



Independent Review Panel

Decision No. 14/18

In the matter of:

Advanced Healthcare Ltd

(Applicant)

v/s

Ministry of Health and Quality of Life

(Respondent)

(Cause No. 14/18/IRP)

Decision

AK

WHL

A. History of the case

In May 2018, bids were invited by the Ministry of Health and Quality of Life through open advertise bidding (National) method for the procurement of medical disposable gloves. The Public Body fixes the closing date and time as being Tuesday 03 July 2018 at 13.00 hrs at latest at the Central Procurement Board. The technical specifications set in the bidding document were as follows: Residual powder content – less than 20 mg per glove – non powdered. This concerned disposable pre powdered sterile hypoallergenic latex surgeon gloves for use in major operating theatre. The internal surface of the glove had to be non powdered but the residual powder had to be less than 20 mg per glove. The level of residual powder was an essential requirement of surgical gloves. Bids were submitted by several parties including the Applicant. The Applicant forwarded along with the bid some results on test which had been carried out to determine the average powder found on a sample of medical gloves.

On test report coming from a laboratory in Singapore and marked Document I at the Independent Review Panel, and stipulated that the requirements were for powder free gloves whose total quantity of powder residue should not exceed 2 mg per glove. The result was powder free and the inferred results were passed. So the gloves proposed as the Applicant's bidding document did not exceed 2mg per glove. This indicates that the benchmark set by the Applicant was even more strict than the one fixed by the Respondent.

However, the Bid Evaluation Committee rejected the Applicant's bid. It had not been retained as the required information was not specified in the catalogue submitted that is whether the residual powder content was less than 20 mg per glove as requested in the technical specifications.

B. Notification of Award

The Ministry of Health and Quality of Life through a letter dated 11 September 2018, informed the Applicant of the particulars of the successful bidder as follows:

<i>Item No.</i>	<i>Item Description</i>	<i>Bidder and Address</i>	<i>Quantity</i>	<i>Rate (Rs)</i>	<i>Amount (Rs) (without VAT)</i>
1	Disposable, non-powdered sterile hypoallergenic latex surgeon gloves for use in Major Operating Theatre, Size 6		20,000 Pairs	15.50	310,000.00

2	Disposable, non-powdered sterile hypoallergenic latex surgeon gloves for use in Major Operating Theatre, Size 6.5	Chemical & Technical Suppliers (I.O) Ltd – 1-10 Sainte Marie Road, Riche Terre	180,000 Pairs	15.50	2,790,000.00
3	Disposable, non-powdered sterile hypoallergenic latex surgeon gloves for use in Major Theatre, Size 7		250,000 Pairs	15.50	3,875,000.00
4	Disposable, non-powdered sterile hypoallergenic latex surgeon gloves for use in Major Operating Theatre, Size 7.5		360,000 Pairs	15.50	5,580,000.00
5	Disposable, non-powdered sterile hypoallergenic latex surgeon gloves for use in Major Operating Theatre, Size 8		250,000 pairs	15.50	3,875,000.00
Total Contract Price including all charges exclusive of VAT					16,430,000.00

Item No.	Item Description	Bidder and Address	Quantity	Rate (Rs)	Amount (Rs) (without VAT)
6	Disposable, non-powdered sterile latex surgeon gloves for use in Ward, AHCs, CHCs, laboratories etc, Size 6	ASMEDICOS LTD	20,000 Pairs	5.65	113,000.00
7	Disposable, non-powdered sterile latex surgeon gloves for use in Ward, AHCs, CHCs, laboratories etc, Size 6.5		600,000 Pairs	5.65	3,390,000.00
8	Disposable, non-powdered sterile latex surgeon gloves for use in Ward, AHCs, CHCs, laboratories etc, Size 7		600,000 Pairs	5.65	3,390,000.00

9	Disposable, non-powdered sterile latex surgeon gloves for use in Ward, AHCs, CHCs, laboratories etc., Size 7.5	600,000 Pairs	5.65	3,390,000.00
10	Disposable, non-powdered sterile latex surgeon gloves for use in Ward, AHCs, CHCs, laboratories etc, Size 8	400,000 pairs	5.65	2,260,000.00
Total Contract Price including all charges exclusive of VAT				12,543,000.00

Item No.	Item Description	Bidder and Address	Quantity	Rate (Rs)	Amount (Rs) (without VAT)
11	Disposable, ambidextrous non-sterile, made of plastic (Polythene) size large, pkt of 100	ACCULAB LTD	30,000 Pairs Packet of 100 units	8.43	252,900.00
Total Contract Price including all charges exclusive of VAT					252,900.00

Item No.	Item Description	Bidder and Address	Quantity	Rate (Rs)	Amount (Rs) (without VAT)
12	Disposable, non-powdered ambidextrous latex gloves for use in Wards and laboratories, non-sterile, size medium, box of 100	Y&S Trading Co Ltd – 60 Avenue Edgar Quirin, Phoenix	72,000 Box of 100 units	107	7,704,000.00
13	Disposable, non-powdered ambidextrous latex gloves for use in Wards and laboratories, non-sterile, size large, box of 100		100,000 Box of 100 units	107	10,700,000.00
14	Disposable, non-powdered ambidextrous latex gloves for use in Wards and laboratories, non-sterile, size small, box of 100		30,000 Box of 100 units	107	3,210,000.00

15	Disposable clear vinyl examination gloves, size small, box of 100	2,000 Box of 100 units	62.70	125,400.00
16	Disposable clear vinyl examination gloves, size medium, box of 100	18,000 Box of 100 units	62.70	1,128,600.00
17	Disposable clear vinyl examination gloves, size large, box of 100	18,000 Box of 100 units	62.70	1,128,600.00
Total Contract Price including all charges exclusive of VAT				23,996,600.00

C. The Challenge

On 12 September 2018, the Applicant challenged the procurement on the following grounds:

“Disqualification of our offer for items 1-5 - Our offer complies to all the technical Specifications required in the tender and pricewise we are cheaper than the awarded company. Grateful if you could clarify.”

D. The Reply to Challenge

On 18 September 2018 the Public Body made the following reply to the challenge:

“I am directed to inform you that your bid has not been retained as per the technical requirements of the bidding document based on the following reasons:

1	Disposable Non-powdered sterile hypoallergenic latex surgeon gloves for use in Major Operating Theatre, Size 6	Sample not provided as requested at Paragraph IV of ITB 12.1(h)
2	Disposable, Non-powdered sterile hypoallergenic latex surgeon gloves for use in Major Operating Theatre, Size 6.5	The required information was not specified in the catalogue submitted, that is, whether the proposals for items 1 to 5 meet the Residual powder content: Less than 20 mg per glove as requested in the technical specifications.
3	Disposable, non-powdered sterile hypoallergenic latex surgeon gloves for use in Major Theatre, Size 7	
4	Disposable, non-powdered sterile hypoallergenic latex surgeon gloves for use in Major Operating Theatre, Size 7.5	
5	Disposable, non-powdered sterile hypoallergenic latex surgeon gloves for use in Major Operating Theatre, Size 8	

In the light of the above, the Ministry considered your offer for item nos 1 to 5 as non-compliant.”

E. Grounds for Review

On 24 September 2018, the Applicant seized the Independent Review Panel for review on the following grounds:

“Not satisfied with response received from MOH & QL ... (As per MOH letter ... the Residual powder content: Less than 20 mg per glove as requested in the technical specifications, does not appear in the catalogues we submitted

- 1. Anywhere in the bidding document it has not been mentioned that the residual Residual powder content should be mentioned in the catalogue*
- 2. As per page 78 of the Bidding document it clearly stated about technical specification and standards – means it should appear in the Technical Data Sheet which has been asked by the Ministry itself*
- 3. Ministry opted for an offer which is 2,703,000 higher than our offer ...*
- 4. Our Residual Powder content less than 20 mg clearly appear in our Technical Datasheet and Test report from Independent accredited laboratory.....”*

F. The Hearing

Hearings were held on 17 October 2018. Written submissions were made on 19 October 2018 and 18 October 2018, by Applicant and Respondent respectively.

The Applicant was represented by Mr Y. Varma, Counsel whereas the Respondent was represented by Mr S. Bhoyroo, State Counsel.

G. Findings

We find that the documents of the Ministry related to non powdered gloves. They referred to powder residue not exceeding 20 mgs. Thus the bids regarding the powdered residual content of the gloves proposed by the Applicant satisfied the requirements of the Ministry. Dr B. Rumjeet replied


that it was not part of a bid requirement that the residual amount of powder would be included in the catalogue. However Dr B. Rumjeet explained that he expected bidders to mention the amount of powder residue of gloves for evaluation purposes.

Further the gloves were cheaper than those proposed by other bidders. So, the bid of the Applicant ought to have been selected as the most appropriate as it met the criteria of powder free gloves with a residual powder content of less than 20 mg.

We have perused the bid of the successful bidder. We were surprised to note that in its laboratory report which it had submitted the amount of the residual powder per glove was also expressed in a range namely “< 2mg per glove” similarly to the laboratory report submitted by the Applicant which stated “does not exceed 2mg”.

H. Recommendation

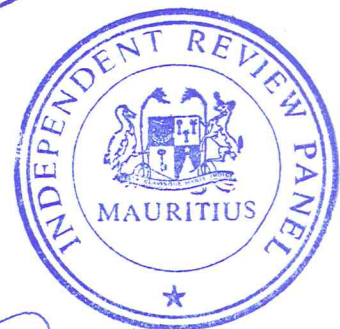
In the light of the above facts and taking into consideration the price difference of nearly Rs3 million and the insignificant difference of powder content < 2 mgs and up to 2 mgs, the Panel recommends a re-evaluation of the bids.



Herve Lassémillante
(Chairperson)



Virjanan Mulloo
(Member)



A. Karrim Namdarkhan
(Member)

Dated 23 October 2018

