

PUBLIC CONTRACTS REVIEW BOARD

Case No. 399

WSM/271/2011

Period Contract for the Supply and Delivery of Stationery and Ancillary Requirements including Printing of Information/Publicity Booklets and Brochures

This call for call was published in the Government Gazette on the 21st October 2011 with a closing date on the 11th November 2011. The estimated value of this tender was €88,212.88 (Lot 8, which is under appeal, was estimated at €4,980).

Three (3) tenderers submitted offers in respect of Lot 8.

On the 24th January 2012 an objection was filed by Guttenberg Press Ltd against the decision of WasteServ Malta Ltd to recommend the award of Lot No. 8 of the tender to Colour Image Ltd.

The Public Contracts Review Board composed of Mr Joseph Croker as Acting Chairman, Mr Carmel Esposito and Mr Paul Mifsud as members convened a public hearing on Friday, 20th April 2012, to the discuss this appeal.

The following were present during the sitting:

Guttenberg Ltd

Mr Mario Magro	Financial Controller
Ms Blodwen Spiteri	Representative

Colour Image Ltd

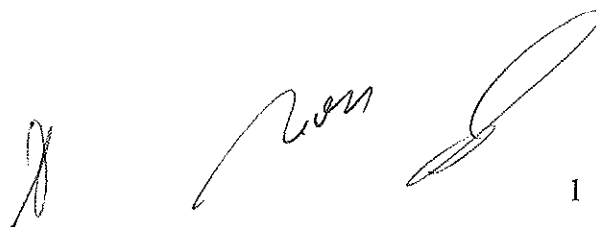
Ms Nancy Abela	Representative
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WasteServe Malta Ltd (WasteServ)

Dr Victor Scerri	Legal Representative
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Evaluation Board

Ms Chanel Brincat	Chairperson
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After the A/Chairman's brief introduction, the appellant was invited to explain the motives of his objection.

Mr Mario Magro, on behalf of Guttenberg Ltd, the appellant, explained that:-

- i. as per section 6.7.8 'Lot 8: Printing of Booklet' at page 19 of the tender document, the 'material of internal pages' had to be 200gsm FSC certified and the 'material of cover' had to be 300gsm FSC certified;
- ii. FSC stood for Forest Stewardship Council whereas FSC certification was a voluntary, market-based tool that supported responsible forest management worldwide;
- iii. FSC certified forest products were verified from the forest of origin through the supply chain and the FSC label ensured that the forest products used were from responsibly harvested and verified sources;
- iv. FSC standards were set in accordance with the requirements of ISEAL – a code of good practice for setting social and environmental standards - on the basis of consultations with the major stakeholders;
- v. Gutenberg Ltd, along with other suppliers in Malta, was a member of FSC however the recommended tenderer, Colour Image Ltd, was not a member of FSC, and therefore could not supply FSC certified materials; and
- vi. the list of FSC certified operators was available and verifiable on the internet.

Dr Victor Scerri, on behalf of Wasteserv, remarked that:-

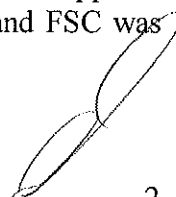
- a. in the tender document WasteServe requested the use of paper that was FSC certified and the recommended tender had proposed the use of FSC certified products; and
- b. the tender document did not indicate that the supplier or that the place where the products were to be manufactured had to be FSC certified but that the end product had to be delivered on paper which was FSC certified.

Ms Chanel Brincat, chairperson of the adjudicating board, stated that bidders were requested to submit samples of the paper they offered for evaluation purposes and that the recommended tenderer had provided the samples requested.

The PCRБ examined the literature of the samples as per Doc A and it was evident that the 200gsm and 300gsm were both FSC certified.

Mr Magro further explained that:-

- i. FSC certified suppliers like Gutenberg purchased paper material from suppliers that were themselves FSC certified so as to maintain traceability and FSC was itself a tracing mechanism;



- ii. Gutenberg was a member of FSC which meant that it was audited so as to verify that it had purchased FSC products and that eventually those same FSC certified products were used in the manufacture goods to its clients that displayed the FSC logo;
- iii. If, along the manufacturing chain, there were operators that were not FSC certified then the audit trail would be interrupted; and
- iv. Gutenberg had its own FSC registration number and it could therefore offer its clients that products would display the FSC logo with its own registration number, something with the recommended tenderer could not offer.

Ms Nancy Abela, on behalf of Colour Image Ltd, the recommended tenderer, submitted that:-

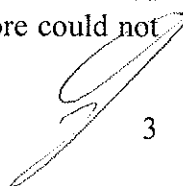
- a. Colour Image Ltd itself was not FSC certified, however, its supplier of the paper material, Papyrus Trading Ltd, was in fact FSC certified and therefore Colour Image Ltd would be supplying WasteServe with FSC certified products as per invoices issued by Papyrus Trading Ltd; and
- b. Colour Image Ltd could not print the FSC logo along with its registration number on the products but, then again, that was not a requirement laid down in the tender document.

Mr Magro concluded that the bidder was required to provide a certification that the paper material was FSC certified however, in this case, Colour Image Ltd could not provide such a certificate since it was not accredited by FSC and therefore the chain of audit would be interrupted as that would stop with Papyrus Trading Ltd.

At this point the hearing was closed.

This Board,

1. having noted that the appellants, in terms of their letter of objection dated 24 January 2012 and also through verbal submissions presented during the hearing held on the 20th April 2012, had objected to the decision taken by Contracting Authority insofar as Lot 8 was concerned;
2. having noted that the appellant stated that in terms as per section 6.7.8 'Lot 8: Printing of Booklet' at page 19 of the tender document, the 'material of internal pages' had to be 200gsm FSC certified and the 'material of cover' had to be 300gsm FSC certified; that FSC stood for Forest Stewardship Council whereas FSC certification was a voluntary, market-based tool that supported responsible forest management worldwide; that FSC certified forest products were verified from the forest of origin through the supply chain and the FSC label ensured that the forest products used were from responsibly harvested and verified sources; that FSC standards were set in accordance with the requirements of ISEAL – a code of good practice for setting social and environmental standards - on the basis of consultations with the major stakeholders; that Gutenberg Ltd, along with other suppliers in Malta, was a member of FSC however the recommended tenderer, Colour Image Ltd, was not a member of FSC, and therefore could not



supply FSC certified materials; and that the list of FSC certified operators was available and verifiable on the internet;

3. having also taken into consideration the contracting authorities representatives' explanation that in the tender document WasteServe requested the use of paper that was FSC certified and the recommended tender had proposed the use of FSC certified products; and that the tender document did not indicate that the supplier or that the place where the products were to be manufactured had to be FSC certified but that the end product had to be delivered on paper which was FSC certified; and that bidders were requested to submit samples of the paper they offered for evaluation purposes and that the recommended tenderer had provided the samples requested;
4. having heard the recommended tenderer's representatives statement that though her company was not FSC certified, the suppliers of their paper were actually so certified;

reached the following conclusions:


1. The tender in question clearly stated that the paper material used in Lot 8 had to be FSC certified and nowhere was it implied or indicated that the manufacturer had to be so certified.
2. The recommended tenderer provided proof to the satisfaction of the Contracting Authority that the raw material to be used in the production of Lot 8 would be FSC certified as stipulated in the tender document under reference.

In view of the above, the Board finds against the appellant and recommends that the deposit paid be forfeited.

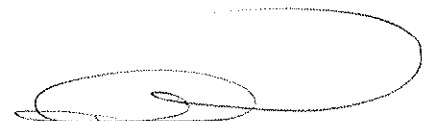


Joseph Croker
A/Chair

26th April 2012



Carmel Esposito
Member



Paul Mifsud
Member