Independent Review Panel

Decision No. 01/20

In the matter of:

JV JRD Logistics/ Eco Chem Laboratories Private Ltd

(Applicant)

v/s

Central Water Authority

(Respondent)

(Cause No. 01/20/IRP)

INDEPENDENT REVIEW PANEL MAURITIUS

Decision

A. History of the case

The Public Body invited for bids for Supply, Installation, Commissioning of 11 Containerized Pressure Filtration Plan. The Contract bore reference C2019/63.

B. Evaluation

An evaluation of the Bids received has been carried out by a Bid Evaluation Committee and a notification of award was sent to the bidders.

C. Notification of Award

Through a letter dated 13 December 2019, the Central Water Authority notified the Applicant that an evaluation of the bids received has been carried out and its bid has not been retained for award. The particulars of the successful bidder are given hereunder:

Name of Bidder	***Address***	***Contract Price***
AQUALIA LTD.	***OLD QUAY D ROAD, PORT LOUIS***	***Rs 60,746,203.42 excl. VAT (Including contingencies and provisional sum)***

D. The Challenge

On 16 December 2019, the Applicant challenged the Notification of procurement award on the following grounds:

"(1) The Tender Committee may have erred on facts and/or mistaken the co reading and computation of our offer contained within the document submitted through eproc and further claclarifications as requested and probably in applying its discretionary powers judiciously where requested whilst carrying the evaluation exercise and technical evaluation exercise;

(2) JRD LOGISTICS LTD would like to know the reasons for its disqualifications &subsequent award to AQUALIA LTD whose price was higher than JRD LOGISTICS LTD; and

(3) For any other reasons which may, later be submitted."

E. The Reply to Challenge

On 23 December 2019, the Public Body made the following reply to the challenge and stated that:

"Further to your challenge dated 16 December 2019 with respect to above-mentioned contract, you are requested to consider the following justifications for your non-responsive during the evaluation of your offer:

- ***Point 1***

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

- ***Reply 1***

  Your offer and its attachments have been thoroughly analysed by the Bid Evaluation Committee (BEC) and any misunderstanding or non-submission have been clearly requested from the bidder through the clarification letters dated 03 October 2019, 18 October 2019 and 21 October 2019.

  *However, based on your offer and reply to the clarifications, the BEC observed your submissions have **major deviations** to the requirements of the bid document as further detailed at Reply 2 below, therefore it was concluded that JV JRD Logistics Ltd/Eco Chem Laboratories Ltd was **not responsive**.*

- ***Point 2***

  JRD LOGISTICS LTD would like to know for its disqualifications & subsequent award to AQUALIA TD whose price was higher than JRD LOGISTICS LTD.

- ***Reply 2***

  With reference to your offer, documents submitted and reply to clarifications, the BEC observed the following:

1. *You have proposed its workshop as Garage Sanashee & Co. Ltd which is located at 8, Reserves I Street, 50300, P. Louis and is a dealer in Motor Vehicle, Spare Parts and Tyres. It is worth noting*

that the Joint Venture Agreement is binding to JRD Logistics Ltd and Eco Chem Laboratories Private Ltd ***only*** *and therefore Garage Sanashee & Co. Ltd is as a* ***third party*** *to the Joint Venture Agreement and cannot be considered as the workshop facilities for the JV JRD Logistics Ltd and Eco Chem Laboratories Private Ltd.*

2. *As per Section II: Bidding Data Sheet (BDS) – ITB 12.1 (i), Subsection (vi), Part (c) of the bid document, the bidder shall have qualified* ***mechanics*** *and* ***electricians*** *with* ***Brevet Technician or equivalent*** *in their respective field acting as workshop/inspection & maintenance personnel (****1 mechanic and 1 electrician minimum****) who shall demonstrate* ***experience in inspection and maintenance of Containerized Pressure Filtration Plants in the last 10 years.***

   It is to be noted that you have proposed ***only Engineers*** *as personnel. However, the proposed personnel and their experience in Containerized Pressure Filtration Plant (CPF) have been analysed as detailed below:*

   - ***Mr. Tegarajen Seeneevassen*** *is qualified in the field of* ***Electrical Engineering*** *and has worked for the survey of M&E installations at boreholes, pumping stations and treatment plants in the elaboration of the CWA Master Plan for GIBB (Mtius) Ltd during the year 2004 – 2005. It is to be noted that* ***Mr. Tegarajen Seeneevassen*** *has* ***not*** *demonstrated any experience in Containerized Pressure Filtration Plants during the last 10 years.*

   - ***Mr. A. Alagappa*** *is qualified in the field of* ***Mechanical Engineering*** *and has experience in Erection and Commissioning of the Water Treatment Plants of types RO, STP, MBR based STP and Filtration systems.* ***Mr. A. Alagappa*** *has also demonstrated experience in water treatment during the last 10 years.*

   - ***Mr. J. Jaivin Selva Aspas Singh*** *Bachelor of Technology in the field of* ***Chemical Engineering*** *and has experience in the Erection and Commissioning of Water & Wastewater Treatment Plants with different schemes and various capacities. Chemical engineers were* ***not*** *a requirement of the bid document.*

*Based on the above, the BEC concluded that you **have not submitted** any evidence/documents with regards to the workshop/inspection & maintenance personnel (**1 mechanic and 1 electrician minimum**) qualified with Brevet de Technician or equivalent who shall demonstrate **experience in inspection and maintenance of Containerized Pressure Filtration Plants in the last 10 years** as per **Section II: Bidding Data Sheet (BDS) – ITB 12.1(i), Subsection (vi), Part (c).***

*Since you have not substantiated any workshop/inspection & maintenance personnel (**1 mechanic and 1 electrician minimum**) in Containerized Pressure Filtration Plants as per the bid requirement through his offer and reply to clarifications, you have therefore not demonstrate to the BEC your ability to ensure proper maintenance, repair and spare parts-stocking obligations **as per Clause 20.1(b) of the Section I – Instruction to Bidders.***

*In this context, the non-submission of appropriate evidence/documents has demonstrated that you will not be able to meet the required obligation during the contract execution and your offer was therefore **not compliant** to the **Mandatory Criteria** and **not retained** for further evaluation.*

Furthermore, it is to be noted that the bidder Aqualia Ltd has substantially meet the requirements of the bid document.

- ***Point 3***

  For any other reasons which may later be submitted.

- ***Reply 3***

  Nil."

F. Grounds for Review

On 03 January 2020, the Applicant seized the Independent Review Panel for review on the following grounds:

"Unsatisfied with the awards all for all reasons stated in the Statement of Case."

G. The Hearing

Hearing was held on 28 January 2020. The Applicant was represented by Mr. R. Ramsaha, Counsel whereas the Respondent was represented by Mr. K. Colunday, Counsel for the Public Body.

H. Findings

Instruction to Bidders 12.1(vi) provides,

Experience and Technical Capacity

The Bidder shall furnish the following documentary evidence at bidding stage to demonstrate that it meets the following experience requirement(s):

(a) During the last ten (10) years, the Bidder must have completed successfully at least one contract for the supply of containerised pressure filtration plants. The following details must be provided:

(a) Name of the Client/s
(b) Original contract sum, and
(c) The actual date for completion of the contract

(b) Evidences to demonstrate that bidders are technically capable to execute the Contract for the Supply, Installation and Commissioning of Containerised Pressure filtration Plants such as Workshop facilities to carry out servicing/repairs during warranty period and trained personnel in the operation, maintenance and inspection of containerised filters. The workshop shall be fitted with appropriate lift, tools and other machines that shall be used during servicing and repairs. At the time of bidding, the bidder shall submit the details of the tools/equipment available in his workshop.

(c) The workshop/inspection & maintenance personnel shall be supervised by either a Mechanical or Electrical Engineer registered under the CRPE and qualified mechanics and electricians with Brevet Technician or equivalent in their respective field. The workshop/inspection & maintenance personnel (1 mechanic and 1 electrician minimum) shall demonstrate experience in inspection and maintenance of containerised pressure filtration plants in the last 10 years. The CV of the proposed registered Engineer and workshop/inspection & maintenance personnel shall be signed and submitted at the time of bidding along with documentary

evidence of their experience and copies of certificates for their respective qualifications. In the event that a proposed staff is unavailable due to unforeseen conditions during the implementation, the bidder shall propose staff of equivalent qualification and experience or above.

The Central Water Authority has through two letters dated 03 October 2019 and 18 October 2019 wrote to the Applicant for an additional information/documents, with heading Clarification 1 and Clarification 2 respectively, amongst others, viz:-

Item 6.2 - The workshop facilities for attending to any repairs/after sales services with **full details/address** of the workshop. The workshop shall be fitted with appropriate lifts, tools and other machines that shall be used during servicing and repairs of Containerised Filtration Plants. **A list detailing the tools/equipment available in the workshop shall be submitted.**

Item 6.3 – The workshop/inspection & maintenance personnel (**1 mechanic** and **1 electrician** minimum) qualified with **Brevet Technician or equivalent in their respective field** and shall demonstrate experience in inspection and maintenance of **containerized pressure filtration plants in the last 10 years.** Same shall be substantiated by submission of the CV of the workshop/inspection & maintenance personnel.

The Applicant never complied with the above requirements of the letter save and except submitted a trade licence of GARAGE SANASHEE & CO LTD. During the hearing, Mr Ganesh, a witness for the Applicant affirmed that GARAGE SANASHEE & CO LTD was not part of the contract as the latter is just letting its space to keep its tools and equipments.

It is worthwhile to be noted that GARAGE SANASHEE & CO LTD is not a party of the joint venture agreement.

The second issue was about the requirement of 1 mechanic and 1 electrician as per ITB 12(1) Subsection (vi) Part C of the bidding document, that is two different personnel but the Applicant has communicated the names of Engineers which was not the requirements.

The Panel finds that the Applicant failed to comply with the requirements of Instructions to Bidders (ITB).

The Panel further notes that the witness, Mr Seeneevassen, while deponing admitted that he has no experience in Containerised Pressure Filtration Plants.

The Panel therefore considers the above findings as a major deviation.

I. Conclusion

In the light of the above findings, the Panel finds no merit in the application and therefore sets same aside.

Vice-Chairperson
(H. Gunesh)

Member
(A. Gathani)

Member
(V. Mulloo)

Dated: 31/01/2020