



## Independent Review Panel

**Decision No 12/19**

**In the matter of:**

**CHEMCO Limited**

**(Applicant)**

**v/s**

**Central Water Authority**

**(Respondent)**

**(Cause No. 13/19/IRP)**

**Decision**

### A. History of the case

On 18<sup>th</sup> September 2018, the Applicant submitted a bid in relation to a tender from the Public Body for the procurement of 50,000 Nos Cold Water Meter (Dia 15 mm) bearing reference ONB/CWA/C2018/90 for a total amount of Twenty-One Million Four Hundred Thousand Rupees only (Rs. 21,400,000). The Applicant's bid was not retained on the ground that the certificate of Accreditation submitted at the bidding stage was accredited in accordance with recognized National Standard SANS 10378:2012 whereas same did not comply with Instructions to Bidders 12.1 (i) (a) and (d). The Applicant applied for a challenge and same was not retained by the Public Body thus this present review is before this Panel.

### B. Evaluation

After an evaluation exercise carried out, K.C. Mechanical Engineering Workshop Ltd was retained for the sum of Rs. 31,125,000 (Excl. VAT).

### C. Notification of Award

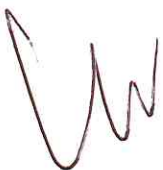
On 09 July 2019, the Public Body informed the Applicant that an evaluation of the bids received has been carried out for the Procurement of 50,000 Nos. Cold Potable Water Meter (Dia. 15mm) Ref. No. **ONB/CWA/C2018/90** and its bid has not been retained for award.

The particulars of the successful bidder are given hereunder:-

S.N.	DESCRIPTION	NAME OF BIDDER	ADDRESS	CONTRACT PRICE (Excl. VAT) Rs
1.	Procurement of 50,000 Nos. Cold Potable Water Meter (Dia. 15 mm)	K.C. Mechanical Engineering Workshop Ltd.	325, John Kennedy Avenue, Vacoas	31,125, 000.-

### D. The Challenge

On 15 July 2019, the Applicant challenged the procurement on the following ground:





*“The bid submitted by Chemco Ltd has not been retained for award, despite being the lowest bid and meeting all criteria of the present procurement exercise; and*

*For other reasons which may later be submitted.”*

## **E. The Reply to Challenge**

On 19 July 2019, the Public Body made the following reply to the challenge and stated that:

*“We wish to reply to your grounds of challenge as follows:-*

### **Ground 1**

*The bid submitted by Chemco Ltd has not been retained for award, despite being the lowest bid and meeting all criteria of the present procurement exercise.*

### **Reply 1**

*Your bid was rejected for the following reasons:*

1. *You have submitted a Certificate of Accreditation from SANAS from South Africa, which is neither a member of ILAC or IAF. SANAS has accredited Precision Metering Ltd as per its own Standard of Accreditation rather than ISO 17025:2005 as required in the bidding document.*
2. *Your offer has also failed to comply with ITB 12.1 of the bid document as follows:*
  - 2.1 *An authentic valid certificate of Accreditation for the testing laboratory issued by the national Accreditation Body, i.e. the country of origin where the meters have been manufactured, in compliance with **ISO/IEC 17025:2005 Standard**.*
  - 2.2 *The National Accreditation Body should be a member of the International Accreditation Forum (IAF) or International Laboratory Accreditation Cooperation (ILAC).*
  - 2.3 *The tests carried out on meter samples at the Independent Testing Laboratory were carried out as per SANS 1529 -1 Standard rather than ISO 4064:2014 as clearly specified in the bid document.*





## F. Grounds for Review

On 26 July 2019, the Applicant seized the Independent Review Panel for review on the following ground:

*“Chemco ranked first on the bidders’ list and made a bid in respect of products matching all the specifications of the Tender documents.”*

## G. The Hearing

Hearing was held on Tuesday 13<sup>th</sup> August, 2019. The Statement of Case of Applicant and the Statement of Defence of the Respondent were received at the IRP prior to the Hearing.

The Applicant was represented by Mr. G. T. Saminaden, Barrister whereas the Respondent was represented by Mr. K. Colunday, Barrister.

## H. Findings

There is on record before this Panel a Challenge, reply to Challenge, a Statement of Case and a Statement of Defence.

The Panel has noted from the report of the Bid Evaluation Committee that the Applicant at the very outset has failed on the qualification criteria and therefore the committee did not consider the other criterion that is technical aspect and the financial one.

Instructions to Bidders (ITB) 12.1(i) (a) reads as follows:

‘The Bidder shall submit the scanned copy of the following additional documents in its bid:

- (a) An authentic valid certificate of Accreditation for the testing laboratory issued by the National Accreditation Body, i.e the Country of origin where the matters have been manufactured, in compliance with **ISO/IEC 17025:2005 Standard**. This certificate should be accompanied by the following:

A scope / schedule of Accreditation, which should clearly indicate that the testing laboratory is accredited for carrying out the following tests:



- (i) Accuracy
- (ii) Pressure tightness
- (iii) Pressure loss

On cold potable water meter (diameter 15 mm) in line with procedures laid down in compliance with ISO 4064:2014/Standard.....

The Panel agrees with the submission of the Public Body that in fact the Certificate of Accreditation LTF0304 from SANAS of South Africa is not in compliance with the ITB 12.1 (i) (a) which requires that the Certificate for the testing laboratory issued should be in compliance with International Standard ISO 17025:2005.

There is another issue which disqualifies the Applicant right at the beginning, is the test report of the National Testing Laboratory. The Applicant submitted a test report from Precision Meters (PTY) Ltd. According ITB 12.1(i) (c) the samples should have been manufactured within six (6) months before the closing date of bid submission and accompanied by an authentic valid test certificate from the accredited testing laboratory, certifying that the three (3) samples submitted have been subjected to tests, as listed at paragraph (a) above, in compliance with ISO 4064:2014/ Standard. The Applicant has submitted a test report of the National Testing Laboratory from Precision Meters (PTY) Ltd which is in accordance with SANS 1529-1 whereas ITB 12.1(i) (c) requires that tests should be in compliance with ISO 4064:2014.

Furthermore, it is to be noted that the Applicant submitted a certificate of Accreditation of the International Chinese Independent Testing Laboratory accredited by International Accreditation Service (IAS) which is found in California whereas as per ITB 12.1 (i) (e) the Independent Testing Laboratory shall be accredited by the National Accreditation Body of its country of origin i.e China.

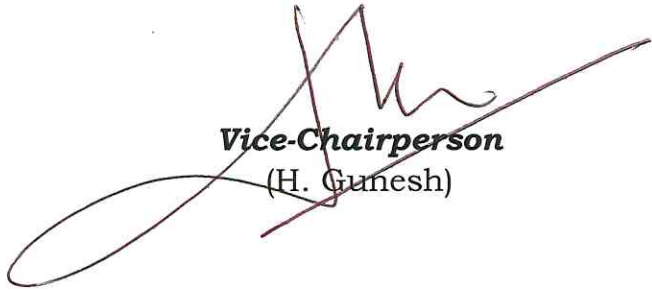
On this issue as well the Panel is of opinion that the Public Body was right to disqualify the Applicant.

The Panel is of the view that the fact that the certificates submitted are not in compliance with the Instructions To Bidders (ITB), the Public Body was right not to consider the Technical and Financial issues.



**I. Conclusion**

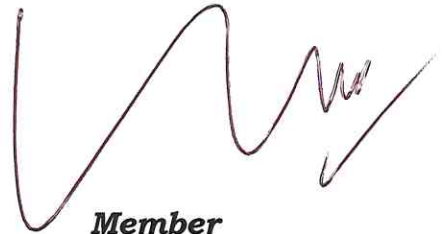
In light of the above observations, this present application for review is devoid of merits and therefore dismisses same.



**Vice-Chairperson**  
(H. Gunesh)



**Member**  
(A. Gathani)



**Member**  
(V. Mulloo)



**Dated: 22 August 2019**