



Independent Review Panel

Decision No. 08/~~16~~¹⁷

In the matter of:

Rapid Security Services Ltd

(Applicant)

v/s

The City Council of Port Louis

(Respondent)

(Cause No. 31/16/IRP)

Decision

A. History of the case

On 01 September 2016, the City Council of Port Louis (hereinafter referred to as the Respondent) issued bidding documents for the provision of security services to Municipal sites and locations throughout Port Louis (Procurement No: ONB/CCPL/006/16, CPB Ref no: CPB/22/2016).

Rapid Security Services Ltd (hereinafter referred to as the Applicant) submitted its bid to the Central Procurement Board on 06 October 2016.

A notification letter was sent to the Applicant on 12 December 2016, informing him that his bid has not been retained and the Successful bidder was Defence Hitech Security Services Ltd.

On 14 December 2016, the Applicant challenged the Respondent's decision. Through a letter dated 21 December 2016, the Respondent replied to the Applicant's challenge. Feeling aggrieved the Applicant applied for review at the Independent Review Panel pursuant to section 45 of the Public Procurement Act.

B. Notification of Award

The City Council of Port Louis through a letter dated 12 December 2016, informed the Applicant of the particulars of the successful bidder as follows:

<i>Service</i>	<i>Name of Bidder</i>	<i>Address</i>	<i>Contract Price</i>
<i>Provision of security services to municipal sites and locations throughout Port Louis</i>	<i>Defence Hitech Security Services Ltd</i>	<i>14, Sir Maurice Martin Street, Forest Side</i>	<i>(i) Rs9,187,080.00 (inclusive of VAT) for 1 year</i> <i>(ii) Rs9,333,720.00 (inclusive of VAT) renewable for an additional period of 1 year</i>

C. The Challenge

On 14 December 2016, the Applicant challenged the award on the following grounds:

- “1. Price quoted by successful bidder is a der amount in relation to payment of salaries to the guards as per Remuner order for a better service.
2. The Municipal City Council of Port Louis had terminated the contract of Defence Hitech Security Services Ltd prior to its expiry date due to poor service delivery and Rapid Security Services Ltd was requested to take over.”

D. The Reply to Challenge

On 21 December 2016, the Public Body made the following reply to the challenge:

- “(a) The bid of Defence Hitech Security Services Ltd is the lowest evaluated and substantially responsive one. It is only 7.4% below the estimated cost of the City Council and is not considered to be “derisoire”.
- (b) Moreover, Defence Hitech Security Services Ltd has submitted an undertaking “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”.
- (c) The bidder has neither been suspended nor debarred by the Procurement Policy Office as such cannot be denied the contract being the lowest evaluated and substantially responsive one.”

E. Grounds for Review

On 27 December 2016, the Applicant seized the Independent Review Panel for review on the following grounds:

- “1. The Council was wrong to state that the bid of Defence Hitech Security Services Ltd was substantially responsive given the costs stated by it would entail a discrepancy in cost effectiveness.
2. The reason given at (b) in letter dated 21.12.2016 is not a valid reason given it is an undertaking given by all bidders as per the Bid Submission Form.

3. *The shareholders of Defence Hitech Security Services Ltd are the same as Special Security Guard Ltd which has had its contract with the public body terminated in 2013 before the due expiry date of the contract.”*

F. The Hearing

Hearings were held on 13, 18 and 25 January 2017. Written submission was made on 12 January 2017 by Respondent.

The Applicant was represented by Mr B. Cheung, Counsel whereas the Respondent was represented by Mr N. S. Hussene, Counsel.

G. Findings

The Application for review rests mainly on two issues:

- a) The Respondent had terminated the contract of the successful bidder prior to the expiry date due to poor service delivery and the Applicant was requested to take over.
- b) Price quoted by the successful bidder is a derisory amount in relation to payment of salaries to the guards as per Remuneration order for a better service.

As far as part (a) is concerned, the Panel does not wish to go into matters relating past dealings between the successful bidder and the Respondent.

The Applicant's main concern seems to be that the figures quoted by the successful bidder is abnormally low thus the latter would not be able to sustain as per the figure they have quoted. Moreover the Applicant submitted that whilst taking into account the Remuneration Order it would be difficult for the successful bidder to sustain financially.

When submitting a tender any bidder must comply with all the laws of Mauritius and to the satisfactory performance of all criteria set up in the Bidding Documents. The Panel wishes to state emphatically that it is the duty of the Public Body to ensure that the Bidder will be able to perform the Contract as per the condition imposed in the bidding document whether

explicit or implicit and that he will not default because of financial difficulties.

In this context, the Bid Evaluation Committee surely had all the figures before them before selecting the successful bidder. They should have made their calculations in respect of the cost effectiveness of the bidders. Furthermore, the Panel took note that the successful bidder has submitted an undertaking confirming that the salaries and wages of its personnel in respect of the proposed services are in compliance with the relevant laws, Remuneration Order and Award where applicable. The Panel is of the view that such an undertaking is necessary and important and it clearly shows that the successful bidder being the lowest evaluated and substantially responsive bidder is in compliance with the criteria set by the Respondent.

H. DECISION

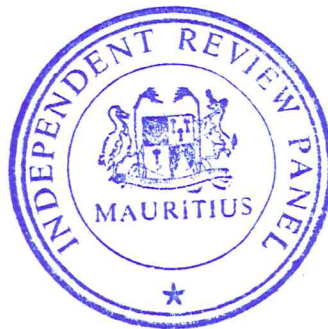
For the above reasons the Application is therefore set aside.



(A. Kallee)
Vice-Chairperson



(Ramsamy Rajanah)
Member



(Ragsingh Ragnuth)
Member

Dated 03 May 2017

