2012 was promptly replied to, by the Public Body, on 20 March 2012.
6. New Security Guard, still dissatisfied with the decision of the Public Body, submitted an application for review to the Panel on 30 March 2012. The Panel informed all parties concerned about the application for review on the same day and then 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 31 May 2012 and on 06 June 2012 in the presence of the selected bidder.

B. Grounds for Review

The Grounds for Review are as follows:

“For the tender process, New Security Guard avers that the CWA has misled our Company by specifying clause 5.2(d) as a requirement and thereafter disregarding the said clause 5.2(d) in their assessment and allocation of the tender.”

C. The Evaluation Process

- Following the public opening of bids received on 06 December 2011, the Public Body appointed a three-member Bid Evaluation Committee to evaluate the six bids received. Two of the bidders were considered to be non-responsive and were not retained for further evaluation as they had failed to submit a Power of Attorney or other evidence certifying that the signatory of the bid may commit the bidder.
- The bid Evaluation Committee considered that all four remaining bidders had satisfied the qualifying criteria and as such were considered for technical evaluation.

All four bidders scored the minimum pass mark of 49 for the Technical Evaluation and as such were considered responsive and were retained for further evaluation. The maximum marks allocated for Technical Evaluation was 70.

The details of the Technical Evaluation are as per table below:

Bidder No.	Bidder	Mark
2	RSL Security Services Ltd	60
3	New Security Guard Ltd	52
5	Rapid Security Services Ltd	50
6	Proguard Co. Ltd	49

Independent Review Panel – Decision No. 09/12

3. The financial proposals of the four responsive bidders were checked for arithmetic errors and were corrected accordingly. The corrected bid amount are as per table below:

<i>B i d N o</i>	<i>Bidders</i>	<i>Lot No. 1 Port Louis & North</i>		<i>Lot No. 2 South & East</i>		<i>Lot No. 3 MAV Upper & Lower</i>		<i>Lot No. 4 Other Sites</i>		<i>Total Amount</i>
		<i>Bid Sum</i>	<i>Corrected Sum</i>	<i>Bid Sum</i>	<i>Corrected Sum</i>	<i>Bid Sum</i>	<i>Corrected Sum</i>	<i>Bid Sum</i>	<i>Corrected Sum</i>	
2	<i>RSL Security Services</i>	19,252,380	19,967,220	13,912,700	14,434,340	15,183,680	15,676,340	2,227,460	2,277,460	52,355,360
3	<i>New Security Guards Ltd</i>	33,834,840	32,744,796	24,924,686	24,924,686	25,918,700	25,918,700	3,848,452	3,848,452	87,463,634
5	<i>Rapid Security Services Ltd</i>	29,131,800	-	21,192,200	-	22,558,400	-	3,006,100	-	75,888,500
6	<i>Proguard Co. Ltd</i>	27,521,463.1	-	19,748,737.39	-	21,925,862.37	-	2,765,793.15	-	71,961,856. 01

The bidding document indicates that the lowest financial proposal (F_m) will be given the maximum mark (S_m) allocated to the financial proposals with the other marks computed as follows:

$$S = S_m \times F_m / F$$

Where F is the price of the proposal under considerations and the maximum mark S_m allocated to the Financial Proposal is 30. It is also indicated that the ranking of bids shall be made in the order of the highest marks after adding the technical score to the financial score.

Based on the above criteria the Bid Evaluation Committee concluded that the ranking of the responsive bidders were as follows:

<i>Bid No.</i>	<i>Bidder</i>	<i>TOTAL SCORE AND RANKING (Technical and Financial Evaluation)</i>							
		<i>Lot 1</i>	<i>Rank</i>	<i>Lot 2</i>	<i>Rank</i>	<i>Lot 3</i>	<i>Rank</i>	<i>Lot 4</i>	<i>Rank</i>
2	<i>RSL Security Services Ltd</i>	90	1	90	1	90	1	90	1
3	<i>New Security</i>	70	3	69	4	70	3	70	4

Independent Review Panel – Decision No. 09/12

	<i>Guard Ltd</i>								
5	<i>Rapid Security Services Ltd</i>	71	2	70	3	71	2	73	3
6	<i>Proguard Co. Ltd</i>	71	2	71	2	71	2	74	2

4. RSL Security Services Ltd was considered to be the lowest evaluated and technically responsive bidder for all four lots and was recommended for an award in the bid sum of Rs52,355,360 (VAT inclusive).

D. Submissions and Findings

1. The scope of service and performance specifications for the contract are defined in Section III of the bidding document and full details of number of guards, hours of services and site locations are given in Section IV – Activity Schedules. Nine types of surveillance with the level of security requirement are defined in the activity schedule.

There are four different lots with multiple sites in the contract and the type of surveillance per site in each lot is detailed in the bidding document. A bidder is required to indicate for each lot its rate per month for each type of surveillance required and its price for a given number of cellular telephone. To the sum of these two items a fixed amount for contingencies and 15% VAT are to be added. The sum of these four items is considered to be the bid sum of the bidder.

2. The bidder is not required to indicate the breakdown of all the direct and indirect costs associated with providing a particular type of surveillance. However, Section 5.2 of the bidding document stipulates that the bidder must provide *“an undertaking from the Bidder that the salaries and wages to be paid in respect of this bid are compliant with the relevant Laws, Remuneration Order and Award where applicable and that it will abide to the sub-clause 4.6 of the General Conditions of Contract, if it is awarded the contract or part thereof.”*

Paragraph 4.6 of Section V – General Conditions of Contract refers to Labour Clause and sub-paragraph 4.6.2 clearly states that

“No Contractor shall be entitled to any payment in respect of work performed in the execution of the contract unless he has, together with his claim for payment filed a certificate:

- (a) showing the rates of remuneration and hours of work of the various categories of employees employed in the execution of the contracts;*
- (b) stating whether any remuneration payable in respect of work done is due;*
- (c) containing such other information as the Chief Executive Officer of the Public Body administering the contract may require to satisfy himself that the provisions under this clause have been complied with.”*

To ensure the rights of the employees further, sub-paragraph 4.6.4 indicates that *“Every Contractor shall display a copy of this clause of the contract at the place at which the work required by the contract is performed”*.

All bidders are required to subscribe to these mandatory clauses of the bidding document and in its Bid Submission Form it is clearly indicated that *“we confirm that the salaries and wages payable to our personnel in respect of this proposal are in compliance with the relevant Laws, Remuneration Order and Award, where applicable and that we shall abide with the provisions of sub clause 4.6 of the General Conditions of Contract, if we are awarded the contract or part thereof.”*

3. The Panel considers that all the issues raised by the Applicant refers administration of the contract instead of contract award. The Public Body can, under the provisions of this contract, take all appropriate measures it deems fit to address any shortcomings on the part of the contractor during the execution of the contract. At procurement stage, there is only a need for an undertaking which has been duly submitted.

In the light of the above, the Panel finds no merit in the application which is accordingly dismissed.

(Dr. M. Allybokus)
Chairperson

(H. D. Vellien)
Member

(Mrs. E. Hanoomanjee)
Member

Dated 29 June 2012