



# Independent Review Panel

**Decision No. 01/18**

**In the matter of:**

**Pipeline Utility Solutions Ltd**

**(Applicant)**

**v/s**

**Central Water Authority**

**(Respondent)**

**(Cause No. 29/17/IRP)**

**Decision**

### A. History of the case

This is a case where the Pipeline Utility Solutions Ltd hereinafter referred to as the Applicant is challenging the Central Water Authority hereinafter referred to as the Respondent's decision to award a contract for the supply, installation and commissioning of 10 containerised pressure filtration plants to Chemco Ltd (selected bidder) pursuant to an open advertising bidding exercise bearing reference (PRN: ONB/CWA/C2017/124).

### B. Notification of Award

The Central Water Authority through a letter dated 13 November 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>
Chemco Ltd	Chaussee Tromelin, Fort George, Port Louis	Rs56,719,000.00 including contingencies and excluding VAT

### C. The Challenge

On 19 November 2017, the Applicant challenged the procurement on the following grounds:

*“The Tender Committee may have erred on facts and/or mistaken the correct reading and computation of our offer contained within the documents submitted through eproc and further clarifications as requested and/or probably in applying its discretionary powers judiciously where required whilst carrying the evaluation exercise and technical evaluation exercise.*

### D. The Reply to Challenge

On 20 November 2017, the Public Body made the following reply to the challenge:

*“Reference is made to your request for explanation as per the Second Schedule (regulation 48) of the Public Procurement Regulations 2008. The explanations are as follows:*

- *As per the requirement of the bidding document at Section II-BDS Clause 12.1(i)(ii), the bidder should submit evidence of having handled*

*one similar contract in the last ten (10) years and which is not your case.*

- *The assessment of your financial soundness as submitted have revealed the following:*

*Your financial ability to perform cannot be assessed as your company has not performed any contract since its incorporation in July 2016 with nil turnover. Therefore, in the absence of information, as required under the Key Financial Information Form as per ITB 39.2 of Section III – Evaluation Criteria, the Authority is not in a position to assess the financial soundness of your company.”*

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

On 27 November 2017, the Applicant seized the Independent Review Panel for review on the following grounds:

*“Pipeline Utility Solutions Ltd is*

- The lowest evaluated bidder and satisfies all the technical requirements and/or The Respondent has acted*
- Ultra vires and/or*
- Took decisions which were procedurally improper and/or*
- Acting unreasonably in the decision making process and/or.”*

### **F. The Hearing**

Hearing was held on 20 December 2017. The Applicant was represented by Mr S. Toorbuth of Counsel whereas the Respondent was represented by the Mr R. Pursem, SC together with Miss Torabally of Counsel.

### **G. Findings**

The bidding exercise relates to the acquisition of 10 Containerised Pressure Filtration Plant. There is a requirement for inspection and maintenance of the said plant for a period of at least two years and such maintenance should be carried out at least on a fortnightly basis. The last requirement is that the successful bidder shall have a minimum quantity of spare parts for

at least two years that is the bidder must provide evidence to the effect that it has experience in handling order of similar value.

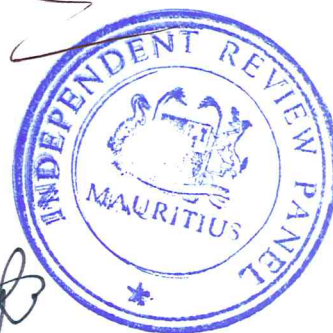
From evidence on record it is clear that the Applicant company was incorporated in 2016. It is obvious that the Applicant would not be in position to provide financial information for the year 2014/2015. In the absence of information such as Applicant's turnover, profit and loss account and net profit after tax it would be impossible for the Respondent to assess the financial capability of the Applicant. Furthermore, the Applicant has not complied with the requirement of the bid document to the extent that the financial information requested was not submitted in accordance with the required template.

Lastly, from the evidence on record it is clear that the Applicant does not have experience in handling order of similar value in providing support backup from manufacturers of the goods. The Applicant's contention is that; it was for the manufacturer to provide those evidence. The Panel does not agree with this explanation in as much as the bidder is the Applicant not the manufacturer.

For the above reasons, the Panel concludes that the application for review has no merits and is set aside.



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



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



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

Dated 15 January 2018