

## PUBLIC CONTRACTS REVIEW BOARD

Case No. 493

GPP/266/2012

**Tender for the Supply, Commissioning and Installation of an Energy Efficient Colour Digital Printing Machine**

This call for tenders was published in the Government Gazette on the 1<sup>st</sup> June 2012. The closing date for this call with an estimated budget of € 50,847 was the 19<sup>th</sup> June 2012.

Four (4) tenderers submitted their offers.

Office Group Ltd filed an objection on the 8<sup>th</sup> October 2012 against the decision of the Government Printing Press to recommend the award of the tender to Image Systems Ltd.

The Public Contracts Review Board composed of Mr Alfred Triganza as Chairman, Mr Carmel Esposito and Mr Joseph Croker as members convened a public hearing on Thursday, 15<sup>th</sup> November 2012 to discuss this objection.

### **Office Group Ltd**

Dr Kevin Dingli	Legal Representative
Mr Steve Holland	Sales and Marketing Manager

### **Image Systems Ltd**

Mr Alec Massa	Sales Manager
Ms Kathlene Aquilina	Representative

### **Government Printing Press**

Mr Charles Sammut	Head Government Printing Press
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### **Evaluation Board**

Mr Raymond Zammit	Chairman
Mr Lionel Cassola	Member
Mr Patrick Pace	Member
Mr Joseph Vella	Member
Ms Silvaine Sargent	Secretary

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

Dr Kevin Dingli, legal representative of Office Group Ltd, the appellant company, made the following submissions:

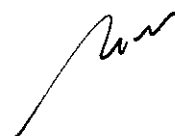
- i. by letter dated 3rd October 2012 the appellant company was informed that the tender was recommended for award to Image Systems Ltd for the price of €22,500 which was the cheapest administratively and technically compliant offer;
- ii. the appellant company was contending that the equipment offered by the recommended tenderer was not technically compliant with the tender specifications;
- iii. the appellant company could have offered products equivalent to the one offered by the recommended tenderer and at a much cheaper price but it would not have been technically compliant;
- iv. the appellant company was also claiming that the running costs of the recommended machine were substantially higher than the one it was offering, and the running expense was an award criteria as per Volume 4 'Financial Bid' where it was stated that "*Award will be based on the price of the machine and the running costs (toners) to print 500,000 sheets A3 full colour*";  
and
- v. the appellant company was claiming that it would appear that the bids were not compared on a like-with-like basis.

Mr Steve Holland, also on behalf of the appellant company, explained that:-

- a. three out of the four bids submitted amounted to between €50,000 and €58,500 whereas the recommended tenderer offered a product priced at €22,500, when the tender document contained certain specifications which rendered the product much more expensive than that being recommended;  
and
- b. whilst the appellant company's request for information on the recommended bid was not entertained and not even acknowledged by the contracting authority, yet, the appellant company's representative could figure out, more or less, the type of machine being recommended.

Mr Charles Sammut, representing the Government Printing Press, explained that:-

- i. in its first evaluation the board was not entirely satisfied that the recommended tenderer met the 8 bit specification and, in fact, it had recommended the second cheapest bid;



- ii. on submitting its recommendation for the consideration of the Departmental Contracts Committee, the latter noted (i) the substantial difference, approx. €32,000, between the first and second cheapest bids and (ii) that the tender technical specifications stated that “*the Contracting Authority will accept equivalent standards. However, it was the responsibility of the respective bidders to prove that the standards they quoted are equivalent to the standards requested by the contracting authority*”, and so it advised the evaluation board to contact the recommended tenderer to provide proof whether the company’s product’s specifications were equivalent to those published;
- iii. subsequently, on the 3rd September 2012, Xerox Corporation, the manufacturer of the recommended product, provided a certificate which declared as follows:-

*‘Xerox Print Product Resolution*

*To whom it may concern*

*This letter is to notify in writing that the manufacturer Fuji Xerox confirms that the Xerox 550/560 product prints 8bit depth contone which equates to 256 levels/grades of colour, which is then printed with a 2400x2400 resolution by the print engine.*

*Note: Xerox do not add figures relating to the gradation levels to brochures and specification sheets as Xerox perceive 256 colour levels as standard in this class of machine.’*

- iv. the Government Printing Press had considerable experience in conventional printing but it was a bit lacking with regard to digital printing and, as a consequence, the evaluation board relied heavily on the document provided by the manufacturer confirming that its product conformed to specifications.

The Chairman Public Contracts Review Board remarked that, given the wide difference in price between the recommended tender and the other three tenders, it was rather evident that one had to question the quality of the products offered because it was probable that three bidders provided what was requested while the recommended bidder provided a product which could be out of specifications. He added that ‘equivalence’ referred to minor variations which, ultimately, would produce, more or less, the same result at, approximately, the same price.

These were the following reactions with regard to the certificate issued by Xerox Corporation:-

Mr Holland explained that:-

- i. tender specification no. 3 requested a machine that its ‘Gradation’, had to be not less than 200, 8 bit;
- ii. it was not the appellant company’s intention to denigrate Xerox Corporation as a manufacturer but it simply wanted to point out that the type of machine



recommended, namely '1 bit', was referred to as a 'departmental' machine whereas the '8 bit' machine requested was referred to as a 'production' machine for mass production;

and

- iii. whilst most manufacturers supplied both types of machines, namely '1 bit' or '8 bit', yet, in layman's terms, the difference would be like using an office or a home printer to produce a magazine where the running costs in terms of toners consumption would become prohibitive.

Mr Alec Massa, Sales Manager Image Systems Ltd, under oath, stated that:-

- a. Xerox 550/560 printed '8 bit' which equated to 256 levels/grades which, in turn, was over the 'not less than 200' indicated at Specification no. 3;
- b. as to Specification no. 9 which called for 'single and duplex printing', the recommended machine performed single printing automatically but duplex printing was carried out automatically only up to 176 gsm and, in excess of that, it had to be carried out manually;

and

- c. yet, the tender document did not specify that the printing machine had to be fully automatically.

At this point, Ms Kathlene Aquilina, also on behalf of the recommended tenderer, could not confirm that their machine would print the same number of A3 copies as A4 but only that the machine toner would provide 5% coverage. Also, Ms Aquilina argued that that the machine in question would be using the same amount of toner irrespective of the size of the paper.

Mr Sammut declared that the contracting authority requested a fully automatic printing machine and that the contracting authority was not aware up till then that the Xerox 550/560 did not perform all duplex printing automatically.

### **Running Costs**

Mr Sammut remarked that, whilst a few years back the Government Printing Press had purchased a small digital printing machine for emergency jobs, yet, it had turned out that the running costs were exorbitant such that very limited use of it was made and that was why, this time round, the Government Printing Press was including the running costs in the financial bid.

Mr Holland remarked that:-

- a. the machine the appellant company proposed produced 500,000 A3 full colour prints at the price of €3,000 including VAT;



and

- b. from information available on the internet it was deduced that the recommended machine would produce 500,000 A3 prints at the exorbitant cost of €26,500.

Mr Massa stated that the prices quoted by the appellant company were international prices and did not reflect the actual purchase price of toners by the recommended tenderer, pointing out that in the tender submission it was indicated that an average 33,000 A3 colour prints would cost €245 (or €3,711 for 500,000 A3 prints).

Mr Holland expressed the appellant company's conviction that the running costs given by the recommended tenderer were based on A4 paper and not on A3 paper, as requested in the tender document, which made a considerable difference since an A3 paper was twice the size of an A4 paper.

At this point the hearing came to a close.

This Board,

- having noted that the appellant company, in terms of its 'reasoned letter of objection' dated the 8<sup>th</sup> October 2012 and also through its representatives verbal submissions presented during the hearing held on the 15<sup>th</sup> November 2012, had objected to the decision taken by the pertinent authorities;
- having noted all of the appellant company's representative's claims and observations, particularly, the references made to the fact that (a) by letter dated 3rd October 2012 the appellant company was informed that the tender was recommended for award to Image Systems Ltd for the price of €22,500 which was the cheapest administratively and technically compliant offer, (b) the appellant company was contending that the equipment offered by the recommended tenderer was not technically compliant with the tender specifications, (c) the appellant company could have offered products equivalent to the one offered by the recommended tenderer and at a much cheaper price but it would not have been technically compliant, (d) the appellant company was also claiming that the running costs of the recommended machine were substantially higher than the one it was offering, and the running expense was an award criteria as per Volume 4 'Financial Bid' where it was stated that "*Award will be based on the price of the machine and the running costs (toners) to print 500,000 sheets A3 full colour*", (e) the appellant company was claiming that it would appear that the bids were not compared on a like-with-like basis, (f) three out of the four bids submitted amounted to between €50,000 and €58,500 whereas the recommended tenderer offered a product priced at €22,500, when the tender document contained certain specifications which rendered the product much more expensive than that being recommended, (g) whilst the appellant company's request for information on the recommended bid was not entertained and not even acknowledged by the contracting authority, yet, the appellant company's representative could figure out, more or less, the type of machine being recommended, (h) tender specification no. 3 requested a machine that its 'Gradation', had to be not less than 200, 8 bit, (i) it was not the appellant company's intention to denigrate Xerox Corporation as a



manufacturer but it simply wanted to point out that the type of machine recommended, namely '1 bit', was referred to as a 'departmental' machine whereas the '8 bit' machine requested was referred to as a 'production' machine for mass production, (j) whilst most manufacturers supplied both types of machines, namely '1 bit' or '8 bit', yet, in layman's terms, the difference would be like using an office or a home printer to produce a magazine where the running costs in terms of toners consumption would become prohibitive, (k) the machine the appellant company proposed produced 500,000 A3 full colour prints at the price of €3,000 including VAT, (l) from information available on the internet it was deduced that the recommended machine would produce 500,000 A3 prints at the exorbitant cost of €26,500 and (m) the appellant company's representative expressed the company's conviction that the running costs given by the recommended tenderer were based on A4 paper and not on A3 paper, as requested in the tender document, which made a considerable difference since an A3 paper was twice the size of an A4 paper;

- having considered the contracting authority's representative's reference to the fact that (a) in its first evaluation the board was not entirely satisfied that the recommended tenderer met the 8 bit specification and, in fact, it had recommended the second cheapest bid, (b) on submitting its recommendation for the consideration of the Departmental Contracts Committee, the latter noted (Δ) the substantial difference, approx. €32,000, between the first and second cheapest bids and (ΔΔ) that the tender technical specifications stated that "*the Contracting Authority will accept equivalent standards. However, it was the responsibility of the respective bidders to prove that the standards they quoted are equivalent to the standards requested by the contracting authority*", and so it advised the evaluation board to contact the recommended tenderer to provide proof whether the company's product's specifications were equivalent to those published, (c) subsequently, on the 3rd September 2012, Xerox Corporation, the manufacturer of the recommended product, provided a certificate stating "*that the Xerox 550/560 product prints 8bit depth contone which equates to 256 levels/grades of colour, which is then printed with a 2400x2400 resolution by the print engine*" and that "*Xerox do not add figures relating to the gradation levels to brochures and specification sheets as Xerox perceive 256 colour levels as standard in this class of machine.*", (d) the Government Printing Press had considerable experience in conventional printing but it was a bit lacking with regard to digital printing and, as a consequence, the evaluation board relied heavily on the document provided by the manufacturer confirming that its product conformed to specifications, (e) declared that the contracting authority requested a fully automatic printing machine and that the contracting authority was not aware up till then that the Xerox 550/560 did not perform all duplex printing automatically and (f) remarked that, whilst a few years back the Government Printing Press had purchased a small digital printing machine for emergency jobs, yet, it had turned out that the running costs were exorbitant such that very limited use of it was made and that was why, this time round, the Government Printing Press was including the running costs in the financial bid;
- having also considered the recommended tenderer's representative's reference to the fact that (a) Xerox 550/560 printed '8 bit' which equated to 256 levels/grades which, in turn, was over the 'not less than 200' indicated at Specification no. 3,



(b) as to Specification no. 9 which called for 'single and duplex printing', the recommended machine performed single printing automatically but duplex printing was carried out automatically only up to 176 gsm and, in excess of that, it had to be carried out manually, (c) yet, the tender document did not specify that the printing machine had to be fully automatic, (d) Ms Aquilina could not confirm that their machine would print the same number of A3 copies as A4 but only that the machine toner would provide 5% coverage, (e) Ms Aquilina argued that the machine in question would be using the same amount of toner irrespective of the size of the paper and (f) Mr Massa stated that the prices quoted by the appellant company were international prices and did not reflect the actual purchase price of toners by the recommended tenderer, pointing out that in the tender submission it was indicated that an average 33,000 A3 colour prints would cost €245 (or €3,711 for 500,000 A3 prints),

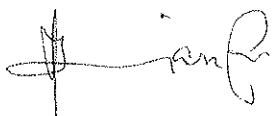
reached the following conclusions, namely:

1. The Board opines that, albeit the tender specifications stated that "*the Contracting Authority will accept equivalent standards*" and that "*it was the responsibility of the respective bidders to prove that the standards they quoted are equivalent to the standards requested by the contracting authority*", yet the evaluation board stretched the meaning of such a specification as it remains this Board's opinion that "equivalent standards" referred to minor variations which, ultimately, would produce, more or less, the same result at, approximately, the same price. Needless to say that this was not the case in this particular instance.
2. The Public Contracts Review Board took cognizance of the appellant company's claims, especially the fact that (a) the equipment offered by the recommended tenderer was not technically compliant with the tender specifications and (b) it would appear that the bids were not compared on a like-with-like basis. This Board feels that, given the wide difference in price between the recommended tender and the other three tenders, it was rather evident that one had to question the quality of the products offered because it was probable that three bidders provided what was requested while the recommended bidder provided a product which could be out of specifications.
3. Needless to say, that despite the fact the contracting authority requested a fully automatic printing machine and that the contracting authority was not aware up till then that the Xerox 550/560 did not perform all duplex printing automatically, was of particular concern to this Board with the latter observing that the evaluation board demonstrated a certain lack of pertinent technical knowledge.
4. The Public Contracts Review Board establishes that the recommended tenderer's representative's evidence during the hearing only managed to confirm the appellant company's concerns – which served the basis of the latter's objection. In line with this line of thought and with the real purpose for the publication of this tender, this Board considers unacceptable and, thus against the tender's specifications, the fact that, albeit the recommended machine performed single printing automatically, yet duplex printing was carried out automatically only up to 176 gsm and, in excess of that, it had to be carried out manually.



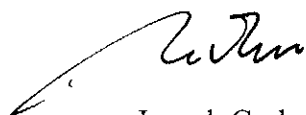
In view of the above this Board finds in favour of the appellant company and not only recommends that the deposit paid by the same company for the appeal to be lodged should be reimbursed but also that the bid made by the appellant company be reintegrated in the evaluation process.

Furthermore, this Board also recommends that, at this juncture, it would be opportune for someone - who is well versed in the subject, possibly a technical person who would have no conflict of interest in so far as regards the bidders taking part in this tender – to be roped in to act as a consultant to the evaluating team. Needless to say, that the latter would enable the evaluation board to be in a position to recommend a more commercially viable solution and which is fully in line with tender specifications.

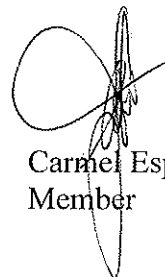


Alfred R Triganza  
Chairman

20 November 2012



Joseph Croker  
Member



Carmel Esposito  
Member