

PUBLIC CONTRACTS REVIEW BOARD

Case No. 297

CT/2222/2010

Tender for the Supply of Towels

This call for tenders was published in the Government Gazette on 19th November 2010. The closing date for this call with an estimated budget of € 39,500 was 1st January 2011.

Eight (8) tenderers submitted their offers.

Mr Joseph Camilleri filed an objection on 24th March 2011 against the decision taken by Government Health Procurement Services to disqualify its tender as not technically compliant and to cancel the tender.

The Public Contracts Review Board composed of Mr Alfred Triganza as Chairman, Mr. Edwin Muscat and Mr Joseph Croker as members convened a public hearing on Wednesday, 1st June 2011 to discuss this objection.

Present for the hearing were:

Mr Joseph Camilleri

Mr Joseph Camilleri	Representative
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Astor Co. Ltd

Mr Jeffrey Calleja	Representative
Mr Daryl Calleja	Representative

Department of Contracts

Evaluation Board:

Mr Mario Borg	Chairman – Assistant Director
Mr Richard Abela	Member - Procurement Manager

After the Chairman's brief introduction, the appellant was invited to explain the motives of his objection.

Mr Joseph Camilleri, the appellant, remarked that he disagreed with the reason for the rejection of his offer which, according to the Department of Contracts, was, effectively, that it was technically not compliant due to his offer being considered in default of the minimum weight requirement of 300 g/ m². Mr Camilleri proceeded by stating that this issue emanated from the fact that in his offer he had indicated that each towel (piece) measured 100cm x 50 cm and weighed 150g contending that, as a result, two towels put together measured 100cm x 100cm or 1 m² and weighed 300g as per tender specifications.

Mr Mario Borg, chairman of the evaluation board, explained that:

- i. the tender specifications at clause 2 of Volume 3 'Technical Specifications' indicated that the minimum dimensions of each towel had to be 100cm x 50 cm with a minimum weight of 300g/ m²;
- ii. the appellant was the only bidder who quoted the weight per piece, namely per towel measuring 100cm x 50cm, and not by square metre;
- iii. the two towels, which together covered an area of 1 m², in real terms measured more than 1 m² because one had to consider that each of the two towels was hemmed at its border and therefore one had to take into account the hem of the two towels which altogether measured 600cm (100+50x2x2);
- iv. the two towels put together measured more than 1 m² if one were to undo the hem of both towels and, as a consequence, the two towels (pieces) had to weigh more than 300g to meet the minimum tender requirement of 300g/ m²; and
- v. the contracting authority decided that, from the way the appellant had indicated the dimensions and the relative weight, it was evident that the appellant's offer did not meet the minimum tender specifications by his own admission and that required no sample testing.

Mr Jeffrey Calleja, representing Astor Co. Ltd, explained that since the weight requested was that of 300g/ m² then, in order to meet tender specifications, each towel had to weigh not 150g but about 180g to take into account the hem, the thread to sew the hem and the ink used to print the 'GM' mark.

Mr Camilleri failed to make a distinction between 150g per piece and 300g/ m² and expressed the view that they were practically one and the same thing so much so that, as far as weight was concerned, he could have indicated 300g/ m² in his offer.

At this point the hearing was brought to a close.

This Board,

- having noted that the appellants, in terms of their ‘reasoned letter of objection’ dated 25th March 2011 and also through their verbal submissions presented during the hearing held on 1st June 2011, had objected to the decision taken by the pertinent authorities;
- having noted all of the appellant’s representative’s claims and observations, particularly, the references made to the fact that (a) he disagreed with the reason for the rejection of his offer which, according to the Department of Contracts, was, effectively, that it was technically not compliant due to his offer being considered in default of the minimum weight requirement of 300 g/ m², (b) this issue emanated from the fact that in his offer he had indicated that each towel (piece) measured 100cm x 50 cm and weighed 150g contending that, as a result, two towels put together measured 100cm x 100cm or 1 m² and weighted 300g as per tender specifications and (c) he failed to make a distinction between 150g per piece and 300g/ m² and expressed the view that they were practically one and the same thing so much so that, as far as weight was concerned, he could have indicated 300g/ m² in his offer;
- having considered the contracting authority’s representative’s reference to the fact that (a) the tender specifications at clause 2 of Volume 3 ‘Technical Specifications’ indicated that the minimum dimensions of each towel had to be 100cm x 50 cm with a minimum weight of 300g/ m², (b) the appellant was the only bidder who quoted the weight per piece, namely per towel measuring 100cm x 50cm, and not by square metre, (c) the two towels, which together covered an area of 1 m², in real terms measured more than 1 m² because one had to consider that each of the two towels was hemmed at its border and therefore one had to take into account the hem of the two towels which altogether measured 600cm (100+50x2x2), (d) the two towels put together measured more than 1 m² if one were to undo the hem of both towels and, as a consequence, the two towels (pieces) had to weigh more than 300g to meet the minimum tender requirement of 300g/ m² and (e) the contracting authority decided that, from the way the appellant had indicated the dimensions and the relative weight, it was evident that the appellant’s offer did not meet the minimum tender specifications by his own admission and that required no sample testing;
- having also reflected on the points raised by the representative of Astor Co. Ltd, particularly the fact that since the weight requested was that of 300g/ m² then, in order to meet tender specifications, each towel had to weigh not 150g but about 180g to take into account the hem, the thread to sew the hem and the ink used to print the ‘GM’ mark,

reached the following conclusions, namely:

1. The Public Contracts Review Board argues that the appellant should have quoted, as, ultimately, it was requested in the tender document, the weight per square metre and not by piece, namely per towel measuring 100cm x 50cm.
2. Furthermore, the Public Contracts Review Board feels that the arguments brought forward by the evaluation board representatives were valid in view of the fact that the two towels, which together covered an area of 1 m², in real terms measured more

than 1 m² because one had to consider that each of the two towels was hemmed at its border and, as a result, one had to take into account the hem of the two towels.

3. The Public Contracts Review Board also agrees with the conclusion reached by the evaluation board regarding the fact that the two towels (pieces) as offered by the appellant had to weigh more than 300g to meet the minimum tender requirement of 300g/ m².

In view of the above this Board finds against the appellant and recommends that the deposit paid by the latter should not be reimbursed.

Alfred R Triganza
Chairman

Edwin Muscat
Member

Joseph Croker
Member

10 June 2011