



Independent Review Panel

Decision No. 08/25

In the matter of:

Erick Contracting & Waterproofing Ltd.

(Applicant)

v/s

**Commission for Health, Fire and Rescue,
Prison and Reform Institutions,
Rodrigues Regional Assembly**

(Respondent)

(Cause No. 05/25/IRP)

Decision



A. History of the case

The Commission for Health, Fire and Rescue, Prison and Reform Institutions, Rodrigues Regional Assembly (Respondent) launched a bidding exercise for New Waiting Hall, Public Toilet & Concrete Ramp for Family Planning & Aids Unit at Queen Elizabeth Hospital. Procurement Ref. No: RRA/COM/HE/RB 111 of 2024/2025.

Four bids were received. The Applicant was one of the bidders.

B. Evaluation

A Bid Evaluation Committee (BEC) was set up to evaluate the bids received and to identify the lowest evaluated substantially responsive bid.

C. Notification of Award

On 10 June 2025, the Respondent informed all the bidders that an evaluation of the bids received had been carried out and the particulars of the successful bidder are as given hereunder:

Name of Bidder	Address	Contract Price MUR Exclusive of VAT
Easy Builders Construction Ltd	Riviere Coco RODRIGUES	2,506,000.00

D. Challenge

On 13 June 2025, the Applicant challenged the procurement proceedings on the following ground:

Bidder's ground for challenge:

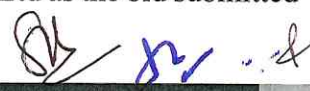
The selected bidder has not complied with section I. Instruction to bidders 9.2(h) according to records obtained from Companies Division.

E. Grounds For Review

On 24 June 2025, the Applicant seized the Independent Review Panel for review on the following grounds:-

Applicant's grounds for review:

1. The successful bidder, namely Easy Builders Construction Ltd, did not fulfil the eligibility criterion of clause 9.2 (h) of the Bidding Documents under Section 1: Instructions to Bidders. Therefore, the Public Body erred in its decision to have awarded the bid to Easy Builders Construction Ltd as the bid submitted



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2. by the latter was ab initio defective for failure to submit the required documentary evidence in support of the eligibility criterion of clause 9.2 (h) of the Bidding Documents.
3. The Public Body erred in awarding the bid to Easy Builders Construction Ltd for more than its base offer.
4. The Public Body failed to respond to the challenge dated 13th June 2025 within the prescribed delay and, therefore, failed to provide reasons why Easy Builders Construction Ltd has been awarded the bid albeit that the latter did not meet the eligibility criterion as set out in clause 9.2 (h) of the Bidding Documents. Therefore, the decision of the Public Body is irrational.

F. The Hearing

The Hearing was held on 14 July 2025 and 26 August 2025. There is on record a Statement of Case and a Statement of Case of the Respondent filed by the Applicant and Respondent, respectively.

The Applicant also filed a written submission on 08 August 2025 on the issue of time delay for applying for a review.

The Applicant was represented by Mr. Aroughen Aran and Mr V Dudhee, Counsel whilst Mr. Chetan Baboolall, Counsel, represented the Respondent.

G. Findings

The Applicant, on 21 March 2025 submitted its bid participation in a restricted bid exercise for the procurement for a New Waiting Hall, Public Toilet & Concrete Ramp for family planning & AIDS Unit at Queen Elizabeth Hospital. The bid submitted by the Applicant was in the sum of Rs.2,899,000.

On 10 June 2025, the Respondent informed the Applicant that the Applicant's bid was not retained for award and the name of the successful bidder was communicated.

The Applicant, dissatisfied with the decision, lodged a challenge on 13 June 2025.

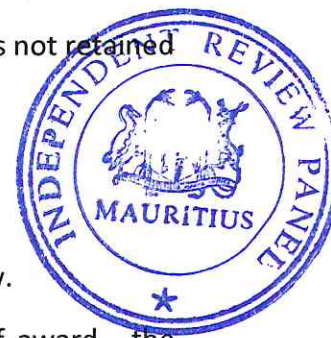
The Respondent did not reply to the challenge until 27 June 2025.

The Applicant on 24 June 2025 applied to the Independent Review Panel for a Review.

On the day of hearing 14 July 2025, it was on record that following the letter of award, the successful bidder had accepted the award but which was suspended because of this present application.

The panel raised a point whether the application for review is within delay as provided in the Public Procurement Act and the Regulations and preferred submissions on this aspect before going on the merits of the application.

In a written submission, the Applicant has based itself on the letter of the Respondent dated 10



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June 2025 where the latter informed the Applicant that pursuant to Section 40(3) of the Public Procurement Act, its bid was not retained for award.

The Applicant submitted that it lodged a challenge on 13 June 2025 and the Respondent had seven days to reply to the challenge that is up 20 June 2025 and the Applicant according to it, had seven days from 20 June 2025 to apply for a Review and therefore the application for review which was filed on 24 June 2025 is well within the prescribed delay.

Mr C Baboolall appearing for the Respondent, argued that in this particular application the question of challenge does not arise and any application for review should have been lodged within 5 days from the date of notification of award. Counsel further argued that the application for review was well outside the delay of 5 days from the date of notification of the award.

The whole issue for this panel is to determine whether the application should have been made within 5 days from the date of notification of award or as per the steps adopted by the Applicant.

According to the Applicant, in the letter of award dated 10 June 2025, the Public Body had mentioned Section 40(3) of the Act which provides as follows:

40 Award of procurement contracts

(...)



(3) A public body in relation to a procurement contract, the value of which is above the prescribed threshold shall notify the successful bidder in writing of the selection of its bid for award and a notice in writing shall be given to the other bidders, specifying the name and address of the proposed bidder and the price of the contract **(the underlining is ours)**

The Panel now refers to Regulation 38(3) of the Public Procurement Regulations which provides as follows:

38 Notification of Award

(1) ...

(2)

(3) For the purposes of Section 40(3) of the Act, the prescribed threshold shall be 15 million rupees **(the underlining is ours)**



The panel notes that in this application the amount of the contract value is Rs.2,506,000,00.

The panel now refers to Regulation 48 of the Public Procurement Regulations which provides as follows:

Challenge and appeal procedures

(1)

(2)

(3)

(4)

(5) ...

(6) *For the purposes of Section 45(1) (c.) of the Act, the threshold shall be 1 million rupees (the unlining is ours);*

(7) *An application for review under Section 45(1)(c.) of the Act, from an unsatisfied bidder after the entry of a procurement contract the value of which is above the prescribed threshold, as specified in paragraph (6), stating that he is not satisfied with the procurement proceedings on a ground specified in section 43(1), shall be made within 5 days of the date the applicant becomes aware of the alleged breach, the underlining is ours*



Section 45 (1) (c.) of the Act provides as follows:

45 Right of review

(1) (a)

(b)

(c.) *after the coming into force of the procurement contract, the value of which is above the prescribed threshold prescribed by regulations but does not exceed the prescribed threshold referred to in section 40(3), he is not satisfied with the procurement proceedings on a ground specified in section 43(1).*

It is clear from the above that an application for review in the present case should have been made within 5 days from the date the Applicant became aware of the alleged breach.

Since the Applicant was notified on 10 June 2025, it had a delay of 5 days to apply to the IRP for a review which it failed to do so.

From the above provisions of the Laws and Regulations, our understanding is that for an already

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awarded contract the value of which is from 1 million to 15 million rupees, the application for review should be within 5 days from the date the Applicant becomes aware of the alleged breach and in this particular application the Applicant became aware on 10 June 2025.

H. Conclusion

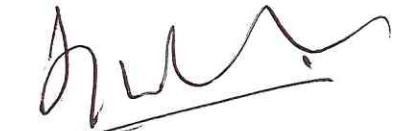
The panel finds that the application for review was lodged outside the prescribed time delay and therefore sets the present application aside.



H. Gunesh
(Vice Chairperson)



R. Mungra
(Member)



S. Ragoobar
(Member)

Dated: 22 September 2025

