



## Independent Review Panel

**Decision No. 12/17**

**In the matter of:**

**RBRB Construction Ltd**

**(Applicant)**

**v/s**

**Commission for Youth & Sports, Library Services, Archives,  
Museum, Arts & Culture and Historical Sites & Buildings  
(Rodrigues Regional Assembly)**

**(Respondent)**

**(Cause No. 08/17/IRP)**

**Decision**

### A. History of the case

On 08 December 2016 the Rodrigues Regional Assembly (hereinafter referred to as the Respondent) issued bidding documents for the procurement of upgrading of Camp du Roi Stadium at Camp du Roi Rodrigues (Ref No: CPB/62/2016). This tender was opened to grade A, B, C and D contractors. RBRB (hereinafter referred to the Applicant) submitted its bids on 31 January 2017. On 08 March 2017, notification was sent to unsuccessful bidder by the Respondent. The Applicant challenged the Respondent's decision on 08 March 2017. The Respondent replied to the challenge on 13 March 2017. Feeling aggrieved of the Respondent's decision, the Applicant applied for review at the Independent Review Panel on 20 March 2017.

### B. Notification of Award

The Commission for Youth & Sports, Library Services, Archives, Museum, Arts & Culture and Historical Sites & Buildings (Rodrigues Regional Assembly) through a letter dated 08 March 2017, informed the Applicant of the particulars of the successful bidder as follows:

<b>Name of Bidder</b>	<b>Address</b>	<b>Contract Price</b>
<i>RSL Security Services Ltd</i>	<i>Saint Georges Court 24 St. Georges Street, Port Louis</i>	<i>Rs27,940,865.00 Excluding VAT</i>

### C. The Challenge

On 08 March 2017, the Applicant challenged the award on the following grounds:

- “(i) The Selected Bidder is not known to have undertaken construction works and works of similar nature unless it is provided through appropriate letter of award, completion certificates as issued by registered professionals.*
- “(ii) The selected bidder does not have proven knowledge and experience for working in Rodrigues.*

- (iii) *We strongly believe that the selected bidder does not comply with Clause 1.2 & 1.3 of the Qualification of Information contained at Page 29 of the Bidding documents.”*

#### **D. The Reply to Challenge**

On 13 March 2017, the Public Body made the following reply to the challenge:

- (i) *According to the bid submitted by RSL Security Services Ltd, the bidder has a valid registration as Grade C Contractor for Building Construction works with CIDB;*
- (ii) *Prior experience in Rodrigues was not a requirement as per bidding documents; and*
- (iii) *the bidder complies with the requirement regarding registration with CIDB. There was no requirement to be registered with the CIDB under any field of specialization under this procurement exercise. The bidder has submitted an undertaking that all the essential equipment required for the contract will be made available in compliance with ITB 6.3(c).”*

#### **E. Grounds for Review**

On 20 March 2017, the Applicant seized the Independent Review Panel for review on the following grounds:

- (i) *The Selected Bidder is per information provided in the yearly return to the Registrar of Companies stated that their main object and principal activity is to provide security services. Hence selected bidder has not undertaken construction of similar nature. Evidence of construction has to be proved by appropriate letter of awards, completion certificates as issued by registered professionals.*
- (ii) *The selected bidder does not have knowledge and experience for working in Rodrigues.*
- (iii) *We firmly state that the selected bidder does not comply with Clause 1.2 & 1.3 of the Qualification of Information contained at Page 29 of the Bidding documents for the project under reference.*
- (iv) *As per return file to Registrar of Companies, the only income of the selected Bidder is from Security services. There is no evidence of construction works. We consider that the certification given by the CIDB is suspicious because at section E of the form of registration turnover for*



*construction works is required for last five years and not turnover for security services.”*

## **F. The Hearing**

Hearings were held on 23 March and 11 April 2017. Replies were made on 07 April 2017 and 10 April 2017 by Respondent and Applicant respectively.

The Applicant was represented by Mr S. Lallah, Senior Counsel whereas the Respondent was represented by Mr V. Cooshna, Counsel. The Successful Bidder was represented by Mr G. Glover, Senior Counsel and Ms P. Bunwaree, Counsel

## **G. Findings**

After taking into consideration submission of Counsel and all evidences on record, the Panel conclude the following:

Ground (i), (iii) and (iv) will be lumped together. The Applicant’s contention is firstly, that according to the Registrar of Companies the successful bidder’s main object and principal activities is to provide security services. Secondly, that the successful bidder does not comply with clause 2.1 and 1.3 of the Qualification of Information contained at page 29 of the bidding documents for the project reference and thirdly that according to the return filed to the Registrar of Companies, the only income of the selected bidder is from security service. The Applicant further stated that he considers the certification given by the Construction Industry Development Board (CIDB) is suspicious because at Section E of the form of registration turn over for construction works is required for the last five years and not turnover for security services.

ITB 6.3 A and B stipulates that “ *The Contractor must have a valid registration of Grade A or B or C or D in the Building Construction works with the Construction Industry Development Board (CIDB). As per section 19(4) of the CIDB as amended by the CIDB Act 2016, clearly stipulates that the Council may before issuing a certificate of Registration for a Contractor for*

Civil Engineering Construction work, ask the applicant to furnish information such as standard of performance, availability of resources, financial capability and track record. Moreover section 19(5) of the CIDB Act stipulates that the CIDB shall not grant an application for registration where the applicant submits misleading or insufficient information for the purpose of his registration.

However, the Panel took note that the successful bidder has a valid certificate of registration as grade C contractor with the CIDB. The Panel wish to point out that we are not mandated to investigate against the validity of such certificate. We are only mandated to review application. The Panel believe that such allegations are very serious and the Applicant can still make an official complaint to relevant authorities.

In relation to ground 2 the Applicant contended that the successful bidder does not have proven knowledge and experience for working in Rodrigues. The Panel concludes that this ground cannot stand as nowhere in the bidding document it was mentioned that such requirement was required.

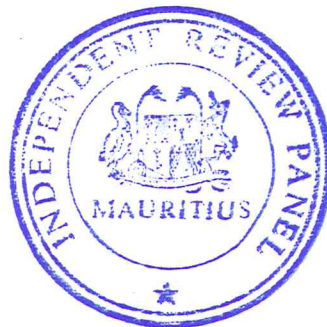
For the above reasons, the application is therefore set aside.



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



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



**(Rajsingh Ragnuth)**  
**Member**

Dated 18 May 2017



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