

INDEPENDENT REVIEW PANEL

In the matter of:

Ramphul Enterprises Ltd

(Applicant)

v/s

Ministry of Education & Human Resources

(Respondent)

(Cause No. 36/14/IRP)

Decision

A. History of the case

The project consists of the Provision of Taxi Lorries/Vans – Hard Cover to Zonal Directorates 1-4 on an “as and when required basis for an initial period of one year renewable for another period of one year upon satisfactory performance”. Bids were invited by the Ministry of Education & Human resources from thirteen local contractors through restricted bidding. The closing date for the bid was on 12 August 2014.

Eight bids were received.

One addendum was issued on 31 July 2014 and pages 4, 7 and 8 of the bidding documents were accordingly amended.

B. Evaluation

The Bid Evaluation Committee was chaired by Mr P. Sungkur, Ag. Office Management Executive. The Bid Evaluation Committee submitted its

recommendation on 01 September 2014, whereby the proposal of the bidder Yuvna Damree as the lowest and substantially responsive bidder was accepted.

C. Notification of award

On 01 October 2014, on the basis of the recommendation of the Bid Evaluation Committee, and the DBC, the contract was awarded to the lowest and substantially responsive bidder Yuvna Damree.

However, on 03 October 2014, the contractor Yuvna Damree informed the Ministry of his inability to provide the Taxi Lorry services. Consequently, the DBC decided to cancel the contract with Yuvna Damree and on 13 October 2014, the contract was awarded to the second lowest and substantially responsive bidder, Sanjeev Bhurosy from the shortlist of bidders in the BEC Report. A Contract was signed with him on 27 October 2014.

Notification to unsuccessful bidders was issued on 31 October 2014.

D. The Challenge

On 04 November 2014, the Applicant challenged the award on the following grounds:

“The Ministry of Education & Human Resources has awarded the contract to a bidder who was not qualified/eligible to participate in this bidding exercise, viz he was not the owner of four goods vehicle as at the closing date 12 August 2014.”

E. The Reply to challenge

By letter dated 10 November 2014, the Public Body made the following reply to the challenge:

“Mr Sanjeev Bhurosy who has been awarded the said Contract, has in his bid, stated that he complies with the specifications in the bidding document. In addition, evidence has been obtained from the Contractor to the effect that he personally owned two goods vehicles and his wife two others of less than 12 years of age as at the closing date of 12 August 2014.”

F. Grounds for Review

On 06 November 2014, the Applicant seized the Independent Review Panel for review on the following grounds:

“The successful bidder namely Mr Sanjeev Bhurosy did not own at least four (4) good vehicles at the time of the closing of the bid, thus is disqualified as bidder for non-compliance with the eligibility criteria as laid down in Section 1(9)(g) of the Bidding Document as well as in the Addendum No. 1.”

G. The Hearing

In the course of the sitting on 02 February 2014, Counsel for the Respondent conceded that the successful bidder was not responsive as Mr S. Bhurosy did not own four goods vehicles at the material time.

H. Decision

In the circumstances, the Panel has no alternative but to recommend the annulment of the contract awarded to Mr S. Bhurosy and recommends the review of the decision for an award to the Applicant.

To hold otherwise will tantamount to condoning what appears to be a gross irregularity.

(Said Toorbuth)
Chairperson

(Siv Potayya)
Member

(Jacques C. Nauvel)
Member

Dated 11 February 2015