



# Independent Review Panel

**Decision No. 08/20**

**In the matter of:**

**RSL Security Services Ltd**

**(Applicant)**

**v/s**

**Ministry of Health and Wellness**

**(Respondent)**

**(Cause No. 12/20/IRP)**

**Decision**



### A. History of the case

The Respondent, the Ministry of Health and Wellness (the “Ministry” or the “Public Body”) by way of an Open National Bidding, initiated, on 17<sup>th</sup> June 2020, a bidding exercise for the Procurement of Security Services for all Hospitals and Other Health Institutions bearing Procurement Reference No: **MHPQ/NP/WKS&S/SECURITY/2019-2020/Q67**.

Being a major contract, the Central Procurement Board was responsible for selection of the successful bidder; the procurement exercise bears reference: **CPB/76/2019**.

### B. Evaluation

A Bid Evaluation Committee (the “BEC”) was set up by the Central Procurement Board (the “CPB”) to evaluate the bids. It submitted its report on 29<sup>th</sup> August 2020;

### C. Notification of Award

On 25<sup>th</sup> September 2020, the Public Body, in response to the Invitation for Bids, informed the Applicant that an evaluation of the bids received has been carried out and the particulars of the successful bidders are as mentioned below:

<i>Region</i>	<i>Name of bidder</i>	<i>Address</i>	<i>Contract Price (Rs) exclusive of VAT</i>
1.	<i>Rapid</i>	<i>5, Boucherville</i>	<i>41,995,200.00</i>
2.	<i>Security Services Ltd</i>	<i>Street, Port Louis</i>	<i>17,938,800.00</i>
3.	<i>RSL Security Services Ltd</i>	<i>24, Saint Georges Street, Port Louis</i>	<i>21,340,707.24</i>
4.	<i>Rapid Security Services Ltd</i>	<i>5, Boucherville Street, Port Louis</i>	<i>For the Corrected sum of 26,892,000.00</i>
5.	<i>Other Health Institutions</i>		<i>35,524,800.00</i>
			<i>12,693,600.00</i>

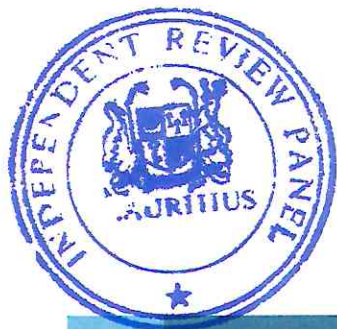
### D. The Challenge

On 29<sup>th</sup> September 2020, the Applicant challenged, under section 43 of the Public Procurement Act 2006 (the “Act”), the procurement proceedings on the following grounds:





- “(a) *The bid of the selected bidder Rapid Security Services Ltd ought to have been rejected as its respective financial offers for Regions 1, 2, 4 and 5 are abnormally low and do not satisfy the minimum qualifying criteria:*
1. *Section I – Instructions to Bidders, Clause 5.2(d) – “To qualify for award of the Contract, Bidders shall meet the following minimum qualifying criteria: an undertaking from the Bidder that the salaries and wages to be paid in respect of this bid are compliant with the relevant laws, Remuneration Order and Award and also to PPO Directive No. 37 where applicable and that it will abide to sub-clause 4.6 of the General Conditions of Contract, if it is awarded the contract or part thereof;*
  2. *ITB – Section IV – Activity Schedules (p. 46, 47, 49 and 50 of the bidding documents)” \* Prices shall be inclusive of labour cost as prescribed by NRB & The Employment Relations Act, other administrative costs and of attendance during cyclone warnings Class III and IV.*
  3. *ITB – Section V – General Conditions of Contract – sub Clause 4.6.1 (a) (Labour Clause)(p.65 of the bidding documents) “The rates of remuneration and other conditions of work of the employees of the Contractor shall not be less favourable than those established for work of the same character in the trade concerned –*
    - (i) *by collective agreement applying to a substantial proportion of the workers and employers in the trade concerned;*
    - (ii) *by arbitration awards; or*
    - (iii) *by Remuneration Regulations made under the Employment Relation Act 2008.”*
  4. *Section VI – Schedules – Check list for Bid Submission, paragraph (b) (vi) p.75 of the bidding documents:” “Undertaking of compliance for payment of salaries and wages as per ITB 5.2(d)”*
- (b) *The contract prices of Rapid Security Services Ltd for Regions 1, 2, 4, and 5 would not allow it to meet its contractual obligations as the labour costs estimates based on the applicable remuneration order exceed the contract prices of the selected bidder. The calculations of the total wages cost as per the Private Security Services Employees (Remuneration) Regulations 2019 for each Regions 1, 2, 4 and 5 are herewith annexed and marked as **Documents A, B, C and D**. A copy of the Private Security Services Employees (Remuneration) Regulations 2019 – GN223 of 2019 made under the Employment Relations Act is also annexed and marked as **Document E**.*



*AG* *Uw*

*AW*

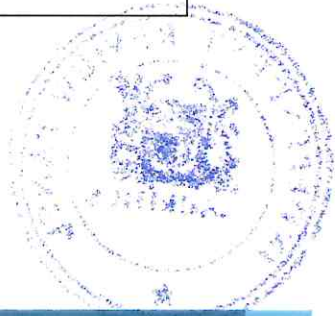
- (c) *The Public Body failed to properly review the financial soundness and capability of the selected bidder, Rapid Security Services Ltd whose financial situation is at a loss for the financial years ending 30 June 2017 and ending 30 June 2018, respectively. In the light of the negative financial statements, it is very doubtful how the selected bidder would perform all its contractual obligations. A copy of the financial statements of the selected bidder for the years 2017 and 2018 are herewith annexed and marked as **Documents F and G**.*
- (d) *The Public Body failed to carry out a proper evaluation and assessment of the bid of Rapid Security Services Ltd, whose bid for Regions 1, 2, 4, and 5 should not have been selected for award for Regions 1, 2, 4, and 5 as it is not the lowest evaluated substantially responsive bidder in view of the arguments propounded above.”*

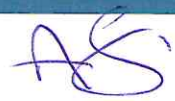


**E. The Reply to Challenge**

On 6<sup>th</sup> October 2020, the Public Body made the following reply to the challenge and stated:

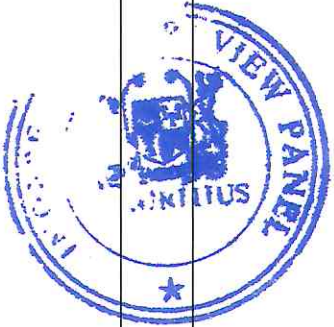
*“2. The replies to the grounds of challenge as submitted by the Central Procurement Board, are annexed herewith.*

	<i>RSL Security Services Ltd</i>	<i>The Public Body failed in its duty to carry out a proper evaluation and comparison of the bids when it awarded the contract for Regions 1, 2, 4 and 5 to the selected bidder, Rapid Security Services Ltd in as much as the contract prices of the selected bidder for Regions 1, 2, 4 and 5 awarded are abnormally low</i>	<i>The Bid Evaluation Committee has scrutinised the documents submitted by the compliant bidders and observed that the best evaluated and substantially responsive bidders will be able to meet their obligations.</i>
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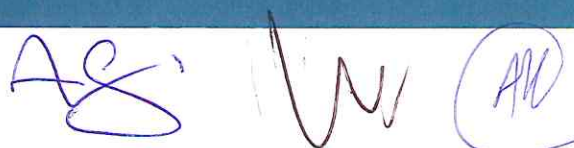






		<p><i>when taking into consideration the labour costs involved. The ability and capacity of the selected bidder to perform its obligations under the contract are thus very doubtful if not downright impossible.</i></p>	
		<p><i>The Public Body ought to have rejected the bid of Rapid Security Services Ltd as taking into consideration the applicable Remuneration Regulations for Security Guards, it will be impossible for the selected bidder to carry out its obligations under the contract. The labour costs estimates based on the applicable remuneration order exceed by far the prices quoted by the selected bidder.</i></p>	<p><i>The Bid Evaluation Committee disagrees with this point raised by the RSL Security Services Ltd. Based on the price breakdown sheet submitted by Rapid Security Services Ltd, the BEC considers that the bidder (Rapid Security Services Ltd) satisfies the provisions of the Private Security Services Employees (Remuneration) Regulations 2019.</i></p>
		<p><i>The Public Body failed to properly review the financial soundness and capability of the selected bidder, Rapid Security Services Ltd whose financial situation is at a loss for the financial years ending 30 June 2017 and ending 30 June 2018, respectively. In the light of the negative financial statements, it is very doubtful how the selected bidder would perform all its contractual obligations.</i></p>	<p><i>Directive No 31 issued by the Procurement Policy Office states that:</i></p> <p><i>“The purpose of assessing the financial capabilities of bidders is for the public body to get assurance that bidders have the financial ability, amongst other requirements, to perform the contract upon award.”</i></p> <p><i>It further states that “the financial information provided by the bidder should be reviewed in its entirety by the Bid Evaluation Committee (BEC) to allow for an informed assessment .....</i></p> <p><i>Neither the Auditors nor the Bid Evaluation Committee did find structural weaknesses that would warrant rejection of the</i></p>



			<i>bidder on that basis.</i>
	<i>RSL Security Services Ltd Bidder's Ground for challenge</i>	<i>Section I – Instructions to bidders, clause 5.2(d)</i>	<i>The bidder meets the minimum qualifying criteria.</i>
		<i>ITB – Section IV – Activity Schedules (p. 46, 47, 49 and 50 of the bidding documents)</i>	<i>The bidder meets the minimum qualifying criteria.</i>
		<i>ITB – Section V – General Conditions of Contract – Sub Clause 4.6.1 (a) (Labour Clause) (p.65 of the bidding documents)</i>	<i>The bidder complies with this labour clause 4.6.1 (a) and (b).</i>
		<i>Section VI – Schedules – Check list for Bid Submission, paragraph (b) (vi) p. 75 of the bidding documents.</i>	<i>The bidder has submitted the required undertaking.</i>
		<i>The contract prices of Rapid Security Services Ltd for Regions 1, 2, 4 and 5 would not allow it to meet its contractual obligations as the applicable remuneration order exceed the contract prices of the total wages cost as per the Private Security Services Employees (Remuneration) Regulations 2019 for each Regions 1, 2, 4 and 5 are herewith annexed and marked as Documents A, B, C and D. A copy of the Private Security Services Employees (Remuneration) Regulations 2019 – GN223 of 2019 made under the Employment Relations Act is also annexed and marked as Document E.</i>	<i>The Bid Evaluation Committee has scrutinised the documents submitted by the compliant bidders and observed that the best evaluated and substantially responsive bidders will be able to meet their obligations.</i>
		<i>The Public Body failed to properly review the financial soundness and capability of the selected bidder, Rapid Security Services Ltd whose financial situation is at a loss for the financial years ending 30 June 2017 and ending 30 June 2018, respectively. In</i>	<i>Directive No 31 issued by the Procurement Policy Office states that:</i>  <i>“The purpose of assessing the financial capabilities of bidders is for the public body to get assurance that bidders have the financial ability, amongst other</i>





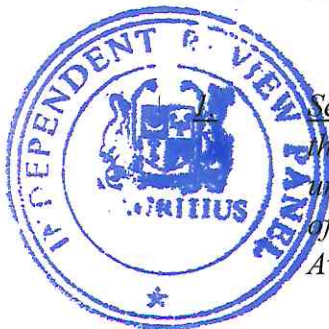
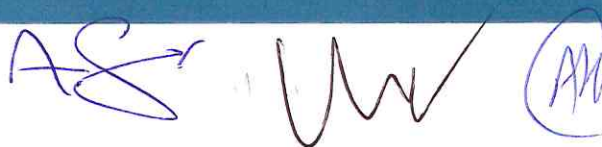
		<p><i>the light of the negative financial statements, it is very doubtful how the selected bidder would perform all its contractual obligations. A copy of the financial statements of the selected bidder for the years 2017 and 2018 are herewith annexed and marked as Documents F and G.</i></p>	<p><i>requirements, to perform the contract upon award.”</i></p> <p><i>It further states that “the financial information provided by the bidder should be reviewed in its entirety by the Bid Evaluation Committee (BEC) to allow for an informed assessment .....</i></p> <p><i>Neither the Auditors nor the Bid Evaluation Committee did find structural weaknesses that would warrant rejection of the bidder on that basis.</i></p>
		<p><i>The Public Body failed to carry out a proper evaluation and assessment of the bid of Rapid Security Services Ltd, whose bid for Regions 1, 2, 4 and 5 should not have been selected for award of Regions 1, 2, 4 and 5 as it is not the lowest evaluated substantially responsive bidder in view of the arguments propounded above.</i></p>	<p><i>The Bid Evaluation Committee disagrees with this statement as Rapid Security Services Ltd complies with all the criteria set out in the bidding document.</i></p>

## F. Grounds for Review

On 9<sup>th</sup> October 2020, the Applicant applied to the Panel for review on the following grounds:

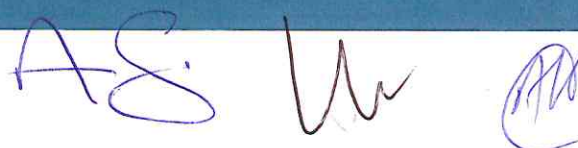
- “A. *The bid of the selected bidder Rapid Security Services Ltd ought to have been rejected in as much as its respective financial offers for Regions 1, 2, 4 and 5 are **abnormally low** and do not satisfy the minimum qualifying criteria as per the ITBs, more specifically:*

*Section I – Instructions to Bidders, Clause 5.2(d) – “To qualify for award of the Contract, Bidders shall meet the following minimum qualifying criteria: an undertaking from the Bidder that the salaries and wages to be paid in respect of this bid are compliant with the relevant laws, Remuneration Order and Award and also to PPO Directive No. 37 where applicable and that it will*

*abide to sub-clause 4.6 of the General Conditions of Contract, if it is awarded the contract or part thereof;”*

2. ITB – Section IV – Activity Schedules (p. 46, 47, 49 and 50 of the bidding documents) “\* Prices shall be inclusive of labour cost as prescribed by NRB & The Employment Relations Act, other administrative costs and of attendance during cyclone warnings Class III and IV.”
  
3. ITB –Section V – General Conditions of Contract – sub Clause 4.6.1(a) (Labour Clause) (p.65 of the bidding documents) “The rates of remuneration and other conditions of work of the employees of the Contractor shall not be less favourable than those established for work of the same character in the trade concerned –
  - (iv) by collective agreement applying to a substantial proportion of the workers and employers in the trade concerned;
  - (v) by arbitration awards; or
  - (vi) by Remuneration Regulations made under the Employment Relation Act 2008.”
  
4. Section VI – Schedules – Check list for Bid Submission, paragraph (b)(vi) p.75 of the bidding documents: “Undertaking of compliance for payment of salaries and wages as per ITB 5.2(d)”
  
- B. *The contract prices of Rapid Security Services Ltd for Regions 1, 2, 4 and 5 would not allow it to meet its contractual obligations as the **labour costs estimates based on the applicable remuneration order exceed the contract prices of the selected bidder**. The calculations of the total wages cost as per the Private Security Services Employees (Remuneration) Regulations 2019 for each Regions 1, 2, 4 and 5 are herewith annexed and marked as **Documents A, B, C and D**. A copy of the Private Security Services Employees (Remuneration) Regulations 2019 – GN223 of 2019 made under the Employment Relations Act is also annexed and marked as **Document E**.*
  
- C. *The Public Body failed to properly review the financial soundness and capability of the selected bidder. Rapid Security Services Ltd audited accounts show that for the financial years ending 30 June 2017 and ending 30 June 2018, respectively it posted a loss. In the light of the negative financial statements, it is very doubtful if the selected bidder would be in a position perform all its contractual obligations. A copy of the financial statements of the selected bidder for the years 2017 and 2018 are herewith annexed and*

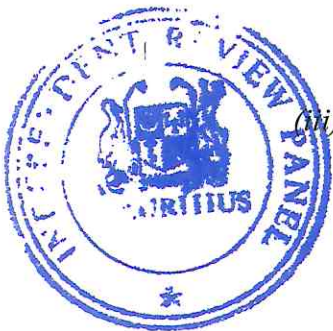




marked as **Documents F and G**. It is to be noted that the Financial Statement of the selected bidder for 2019 is unavailable as it has not been filed yet at the Registrar of Companies.

- D. *The Public Body failed to carry out a proper evaluation and assessment of the bid of Rapid Security Services Ltd, whose bid for Regions 1, 2, 4 and 5 should not have been selected for award for Regions 1, 2, 4 and 5 as it is not the lowest evaluated substantially responsive bidder in view of the arguments propounded above; and*
- E. *The Applicant is not satisfied with the response of the Public Body in its letter dated 6<sup>th</sup> October 2020, in reply to the Applicant's challenge dated 29<sup>th</sup> September 2019, wherein the Public Body maintains that the selected bidder met the minimum qualifying criteria, complied with all requirements of the bidding document and has submitted the required undertaking. The Applicant avers that:*

- (i) *Had the Bid Evaluation Committee scrutinized the documents submitted by the selected bidder and performed a calculation exercise of the labour costs estimate for Regions 1, 2, 4 and 5, the Bid Evaluation Committee would have found that the figures given by the selected bidder for Regions 1, 2, 4 and 5 were not realistic and thus the selected bidder did not meet the minimum qualifying criteria;*
- (ii) *Even if the selected bidder has given an undertaking, the Applicant states that this does not in itself establish that the selected bidder is compliant. The Public Body must ensure that the selected bidder would indeed be compliant and meet its contractual obligations as to labour costs. The Applicant avers that the Public Body has failed to carry out a proper evaluation and assessment of the bid of the Applicant because if it had done so it would have come to the inescapable conclusion that the bid failed on that score; and*



- (iii) *The Public Body and/or the Bid Evaluation Committee failed to pay heed to the observations made by the Independent Review Panel in the **Decision No.18/19 delivered on the 5<sup>th</sup> November 2019 in the matter of RSL Security Services Ltd v/s Ministry of Education and Human Resources, Tertiary Education and Scientific Research bearing Cause No. 18/19/IRP [Document H]** whereby the Panel noted that the Bid Evaluation Committee failed to review the financial soundness and capability of bidders, thus it did not fulfill its responsibilities under Directive No.31 issued pursuant to Section 7(B) of the Public*



*Procurement Act. Again, it appears that the Bid Evaluation Committee failed to fulfill its duties inasmuch as a search at the Registrar of Companies would reveal that the selected bidder has not yet filed its financial statement for the year 2019.”*

## H. The Hearings

Hearings were held on 28<sup>th</sup> October and 3<sup>rd</sup> November 2020.

The Applicant was assisted by Mr Gavin Glover SC and Miss Chuong of Counsel. The Respondent was assisted by Mr K.Naghee Reddy, Principal State Counsel instructed by State Attorney.

The successful bidder was in attendance and the CPB sent a representative, Mr Bagwan.

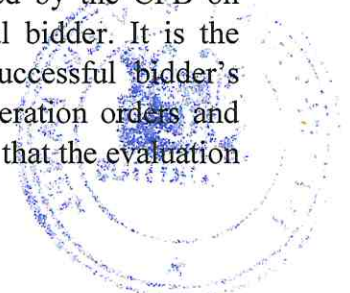
## I. Findings

This Application for Review is founded, in essence, on the proposition that the successful bidder's bid was abnormally low when taking into account the minimum wages and salaries to be paid for staff in line with applicable remuneration orders, and on the Ministry's failure to properly assess the financial soundness of the successful bidder and the evaluation of its bid, generally.

Following the first hearing on the merits which was held on 28<sup>th</sup> October 2020, the Ministry communicated the workings and method of calculations used to retain the bid of the successful bidder.

At the hearing of 3<sup>rd</sup> November 2020, the Applicant produced very extensive calculations using, what it submits, is the same methodology used by the CPB on behalf of the Ministry when evaluating the bid of the successful bidder. It is the Applicant's submission that, by using that methodology, the successful bidder's quoted price would still fall short of the applicable labour remuneration orders and would be abnormally low, while the Ministry maintains its position that the evaluation has been carried out properly.

We are thankful for the written submissions of Counsel on both sides filed in addition to their oral submissions and have perused them with much interest.





We find that, in this matter, three issues warrant our intervention and we will address them in turn.

### Abnormally low bids and Directive No.46

This has become a common feature of recent bid evaluation exercises and caused what we can describe as growing pains suffered by the various government departments following the issue of Directive No.46 by the PPO on 8<sup>th</sup> April 2020. This directive is binding on public bodies and the CPB pursuant to sections 6 and 7 of the Act. The Directive No.46 provides as follows:

*“Pursuant to section 37(10A) of the Public Procurement Act (2006), which provides for the procedure to be followed for the evaluation of bids in case of abnormally low bids, public bodies shall consider a bid as abnormally low, where it is lower than the updated estimated cost by 15% or more.*

*2. This directive takes effect immediately.”*

As we pointed out to the parties before us, section 37(10A) itself has been around for quite some time, near a decade, in fact. It provides:

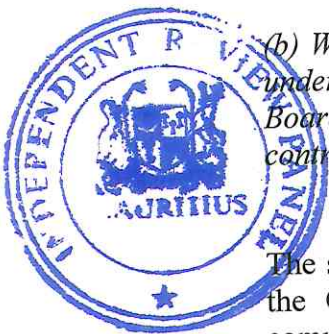
*“(10A) (a) Where a public body or the Board –*

*(i) is of the view that the price, in combination with other constituent elements of the bid, is abnormally low in relation to the subject matter of the procurement; and*

*(ii) has concerns as to the ability of the supplier to perform the procurement contract, it may request in writing from the supplier such information as it considers necessary.*

*(b) Where, after having taken into account any information furnished by the supplier under paragraph (a) and the information included in the bid, the public body or the Board still has concerns as to the ability of the supplier to perform the procurement contract, it may reject the bid.”*

The steps required by law and expected by the PPO and this Panel, are very clear. If the CPB or the Public Body (and by that, we understand, the bid evaluation committees set up by either of them) views the price as abnormally low, presumably at financial evaluation stage, it must then ask itself if it has concerns as to the supplier’s ability to supply. If in the affirmative, it may then request such information it believes necessary to allay these concerns. If the information supplied is not




satisfactory, it may, or is expected to, reject that bid. If it has no concerns in the first place, that is the end of the matter.

The PPO's Directive sets the benchmark of what are abnormally bids – the quoted price is 15% or more below the updated estimated cost. We are thankful to Mr Bagwan, of the CPB, for having clarified how public bodies are to indicate to the CPB what the estimated costs are and this must be done before a tender is floated.

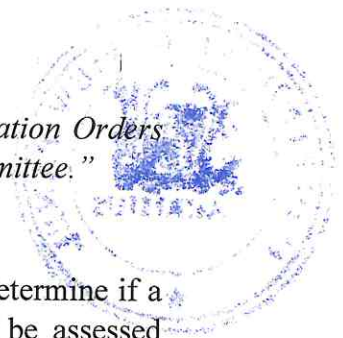
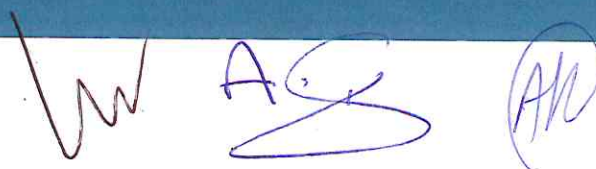
Since the advent of Directive No.46, this Panel has seen various 'adaptations' in the bid evaluation reports it has perused in cases arising since April 2020. In one case, there was not even an estimated cost, in another, even though the estimated cost was clearly defined, deviations of 55%-60% were not acted upon. In the present case, the estimated cost was not clearly defined but the deviations were, and the Panel has had to perform a reverse calculation to arrive at the estimates. However, a common theme arises: Public bodies simply limit themselves to indicating whether there are deviations but do not deem it relevant to even state, in bid evaluation reports or otherwise, whether they have concerns or not about the ability of the supplier to deliver the goods, so to speak. The least one would expect is a clear statement that the bid evaluation committees and public bodies have no concerns about a supplier quoting a price 55% lower than what was estimated. Here, the successful bidder has deviated by more than 20% for all regions while the Applicant, when it did deviate, did so only slightly (less than 2% for the largest deviation).

In the Panel's previous judgment in **Golden Valley Sonalall JV v FAREI (Decision No.7/20)**, we ordered a re-evaluation based on the law and the principle and held that the mechanism set out in section 37(10A) must be followed. Here, the issue is of even greater importance since the contention of the Applicant is that the successful bidder's bid is not only abnormally low, but it is so because it fails to account for the minimum salaries and wages to be paid to its workforce to be deployed across the country's hospitals and other health institutions.

On the issue of remuneration orders and minimum salaries, we are also mindful of the Panel's decision **Top Security Service Ltd v MITD (Decision No. 05/20)**, quoted by Mr Glover in his submissions:

*"The Panel's primary concern is to see to it that the existing Remuneration Orders are strictly respected by the Public Body through its Bid Evaluation Committee."*

At some point in the Ministry's case, it was suggested that, in order to determine if a bid is abnormally low, the price and other constituent elements must be assessed together. This is indeed the position under section 37(10A) of the Act but the 'constituent elements' are not referred to in the PPO's binding Directive No.46. When faced with the question from the Panel as to what would, here, amount to 'other



constituent elements’, the Ministry and CPB could not indicate any. Be that as it may, pending any further guidance by the PPO, our view is that a more prudent reading should be adopted and use the 15% as the trigger point – the focus is on the price if presented with a deviation of 15% or more. The CPB’s representatives graciously conceded that this would be an appropriate course. If we may add a further suggestion, we are of the view that nothing would prevent the CPB or a public body to view a 0.1% or a 14.9% deviation as abnormally low if other constituent elements appear doubtful.

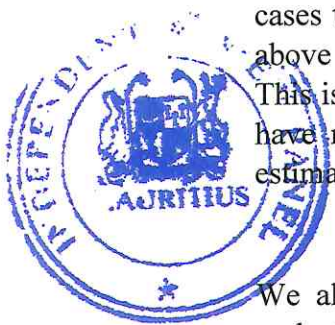
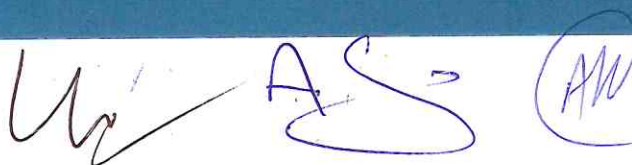
We have taken good note of the interesting submissions of Mr Reddy on what considerations one should give when viewing a bid as ‘abnormally’ low – including the track record and corporate strategy of the bidders – but we do not subscribe to these propositions in light of what we have stated in respect of Directive No.46. We believe the latter provides a welcome benchmark that can only help to ensure consistency.

#### Price Breakdown Sheet

We may dispose of this issue briefly. In the bid evaluation report dated 29<sup>th</sup> August 2020, the successful bidder’s price breakdown, which it provided on 20<sup>th</sup> August 2020, indicates a monthly basic salary below the figure of Rs 10,282 provided by the Ministry of Labour, Human Resource Development and Training, in a letter dated 7<sup>th</sup> August 2020 - following a request of the Applicant. This minimum figure of Rs 10,282 is not disputed. What we find quite irregular is that the Bid Evaluation Committee completed its report on the basis of that lower figure and, as became apparent during the hearing, it was only later that the CPB queried from those concerned about this lower figure.

We do not propose to comment further on this save to say that we believe it is preferable that bid evaluation committees have all the updated facts when they are carrying out their evaluation exercise. It is only in the most exceptional and limited of cases that a public body or the CPB can base itself on material information over and above what was available to the bid evaluation committee when it issued its report. This is made even more serious by the fact that, in the present matter, the CPB would have noted that the quoted price was already far below (by more than 15%) the estimated cost.

We also subscribe to the submissions of Mr Glover that the simple fact that an undertaking has been given by the successful bidder, like all other bidders, to pay the lawful rate to its employees is not in itself a justification or a comfort that the procurement project will be seen through smoothly. If anything, in the present case,

the undertaking means higher costs and even more losses to the successful bidder, assuming that it had already quoted at a loss.

#### The financials and the evaluation process

ITB 5.2 states, in no uncertain terms, that:

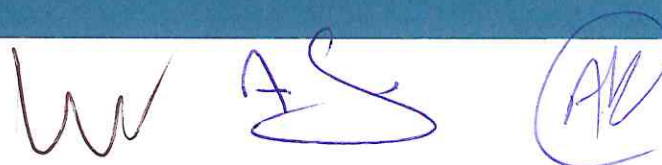
*'To qualify for award of the Contract, Bidders shall meet the following minimum criteria:*

*(a) The average annual financial amount of security services provided over the last three years should represent at least half of the annual contract value or part thereof for which the Bidder is selected for award;'* (our emphasis)

It is not disputed that the successful bidder had provided financial statements for the years 2015, 2016, 2017 and 2018, while other bidders, including the Applicant, had provided financials for the years 2017, 2018 and 2019. We must say that it escapes us how the Bid Evaluation Committee proceeded with assessing the successful bidder's financial statements when they are not comparable to the other bidders' statements. The successful bidder was in breach of ITB 5.2. As a result, the process was flawed since the BEC did not have, in respect of the successful bidder, the average annual amount for the last three years reckoned from 2020.

The representative of the CPB graciously conceded on this issue and he remarked that, because of the global pandemic, many companies have been unable to file audited accounts for the year 2019 or 2020 (depending on when they close their books) with the Registrar of Companies. We are mindful of the extension of delays the Registrar has afforded to companies in terms of filing and we appreciate the point made by the CPB. To us, it is a matter of much regret that this ITB 5.2 was included without any modification despite the pandemic or a BDS item addressing the issues faced by companies. Nevertheless, the evaluation must be carried out within the strict confines of the bidding documents and we are, thus, doubtful whether the successful bidder could qualify for award, in the first place – not having provided financial information post year 2018.

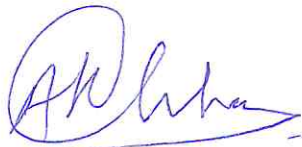
As such, we do not propose to dwell further on the financials of the successful bidder but we urge the BEC and the public bodies to bear in mind what the Panel stated, in a previous decision **RSL Security Services Ltd v Ministry of Education (Decision No.18/19)**, on the importance of a proper financial assessment by bid evaluation committees.





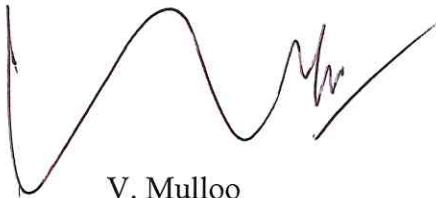
**J. Conclusion**

In the circumstances, we order a re-evaluation of the bids giving due consideration to the points we have made above and to the calculations submitted by the Applicant, if they are found to be of assistance by the newly constituted bid evaluation committee.



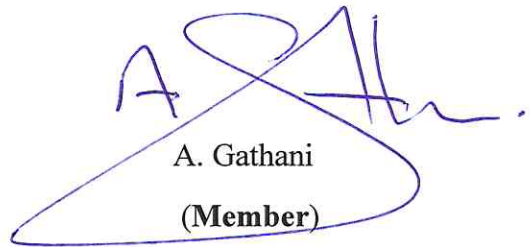
A.K. Namdarkhan

**(Chairperson of the Day)**



V. Mulloo

**(Member)**



A. Gathani

**(Member)**

**Dated: 6<sup>th</sup> November 2020**

