

## **INDEPENDENT REVIEW PANEL**

**In the matter of:**

**FTM (Mauritius) Ltd**

**(Applicant)**

**v/s**

**Ministry of Health & Quality of Life**

**(Respondent)**

**(Cause No. 09/12/IRP)**

### **Decision**

#### **A. Background**

1. The Ministry of Health & Quality of Life using the open advertised bidding method invited bids from both local and international suppliers for the supply, installation, testing and commissioning of medical and general equipment for Dr A. G. Jeetoo Hospital. The procurement was divided into eleven lots and with respect to lot 5 and lot 6 were as follows:

Lot 5: Life Support

Lot 6: Therapy

The closing date for the submission of bids was 05 July 2011 up to 13.30 hrs and the public opening of bids was scheduled for the same day at 14.00 hrs.

Addendum No. 1 was issued to all prospective bidders on 14 June 2011.

2. Bids were received from thirteen suppliers and were opened in public on the scheduled date. The name of the bidder, the lots offered and the bid amount were read out and recorded.

The Central Procurement Board then appointed a six-member Bid Evaluation Committee to evaluate the bids received. A Dialysis Administrator provided expert advice on dialysis machines on two occasions. The Bid Evaluation Committee held seventy two meetings to evaluate the bids received, and it submitted its report on 01 October 2011. The Bid Evaluation Committee as part of its report recommended that clarifications be sought from some bidders for lots 2, 5, 6, 7, 8, 9 and 10. The deadline for the submission of the required clarifications was 14 December 2011.

3. The Bid Evaluation Committee carried out a technical analysis of the clarifications received and submitted an additional report on 29 December 2011. A supplementary report was submitted by the Bid Evaluation Committee on 23 February 2012 following additional clarifications from bidders.

All bidders were notified of the outcome of the bidding exercise on 27 February 2012. FTM (Mtius) Ltd as an aggrieved bidder challenged the decision of the Public Body on 06 March 2012 with respect to the procurement of three items of equipment:

Lot 5 item no. 8  
Lot 5 item no. 10  
Lot 6 item no. 6

The Public Body replied to the challenge on 21 March 2012. However, FTM (Mtius) Ltd still dissatisfied with the decision of the Public Body with respect to lot 5 item no. 8 and lot 6 item no. 6 submitted an application for review to the Panel on 29 March 2012. The Panel pursuant to Section 45(4) of the Public Procurement Act 2006 suspended the procurement proceedings until the appeal was heard and determined. A hearing was held on 05 June 2012 in the presence of the selected bidder.

## **B. Grounds for Review**

The Grounds for Review are as follows:

### ***“Item 8 of Lot 5 (Ventilator ICU)”***

*As per your reply, we have found that the model quoted by VNS Diagnostics (Heyer iTern/s Base/ Base neo) does not meet the below specifications as mentioned in the tender documents.*

- (i) Expiratory Time: 0.2 sec to 15 sec*
- Alarms*
- (ii) Inspiratory time exceeded*
- (iii) I:E ratio limit exceeded*
- (iv) Volume limit exceeded*
- (v) Automatic scaling for optimal size or independent scaling*
- Accuracy*
- (vi) Pressure reading:  $\pm 2\text{cmH}_2\text{O}$*
- (vii) Volume readings:  $\pm 10\%$  or  $\pm 1\text{ml}$  whichever is greater*
- (viii) O<sub>2</sub> concentration:  $\pm 3\%$*
- Power Supply & Consumption*
- (ix) Pressure Range: 280 to 600 Kpa (For Air)*
- (x) Pressure Range: 280 to 600 Kpa (For O<sub>2</sub>)*

**Item 6 Lot 6 – Warming Units**

*The following specs are not met by VNS Diagnostics offer: Neo Solution from Gigante*

- (i) Large bright display for easy monitoring*
- (ii) No mention is made on the degree of tilt of their mattress. It should be  $\pm 15^\circ$  as per the tender specifications.*
- (iii) Alarms: check patient every 15 minutes in manual mode*
- (iv) Irradiance: 6-8 uw/cm/nm at bed level*
- (v) Operating Conditions: temperature 15°C to 35°C.”*

**C. The Evaluation Process**

1. Thirteen bidders submitted offers for various lots by the deadline for the submission of bids. The name of the bidder, the lots offered and the bid amount were readout and recorded. A six-member Bid Evaluation Committee was appointed to evaluate the bids received.

Three of the bidders failed to satisfy the mandatory requirements as per ITB 25 and were not retained for further evaluation. The remaining bids were then evaluated for each item within a lot and recommendations for award was on item wise basis. Clarifications were sought from bidders under very specific conditions.

2. Two bids were retained for technical evaluation for lot 5 item 8 and both were considered to be technically responsive.

Bidder 5 – VNS Diagnostic Ltd – Alt (subject to clarification)  
(Rs2,376,000)

Bidder 7 – FTM (Mauritius) Ltd (Rs2,682,800)

The clarifications provided by the bidder VNS Diagnostic Ltd in terms of documentary evidence from the manufacture were considered to be acceptable by the Bid Evaluation Committee. The bidder was recommended for an award for its alternative offer in the sum of Rs2,376,000.

3. Seven bids were retained for technical evaluation for lot 6 item no. 6 and the five bids considered to be technically responsive were:

<i>Bid No.</i>	<i>Bidder</i>	<i>Estimated Cost (Rs)</i>	<i>Quoted Amount (Rs)</i>	<i>Corrected Amount (Rs)</i>	<i>Rank</i>
4	<i>SOS Medical &amp; Laboratoire (Mtius) Ltd</i>	<i>(DDU) 4,468,000</i>	<i>(DDP) 2,411,000.00</i>	<i>ok</i>	2
5	<i>VNS Diagnostics Ltd</i>	<i>(DDU) 4,468,000</i>	<i>(DDP) 1,809,600.00</i>	<i>(DDP) 1,872,000.00</i>	1
7	<i>FTM (Mtius) Ltd</i>	<i>(DDU) 4,468,000</i>	<i>(DDP) 3,033,800.00</i>	<i>ok</i>	3
9	<i>IBL Healthcare Medical</i>	<i>(DDU) 4,468,000</i>	<i>(DDP) 3,557,054.32</i>	<i>ok</i>	4
11	<i>Chem Tech Ltd</i>	<i>(DDU) 4,468,000</i>	<i>(DDP) 3,790,000.00</i>	<i>ok</i>	5

The clarifications provided by bidder VNS Diagnostic Ltd were considered to be acceptable and the bidder was recommended for an award in the sum of Rs1,872,000.

#### **D. Submissions and Findings**

1. The Panel considers that the Bid Evaluation Committee has been fair in its approach and in accordance with Directive No. 3 issued pursuant to Section 7(c) of the Public Procurement Act has sought from bidders only those documents and information which cannot be tampered with. The circumstances under which the Bid Evaluation Committee sought clarifications are as follows:

*“In the course of this evaluation exercise BEC have noted a few cases where bidders quoted for items but failed to mention makes and models of equipment to be associated with those items. The issue of asking clarifications was thoroughly discussed in our meetings and BEC has come to the conclusion that in so doing, we may give undue advantage to those bidders. This allows them the privilege of now, at this stage, match makes and models to their offers. However, evaluations have been carried out and clarifications sought as relevant, in the following circumstances:*

- (i) When makes and models have been mentioned but technical document/brochure has not been submitted*
- (ii) When makes and models have not been mentioned but the technical document/brochure/catalogue is labelled with the lot and item number and shows the make and model*
- (iii) When makes and models have not been mentioned but the technical document/brochure/catalogue unequivocally points to the make and model.*
- (iv) When makes and models have not been mentioned in cases where equipment would be customized in Mauritius (e.g. shelves, tables).”*

2. The Bid Evaluation Committee was satisfied that on the basis of the documentary evidence provided by the bidder, VNS Diagnostics Ltd, the bids were technically responsive. However, the Panel draws the attention to the duty of care that have been imposed by the Bid Evaluation Committee on the Public Body to ensure full compliance to the specifications by the successful bidder.

Based on all the above, the Panel finds no merit in the application which is accordingly set aside.

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

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

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

**Dated 19 July 2012**