



# Independent Review Panel

Decision No. 21/21

In the matter of:

**RSL Security Services Ltd**

(Applicant)

v/s

**The Municipal City Council of Port Louis**

(Respondent)

(Cause No. 22/21/IRP)

**Decision**



**A. History of the case**

On or about the 15<sup>th</sup> April 2021, the Respondent issued bidding document for the Procurement of Security Services for Municipal Sites and Locations throughout Port Louis by way of Open National Bidding bearing Procurement Reference No. e-ONB/02/2020, CPB Reference No. CPB/42/2020.

The Applicant was one of the bidders.

**B. Evaluation**

A Bid Evaluation Committee was set up by the Central Procurement Board to evaluate the bids received and to identify the lowest evaluated substantially responsive bid.

**C. Notification of Award**

On 01 October 2021, the Public Body, in response to the Invitation for Bids, informed the Applicant, that an evaluation of the bids received had been carried out and the particulars of the selected bidder were as mentioned below:

SN	Description of Works	Name of Bidder	Address	Total Amount Exclusive of VAT (Rs)
1.	Security Services for Municipal Sites and Locations throughout Port Louis	Top Security Service Ltd	4 <sup>th</sup> Floor, Jade Court Jhummah Mosque Street Port Louis	47,458,800.00

**D. Challenge**

On 6<sup>th</sup> October 2021, the Applicant challenged the procurement proceedings on the following grounds:

- “1. *The bid of Top Security Service Ltd should have been rejected given that its contract price would not allow it to meet its contractual obligations as the labour costs estimates based on the applicable remuneration order exceed the contract price of the selected bidder. The calculations of the total wages cost as per the Private Security Services Employees (Remuneration) Regulations 2019 are herewith annexed and marked as **Document A**. The ability and capacity of the selected bidder to perform its obligations under the contract are thus very doubtful if not downright impossible.*
2. *The Public Body failed to properly review the financial soundness and capability of the selected bidder; Top Security Service Ltd whose financial situation is at a loss for the financial year ending 30 June 2019 and liquid assets*

*are negative. In the light of the negative financial statement and the fact that the liabilities of Top Security Service Ltd are greater than its assets, it is very doubtful how the selected bidder would perform all its contractual obligations.*

3. *The Public Body failed to carry out a proper evaluation and assessment of the bid of Top Security Service Ltd, whose bid should not have been selected for award as it is not the lowest evaluated substantially responsive bidder in view of the arguments propounded above.”*

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

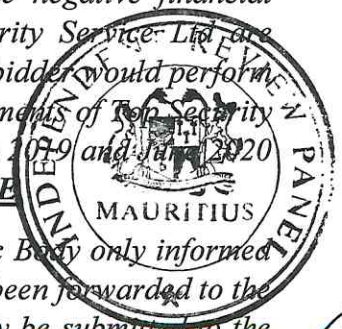
On 12<sup>th</sup> October 2021, the Respondent in reply to the Challenge by the Applicant, stated that:

*“I wish to inform you that your challenge with reference to the above procurement exercise has been received and has been forwarded to the Central Procurement Board. A reply will shortly be submitted to you regarding the challenge.”*

#### **F. Grounds for Review**

On 15<sup>th</sup> October 2021, the Applicant seized the Independent Review Panel for review on the following grounds:

1. *The bid of Top Security Service Ltd should have been rejected given that its contract price would not allow it to meet its contractual obligations as the labour costs estimates based on the applicable remuneration order exceed the contract price of the selected bidder. The calculations of the total wages cost as per the Private Security Services Employees (Remuneration) Regulations 2019 are herewith annexed and marked as **Document A**. The ability and capacity of the selected bidder to perform its obligations under the contract are thus very doubtful if not downright impossible. 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 B**.*
2. *The Public Body failed to properly review the financial soundness and capability of the selected bidder; Top Security Service Ltd whose financial situation is at a loss for the financial years ending 30 June 2019 and 30 June 2020 and liquid assets are negative. In the light of the negative financial statements and the fact that the liabilities of Top Security Service Ltd are greater than its assets, it is very doubtful how the selected bidder would perform all its contractual obligations. A copy of the financial statements of Top Security Service Ltd for the last three years ending June 2018, June 2019 and June 2020 are herewith enclosed and marked as **Documents C, D and E**.*
3. *Furthermore, by letter dated 12<sup>th</sup> October 2021, the Public Body only informed the Applicant that its challenge has been received and has been forwarded to the Central Procurement Board and that a reply would shortly be submitted to the Applicant regarding the challenge. The Applicant states that the Public Body*



*ACD*

*AS*      *Ⓟ*

*failed to issue a written decision within seven (7) days of the filing of its challenge on 6<sup>th</sup> October 2021 as provided at Regulation 48(4) of the PPR. As at date, the Applicant has not received a reply, presumably because its challenge has all its merits and must succeed.*

4. *The Public Body failed to carry out a proper evaluation and assessment of the bid of Top Security Service Ltd, whose bid should not have been selected for award as it is not the lowest evaluated substantially responsive bidder in view of the arguments propounded above.”*

## G. The Hearing

A Hearing on the merits was held on 29<sup>th</sup> October 2021.

The Applicant was represented by Mr G.Glover SC together with Mr B. Glover, Barrister and Ms S Chuong, Barrister. Mr B.Glover conducted the case on behalf of the Applicant. The Respondent was represented by Mr G. Wong, Barrister.

The Successful Bidder, was represented by Mr N. Ramburn SC.

## H. Decision

Chronologically, this is the first application for review having been lodged before the Panel in respect of this particular procurement exercise. The other, bearing Cause Number 21/21/IRP, has been entered by **Rapid Security Services Ltd**.

The Panel has, earlier this day, issued judgment in the above matter: **Rapid Security Services Ltd vs Municipal City Council of Port Louis Decision 20/21**.

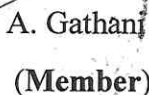
In light of the above pronouncement, where, at this stage, a re-evaluation has been recommended, we need not consider the present Application for Review on the merits, and we enter judgment in favour of the Applicant which shall be reimbursed its security deposit by the Panel.



J. Ramano (Mrs)  
(Chairperson)



A. K. Namdarkhan  
(Member)



A. Gathan  
(Member)

Dated: 12<sup>th</sup> November 2021