



# Independent Review Panel

Decision No. 02/17

**In the matter of:**

**Proximed Ltd**

**(Applicant)**

**v/s**

**Ministry of Agro Industry and Food Security**

**(Respondent)**

**(Cause No. 32/16/IRP)**

**Decision**

### A. History of the case

The present application for review relates to the Procurement contract bearing reference number MOAIFS/Q32/2016-17/OAB. On the 21<sup>st</sup> September 2016, through an open advertising bid, the Ministry of Agro-Industry & Food Security hereinafter referred as the **“Respondent”** launched tenders for the procurement of the following:-

*Supply, Installation, Commissioning, Testing (including Training) of one unit Ultra-Performance Liquid Chromatography Tandem Mass Spectrometer.*

The deadline for the submissions of bids was on the 26<sup>th</sup> October 2016. In relation to the bid submitted, Proximed Ltd hereinafter referred to the **“Applicant”** requested clarifications from Respondent on the 5<sup>th</sup> October 2016. On the 21<sup>st</sup> November 2016, the Respondent issued a Notice of Addendum No. 1 and the deadline for the submissions of the bids was extended to the 9<sup>th</sup> November 2016. On the 9<sup>th</sup> November 2016, the bids were opened in the presence of the bidder’s representative.

### B. List of bidders and prices as read out in the Public opening

<b>SN</b>	<b>Bidders</b>	<b>Bid Price (excl. of VAT) RS</b>
1	<i>Proximed Ltd</i>	<i>Apt A: 13,900,000.00 Opt B: 19,900,000.00</i>
2	<i>FTM (Mauritius) Ltd</i>	<i>18,498,461.00</i>
3	<i>Hemascia Ltd</i>	<i>11,319,500.00</i>
4	<i>Ducray Lenoir Ltd</i>	<i>26,484,514.00 (inc. of VAT)</i>
5	<i>Separation Scientific Mru Ltd</i>	<i>22,359,230.35 (inc. of VAT)</i>

## C. Evaluation

**The following committee was appointed to evaluate the bids received:**

### **Chairperson**

Mr V. A. Punchoo                      Director, Agricultural Services

### **Members**

Mr A. H. Mauthoor                      Principal Agricultural Engineer  
Mrs H. Dowlut                              Senior Scientific Officer  
Mrs M. Jugnarain                          Scientific Officer

### **Secretary**

Mr J. Sobhun                                  Procurement and Supply Officer

In respect of the Applicant, the successful bidder and the other bidders, the Bid Evaluation Committee found that:

### ***“5.0 The Evaluation Process***

#### **5.1 Examination for Completeness of Bids and Determination of Responsiveness to Commercial Terms and Conditions. (Comparison sheet at Annex 1)**

5.1.1 *The bids of FTM (Mauritius) Ltd, Hemascia Ltd and Separation Scientific MRU Ltd are not responsive and not retained since they have not submitted document evidencing financial capability as per Clause 3 (a) of section III Evaluation and Qualification Criteria at page 35 of the bidding document.*

5.1.2 *The bids of Proximed Ltd and Ducray Lenoir Ltd are responsive and are therefore retained for next stage.*

#### **5.2 Determination of Responsiveness to Required Technical Specifications (Comparison Sheet at Annex 2)**

*The option A from Proximed Ltd is not compliant to the specifications 1(i)(b), 1(i)(k), 1(i)(m), 1(i)(n).*

*The option B from Proximed Ltd is not compliant to the specifications 1(i)(f), 1(i)(h), 1(i)(k), 1(i)(m), 1(i)(n).*

*Therefore both options A and B from Proximed Ltd are not responsive.*

*The offer from Ducray Lenoir Ltd is compliant to all specifications and is responsive. The bid is therefore retained for post qualification.”*

#### D. Notification of Award

The Ministry of Agro Industry and Food Security through a letter dated 13 December 2016, informed the Applicant of the particulars of the successful bidder as follows:

<b>Name of Bidder</b>	<b>Address</b>	<b>Contract Price</b>
Messrs Ducray Lenoir Ltd	19, Poivre Street, Port Louis	Rs 23,030,012.00 (excluding VAT)

#### E. The Challenge

On 19 December 2016, the Applicant challenged the award on the following grounds:

##### **“Option A**

##### Mass Range 50-2000 amu or better

*Our Explanation: The TSQ Quantiva has a mass range of 10-1840 amu. This mass range is largely sufficient for analysis of all pesticide residues and many other compounds. Should there be any pesticide residue to be analysed by the laboratory having a mass range of > 1840, we will accept that our bid was not arbitrarily rendered technically non-responsive.*

##### Enhanced product ion and instrument library search. Pre-tested analysis methods, using the triggered MRM database must also be included.

*Our explanation: we had complied to the above technical as our offer included the TraceFinder 4.1 Environmental and Food Safety (EFS) Software which included all the compound database for pesticide residue including product ion and instrument library search. The TSQ Quantiva and TraceFinder 4.1 form part of the Pesticide Explorer bundles from Thermo Fisher Scientific which contains all pre-validated analysis methods as method templates, pesticide analysis workflows completed with documentation and T-SRM database included in the compound data library in TraceFinder 4.1 EFS.*

##### MRM compound libraries (not scan spectra) must be supplied for pesticides and others. The libraries must be developed using the equipment

*Our explanation: all the MRM and T-SRM compound libraries for pesticides and other food and environmental contaminants are included in TraceFinder 4.1 EFS software as standard supply. They are compound libraries with all parent ion and product ion searches possible. The libraries have been developed exclusively by Thermo Scientific to be used in TraceFinder 4.1 when bundled with TSQ Quantiva and TSQ Endura which are the LC Triple Quadrapoles being sold by Thermo Scientific.*

##### Provide results of analysis on pesticide residues and ethephon using the equipment:

*Our explanation: application notes have been offered for the use of the TSQ Quantiva for pesticide residues. Ethephon being a polar pesticide, the EU Pesticides commission (EU MRL) has recommended the use of both LCMS/MS and ICMS/MS for the analysis of polar pesticides. The LCMS/MS method being not robust enough, the ICMS/MS method has been demonstrated to have better detection limits and more robust than the LCMS/MS methods. We have hereby enclosed data to substantiate our explanation.*

### **Option B**

*High Sensitivity signal (signal to noise) on column injection of 1pg or below or a suitable analyte analysed in positive and negative ESI*

*Our Explanation: The Q Exactive Focus Orbitrap Mass Spectrometer is a hybrid high resolution mass spectrometer and is a different technology to a tandem quadrupole mass spectrometer. It uses accurate mass rather than nominal mass to analyse samples and henceforth is at minimum as sensitive or as a high end tandem quadrupole instrument. The Q Exactive Focus has Orbitrap technology which uses accurate mass and high resolution to analyse ions and therefore can achieve greater sensitivity. The sensitivity data set in the bidding documents were only for tandem quadrupoles and therefore arbitrarily excluded any Hybrid or High Resolution Mass Spectrometer technical specifications. Also, the Q Exactive Focus operate on full scan MS and not on targeted analysis like the Triple Quads making it a superior instrument in terms of capability.*

*We will refer you to Paragraph 1 of Section V of the bidding documents whereby it was mentioned ‘These specifications describe the requirements for a Ultra Performance Liquid Chromatography (UPLC) Triple Quadrupole or Hybrid Mass Spectrometer or high resolution Mass Spectrometer for the determination and confirmation (qualitative and quantitative analysis) of trace levels of various veterinary drugs and pesticide residues (including growth regulators e.g. ethephon) and related contaminants such as but not limited to mycotoxins in food and environmental matrices’. However, it should be noted that the technical specifications were triple quadrupoles only and therefore biased the whole evaluation process.*

*No significant cross talk within 1-5ms dwell time; short inter-SRM/MRM pause time*

*Our explanation: The Q Exactive Focus Mass Spectrometer is an Orbitrap Hybrid mass spectrometer and therefore does not have any cross talk. This specification is not valid when evaluating hybrid or high resolution mass spectrometer. Even the terms SRM/MRM are not valid in high resolution and/or hybrid mass spectrometers as they use accurate mass and high resolution to analyse samples.*

*We will refer you to paragraph 1 of Section V of the bidding documents whereby it was mentioned “These specifications describe the requirements for a Ultra Performance Liquid Chromatography (UPLC) Triple Quadrupole or Hybrid Mass Spectrometer or high resolution Mass Spectrometer for the determination and confirmation (qualitative and quantitative analysis) of trace levels of various veterinary drugs and pesticide residues (including growth regulators e.g. ethephon) and related contaminants such as but not limited to*

*mycotoxins in food and environmental matrices'. However, it should be noted that the technical specifications were triple quadrupoles only and therefore biased the whole evaluation process.*

*Enhanced product ion and instrument library search. Pre-tested analysis methods, using the triggered MRM database must also be included.*

*Our Explanation: The Q Exactive Focus coupled with the TraceFinder 4.1 EFS software platform includes the HRAM Compound library which includes all libraries for pesticides, food and environmental contaminants as well as other compounds which have been analysed in high resolution accurate mass (HRAM) in order to be compatible with spectra being acquired when analysing samples with the Q Exactive Focus MS. The analysed spectra can also be submitted to m/z cloud online databases for a more comprehensive library search. The m/z cloud has been developed by Thermo Fisher Scientific and has till date more than 6000 compounds in the library with more than 1,700,000 ion spectra for these compounds thereby eliminating any chance of false negatives or positives. The TraceFinder 4.1 and Q Exactive Focus MS forms part of the Pesticide Explorer bundles and these include comprehensive pesticide analysis workflows. Triggered MRM is not applicable to High Resolution or Hybrid Mass Spectrometers since they use High Resolution and Accurate Mass.*

*We will refer you to Paragraph 1 of Section V of the bidding documents whereby it was mentioned 'These specifications describe the requirements for a Ultra Performance Liquid Chromatography (UPLC) Triple Quadrupole or Hybrid Mass Spectrometer or high resolution Mass Spectrometer for the determination and confirmation (qualitative and quantitative analysis) of trace levels of various veterinary drugs and pesticide residues (including growth regulators e.g. ethephon) and related contaminants such as but not limited to mycotoxins in food and environmental matrices'. However, it should be noted that the technical specifications were triple quadrupoles only and therefore biased the whole evaluation process.*

*MRM compound libraries (not scan spectra) must be supplied for pesticides and others. The libraries must be developed using the equipment*

*Our Explanation: MRM is a term not applicable when evaluating Hybrid or High Resolution Mass Spectrometer since they use High Resolution and Accurate Mass to screen and quantitate samples rather than unitary masses as is the case with Triple Quadrupoles.*

*Our offer include all HRAM Libraries for Environmental and Food Safety analysis and have been developed using the Q Exactive Orbitrap Mass Spectrometer.*

*We will refer you to Paragraph 1 of Section V of the bidding documents whereby it was mentioned 'These specifications describe the requirements for a Ultra Performance Liquid Chromatography (UPLC) Triple Quadrupole or Hybrid Mass Spectrometer or high resolution Mass Spectrometer for the determination and confirmation (qualitative and quantitative analysis) of trace levels of various veterinary drugs and pesticide residues (including growth regulators e.g. ethephon) and related contaminants such as but not limited to mycotoxins in food and environmental matrices'. However, it should be noted*

*that the technical specifications were triple quadrupoles only and therefore biased the whole evaluation process.*

*Provide results of analysis on pesticide residues and ethephon using the equipment:*

*Our explanation: application notes have been offered for the use of the Q Exactive Focus for pesticide residues. Ethephon being a polar pesticide, the EU Pesticides commission (EU MRL) has recommended the use of both LCMS/MS and ICMS/MS for the analysis of polar pesticides. The LCMS/MS method being not robust enough, the ICMS/MS method has been demonstrated to have better detection limits and more robust than the LCMS/MS methods. We have hereby enclosed data to substantiate our explanation. Our offer includes an Ion Chromatograph instrument together with the UHPLC and Q Exactive Mass Spectrometer to be fully compliant with EU MRL Guidelines for pesticide analysis.*

*We are also challenging due to the price difference in terms of the different offers that have been proposed.*

*The Q Exactive Focus is a high resolution Orbitrap Hybrid mass spectrometer and is superior in capability and possibility and is substantially cheaper than the option which has been retained for the tender. This is the technology that is currently being used at QuantiLab, a private world class laboratory which is involved in the analysis of food toxicology samples. We invite you to have independent reviews in terms of the technology before proceeding with the purchase.*

*Another Laboratory which has been using the Q Exactive Orbitrap Hybrid Mass Spectrometer is the Forensic Science Laboratory which has both Triple Quad and Orbitrap LCMS/MS technologies and the Orbitrap has been demonstrated to be a superior technology, albeit in a different scope of analysis.*

*We have also found it quite strange that no clarifications were requested for any unclear compliance issues as is normally the case in such procurement exercises. We are used to receive such clarifications from Procurement and Supply departments of various public bodies including the MOAIFS but it is unclear to us as to why no clarifications were requested by the evaluation committee and unilaterally taking the decision to award the contract to the highest bidder.”*

## **F. The Reply to Challenge**

On 23 December 2016, the Public Body made the following reply to the challenge:

“Option A

S.N.	Requirements as per Bidding Document	As per Offer A	Comments
1(i)(b)	Mass range 50-2000 amu (m/z) or better	Mass range 10-1850 m/z	Not as per specification
1(i)(k)	Use of triggered MRM (Multiple Reaction Monitoring) database	Have compound databases for SRM (Selective Reaction Monitoring)	In MRM, a series of SRM reactions are measured sequentially
1(i)(m)	MRM compound libraries (not scan spectra)	Providing t-SRM compound libraries	Not MRM
1(i)(n)	Provide results of analysis	For ethephon application notes using ICMSMS was provided	No application note using the equipment in offer A. No mentioned was made that the ion chromatograph will be included as mentioned in the letter dated 19.12.2016.

Option B

S.N.	Requirements as per Bidding Document	As per Offer A	Comments
1(i)(f)	High MRM sensitivity Signal to noise ratio > 50 000:1 in positive mode for 1 pg or below of a suitable analyte	Full MS: 500fg buspirone S/N:100:1 SIM: 50 fg 100:1	Less than the required sensitivity
1(i)(h)	No significant cross talk	No clear indication was given in the document	Bidder has mentioned in the letter dated 19.12.2016 that this specification is not valid for option B
1(i)(k)	Use of triggered MRM (Multiple Reaction Monitoring) database	Providing HRAM compound library	Bidder has mentioned in the letter dated 19.12.2016 that triggered MRM is not applicable to option B.
1(i)(m)	MRM compound libraries (not scan spectra)	Providing HRAM compound library	Bidder has mentioned in the letter dated 19.12.2016 that MRM is not applicable to option B
1(i)(n)	Provide results of analysis	For ethephon application notes using ICMSMS was provided	No application note using the equipment in offer B No mentioned was made that the ion chromatograph will be included as mentioned in the letter dated 19.12.2016.



## G. Grounds for Review

On 29 December 2016, the Applicant seized the Independent Review Panel for review on the following grounds:

- *“As per Item 9.2 at Page 62 of the bidding document and Addendum No. 1, the contractor was required to have trained local service engineer/technician who is capable of maintaining, trouble shooting and repairing all the components of the system to ensure minimum instrument downtime. Evidence of qualification and experience should be provided at time of bidding.*

*The successful bidder has NO trained local service engineer/technician who is capable of maintaining, trouble shooting and repairing all the components of the system to ensure minimum instrument downtime at the time of bidding. Ducray Lenoir Ltd has no experience on LCMS/MS systems from Waters.*

- *We refer to Paragraph of Section V of the bidding documents whereby it is mentioned that Ultra Performance Liquid Chromatography (UPLC) Triple Quadrupole or Hybrid Mass Spectrometer or high resolution Mass Spectrometer for the determination and confirmation (qualitative and quantitative analysis) of trace levels of various veterinary drugs and pesticide residues (including growth regulators e.g. ethephon) and related contaminants such as but not limited to mycotoxins in food and environmental matrices.*

*However, the specifications as laid out in the subsequent subsections of Section V relate to only a Triple Quadrupole Mass Spectrometer and do not contain any specifications for a Hybrid or High Resolution Mass Spectrometer thereby rendering the evaluation process biased towards the Triple Quadrupole technology while it has been demonstrated in Food Safety Regulatory Laboratories across the world that the Orbitrap Hybrid High Resolution Mass Spectrometer is a far superior technology than Triple Quadrupoles.*

- *Proximed Ltd already has trained local technician/engineer that has been trained by Thermo Fisher Scientific to fully install, service, repair and troubleshoot LCMS/MS instruments. We would like to emphasize that TWO Local Laboratories already have LCMS/MS systems from Thermo Scientific for more than 3 years as from this date namely:*
  - *Quantilab has One Triple Quadrupole LCMS/MS (TSQ Endura + Ultimate 3000 HPLC) and Two Orbitrap Hybrid High Resolution Mass Spectrometers and,*
  - *Forensic Science Laboratory has one Orbitrap Hybrid Mass Spectrometer.*

*Proximed Ltd’s personnel are fully supporting the instruments and we invite the Panel to consult the users in the above mentioned laboratories.*

- *We feel that our bid for both Options A and B were substantially responsive with respect to the scope of the project and that despite that, our bids were arbitrarily adjudged to be technically non-responsive and that we did not receive any request for clarifications as per provisions made under Paragraph 32.2 of Section I of the bidding documents given also that there was a very significant deviation in the prices that were quoted by Proximed Ltd and Ducray Lenoir Ltd for Triple Quadrupole technology.*
- *The Agricultural Chemistry Division already has an equipment of similar to make the one that has been chosen by the Evaluation Committee. We would invite the members of Panel to refer to the instrument logbook or past records to check for instrument downtimes that were due to breakdowns as a result of lack of availability of trained local personnel to service, repair and troubleshoot the equipment.*

*Our offers for the tender according to our options A and B were technically responsive and we feel that our bid was unjustly evaluated as technically non-responsive.*

#### Option A

- *Mass Range 50-2000 amu (m/z) or better:  
The mass range proposed is very extensive. Mass ranges extending to 2000 amu is more for applications in the fields of large molecules as proteomics and metabolic. Since the analysis required by the user is stated to be based on pesticide analysis the mass range requested in the document is well beyond the need of the user unless provided with information that confirms otherwise.*

*It would be most unfair to use a mass range that over exceeds user requirement or is never going to be used within any pesticide application note to disqualify a bidder on same.*

*In fairness to this exercise it would be obliged that the user submit a list of pesticide molecules with masses extending to 2000 amu. Also the analysis required by the user is a fully targeted type of analysis so again a mass range extending to 2000 amu is not fully justified. Only in cases where unknown analysis is performed that such mass ranges are required since the full compound structure is not known.*

- *Use of triggered MRM (Multiple Reaction Monitoring) Database  
MRM refers to multiple reaction monitoring. The offer provided makes mention of SRM which is Selective Reaction Monitoring and not to be confused with single reaction monitoring.*

*The comments made are that MRM is a series of SRM reactions which are sequentially measured. This would be true if SRM would be define as single reaction monitoring. But in that particular bid SRM is selective and NOT single reaction monitoring.*

*In selective reaction monitoring the user can define a list of compounds to be analysed in an inclusion list which is similar to that of MRM. The SRM can be alternate terminologies but performing similar or equivalent functions to that of MRM.*

- *MRM compound libraries (not scan spectra)*

*Single quadrupole mass spectrometers generate scan spectra for analysis. Again for the particular requirement we have to look at differentiating between single reaction monitoring and selective reaction monitoring.*

*For this particular item the user is once again referring to MRM reactions. MRM's are generated on triple quadrupole instruments with Q1 and Q3 masses. The method can be further enhanced by adding a time factor to the MRM therefore naming it a schedule MRM which means measuring certain masses at a very specific time.*

*For this requirement we have mentioned t-SRM that is a time related selective reaction monitoring. Again selective reaction within the software would consist of Q1 and Q3 masses and collision energy in an inclusion list along with a defined period of time which is exactly similar to a schedule MRM.*

*When it comes to high and equipment different vendors use different terminology to express the same process. It is again highly discriminating to disqualify us on different terminologies that performs identical processes.*

- *Provide results of analysis for Ethephon*

*Results for the analysis of Ethephon are hereby enclosed in supporting documentation. However, in our bid we suggested the recommended and up to date technique for the analysis of polar pesticides which includes Ethephon is the ICMS/MS method which offers a more robust analysis and user friendly method and lower limits of detection currently set at ng/L compared to ug/L for LCMS/MS methods. Also the ICMS/MS method guarantees less maintenance of system components in the Mass Spectrometer particularly when analysing difficult sample matrices such as honey.*

- *Option B*

#### *High MRM Sensitivity*

*The comments made by the evaluating committee is that the proposed system is less sensitive than the requirements of the tender. However see the calculations below:*

*1 picogram = 1000 femtogram*

*1000 femtogram = 1 picogram*

*500 femtogram = 0.5 picogram*

*50 femtogram = 0.05 picogram*

*Different analytes have different sensitivity during ionization mode. Some compounds are more polar and some non-polar. The term sensitivity is not equipment focused but rather compound focused.*

*Again here, MRM is not applicable to the Q Exactive Focus as it is a High Resolution Hybrid Mass Spectrometer using High Resolution and Accurate Mass to analyse samples which is a completely different technique from the Triple Quadrupoles making it a far more superior instrument in terms of accuracy, selectivity and equivalent sensitivity than high end triple quadrupoles in the market.*

*The area surrounding sensitivity is an in-house validation and compound dependent and it is unfair that a more sensitive equipment with no appropriate experimentation details from user be disqualified based on the non-exhaustive requirement of the user.*

- *No significant cross talk*

*The evaluating committee commented that no clear indication was given in the document. We support our claim by stating this specification is not valid in the case of the Q Exactive Focus since it is a Hybrid High Resolution Mass Spectrometer using Orbitrap technology. Due to the patented Orbitrap technology, the instrument has noise-free baseline and no signal loss from fragmentation.*

- *Use of triggered MRM database*

*The HRMS instrument has a structure that allows it to perform both full scan analysis as well as ms/ms analysis. TraceFinder Environmental and Food Safety Software includes the High Resolution Accurate Mass (HRAM) Compound libraries for all food safety and environmental contaminants including an extensive list of pesticide residues and also allows for the creation of libraries that contains both full scan data as well as ms/ms fragments.*

*The instrument houses multiple experimentation modes that is user defined and allows to perform data dependent experiment similar to that of triggered MRM.*

*Once again the terminology triggered MRM is vendor defined and the same process can be performed on the HRMS equipment but using different terminologies.*

*Since the user can perform triggered MRM but under different terminology which would be HRAM in this case, it would be again considered unfair that the bidder be disqualified for synonymous terminologies.*

- *MRM compound libraries*

*MRM compound libraries consists of Q1 and Q3 masses and collision energies. The HRMS has a library which is called the HRAM library. The HRAM Library included in TraceFinder software consists of compound mass, MS1 (Q1) mass, MS2 (Q3) mass and Collision*

*energies. The compound match/identification is done exactly as per the requirement of the tender.*

*The HRAM library even exceeds the possibilities of the MRM com by providing exact identification masses which is not possible on the full targeted MRM instruments, differentiate compounds close in structures (Isomers) and provide isotopic patterns for identification.*

*Again here the instrument not only meets the requirements of the tender for identification on compounds libraries but highly exceeds it with additional features.*

- *Provide results of analysis for Ethepon*  
*Results for the analysis of Ethepon are hereby enclosed in supporting documentation. However, in our bid we suggested the recommended and up to date technique for the analysis of polar pesticides which includes Ethepon is the ICMS/MS method which offers a more robust analysis and user friendly method and lower limits of detection currently set at ng/L compared to ug/L for LCMS/MS methods. Also the ICMS/MS method guarantees less maintenance of system components in the Mass Spectrometer particularly when analyzing difficult sample matrices such as honey.”*

## **H. The Hearing**

Hearings were held on 10, 19 and 24 January 2017. Written submissions were made on 13 January and 19 January 2017, by Applicant and Respondent respectively.

The Applicant was represented by Mr A. Goolamally together with Mr B. Francois, Counsel whereas the Respondent was represented by Mr M. Beeharry, Senior State Counsel.

## **I. Findings**

As per the technical specifications of the bid document found on page 56 of the bidding document, the Respondent was looking for an equipment for the determination and confirmation of trace levels of various veterinary drugs and pesticides residues( eg. Ethepon) and related contaminants. The Mass Range requested in the Bidding documents is **50- 2000 amu(m/z) or better**. As per option A, submitted by the Applicant the mass range is 10-1850 (m/z). The Applicant contended that this range would be highly sufficient to perform the analysis required by the Respondent. During the

hearing the Applicant produced an extract of a Book- *Mass Spectral and GC Date Vol 1; Hans H Maurer, Karl Pfleger, Armin A. Weber (Doc A)* wherein it is stated that the highest mass range is 790 amu. Although this evidence remains unrebutted, the Panel has no alternative than to find that the Applicant did not meet the requirements as specified in the Bid Documents.

Now coming to the issue of Selected Reaction Monitoring (SRM) and Multiple Reaction Monitoring (MRM). The Respondent considered that the Applicant's bid had a database for SRM and not for MRM as requested. It is the contention of the Applicant that the Respondent has "*misunderstood the term "SRM" which means Selective Reaction Monitoring and has confused same with Single Reaction Monitoring*" and that it is its contention that SRM "*is an equivalent terminology to MRM and performs equivalent functions to that of MRM*". During hearing, the Applicant produced an extract of a scientific publication (**Doc B**) wherein it was clearly stated that the SRM and the MRM are similar.

The Panel notes that during cross examination, Mrs Dowlut from the Respondent stated she was not an expert in engineering but she was only relying on literature reviews which she did not bring along to produce at the hearing. She explained to the Panel that she "*only read it on Google*" that there was a difference between SRM and MRM. Despite the fact that the Panel may rely on the evidence adduced by the Applicant, the Panel however has no alternative than to come to the only conclusion that the Applicant did not meet the requirement as specified in the Bidding Documents. The Respondent requested for MRM which would be an application of a "*series of SRM reactions*" which "*are measured sequentially*" to "*multiple products ions from one or more precursors ions*" and appears to have been aware of the difference between the two when reading the Respondent's written submissions. The Applicant submitted only SRM.

The above conclusion applies also to the failure of the Applicant, according to the Respondent to submit MRM compound libraries and instead provided SRM ones.

With regard to the issue of the Applicant not providing results of analysis, the Applicant admitted having not provided any application note for the use of TSQ “Endura” but added that in its bid, it *“suggested the recommended and up to date technique for the analysis of polar pesticides which includes Ethephon is the ICMS/MS method which offers a more robust analysis and a more user friendly method and lower limits of detection currently set at ng/L compared to ug/L for LCMS/MS methods. Also the ICMS/MS method guarantees less maintenance of system components in the Mass Spectrometer particularly when analyzing difficult sample matrices”*. The Applicant did not provide the requested results and provided same only at time of Application for review.

The Respondent, through the bid document, laid down three alternatives namely *“Ultra Performance Liquid Chromatography (UPLC) Triple Quadrupole or Hybrid Mass Spectrometer or high resolution Mass Spectrometer”* for the determination and confirmation of trace levels of various veterinary drugs and pesticides residues and related contaminants (vide page 56 of the bidding document).

The Applicant submitted that the Orbitrap Hybrid High Resolution Mass Spectrometer was a far more superior technology that the Triple Quadrupole for the required purpose. The Applicant was of the view that *“the specifications as laid down in the subsequent subsections of Section V relate to only a Triple Quadrupole Mass Spectrometer and do not contain any specifications for a Hybrid or High Resolution Mass Spectrometer thereby rendering the evaluation process biased towards the Triple Quadrupole technology”*.

During the Examination in Chief, Mrs Dowlut stated that as per the Bidding Documents, the Respondent requested a Triple Quadrupole Mass Spectrometer. She further stated that the Triple Quadrupole Mass Spectrometer was more suitable than the Orbitrap Hybrid High Resolution Mass Spectrometer. But in cross examination, to a very pertinent question put to Mrs Dowlut by Counsel appearing for the Applicant which was that: since the Triple Quad was the most appropriate one, this will mean that any bidder who has suggested the other two alternative technologies that is Ultra Performance Liquid Chromatography (UPLC) and Hybrid Mass Spectrometer or high Mass Spectrometer, would not qualify for those specification. Her answer was simply “*I cannot say*” and she only found out that the Triple Quad was most appropriate after the bid has been closed.

The Panel finds very disturbing the fact that (i) although the scope in the Bid documents provided for three alternatives, the specifications were limited to only one option (ie the Triple Quadrupole) and (ii) the Bid Evaluation Committee decided and took upon themselves, at the time of the evaluation, to limit their evaluation solely on the Triple Quad.

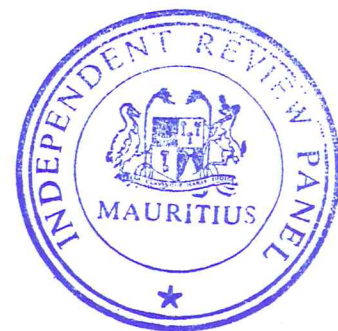
The Respondent itself in its written submissions wrote at paragraph 6 of its written submissions: “*that the Triple Quadrupole or Hybrid Mass Spectrometer (MS) or high resolution MS – all are capable of determining the parameters asked, **but during evaluation,** Triple Quadrupole was found to be most appropriate as per specifications laid down in bidding documents.*”

This would indeed mean that any bidder who would have provided specifications for the other two options would be held straight away non-responsive. The Panel is of the view that evaluating a bidder on only Triple Quadrupole at such stage renders the whole evaluation process unfair and unreasonable and that the Bid Evaluation Committee followed an incorrect procedure.



We now turn to the issue of Maintenance of the Equipment with trained local service engineer/technician. Item 9.2 of the bidding document at page 62 stipulates that: *“..The contractor shall have trained local engineer/technician who is capable of maintaining, trouble shooting and repairing all the components of the system to ensure minimum instrument downtime (should provide documentary evidence)”*

It is the Applicant’s contention that the Successful Bidder did not comply with the above requirements. During cross examination Mrs Dowlut conceded to the fact that the Successful Bidder does not have local training and expertise on that equipment. However she stated that they do have experience on the System which is the Mass Spectrometry and the UPLC (Ultra Performance Liquid Chromatography). The Panel notes that the UPLC is a registered trademark owned by Waters and the latter is being represented by the Successful bidder in Mauritius. The Panel notes with great concern that in the Respondent’s reply to submission at page 3, paragraph 9; the Respondent avers *“before December 2016 Waters was represented by Maurisure Consumables Ltd and the latter did not have a trained technician to provide the necessary support. But now the made “Waters” is being represented by Ducray Lenoir”*. The Panel notes that the deadline of the bidding exercise was extended to 9<sup>th</sup> November 2016. The Panel concludes therefore that at the time the bid was made, the Successful Bidder did not have any technical knowhow locally to use this apparatus. It is worth underlying at this juncture that the Respondent is investing in an equipment worth Rs 25M Rupees and they felt satisfied that the successful bidder supposedly “know the system” but did not have any expertise and local training on the said equipment. We wonder how the bid was awarded to the successful bidder.

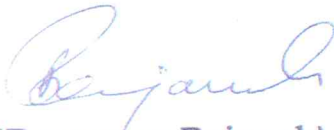


The Panel further observes that the Applicant's bid was much lower than the Successful bidder. The price quoted by the Applicant was about half of the Successful bidder.

For the above reasons, the Panel finds that there is merit in the application and hereby orders an annulment of the Respondent's decision to award to the Successful bidder and further orders a re-evaluation.



**(Arassen Kallee)**  
**Vice-Chairperson**



**(Ramsamy Rajanah)**  
**Member**



**(Mrs Christelle Sohun)**  
**Member**

Dated 02 February 2017

