

PUBLIC CONTRACTS REVIEW BOARD

Case No. 609

CPSU/CPU/2288/12

Tender for the Supply of Technetium Generators.

The tender was published on the 27th April 2012. The closing date was the 14th May 2012.

The estimated value of the Tender was: €74,981.92 (Exclusive of VAT).

Two (2) bids were received for this tender.

On the 26th July 2013 Pharma-Cos Limited filed an objection against the decision to discard their offer and to cancel the tender.

The Public Contracts Review Board composed of Dr Anthony Cassar (Chairman), Dr Charles Cassar and Mr Richard A. Matrenza as members convened a hearing on Thursday 10th October 2013 to discuss the appeal.

Present for the hearing were:

Pharma-Cos Limited - Appellant

Mr Elton Mamo
Mr Marcel Mifsud

Pharma Business Manager
Director

Central Procurement and Supplies Unit - Contracting Authority

Ms Bernardette Borg
Ms Sharon Zerafa
Ms Astrid Sammut
Ms Connie Miceli

Secretary Evaluation Board
Member Evaluation Board
Representative
Representative

Following a brief introduction, the Chairman Public Contracts Review Board, invited the appellant's representative to make his submissions on the objection.

Mr Elton Mamo on behalf of the appellant stated that appellant's offer was discarded, and the tender recommended for cancellation because the delivery period was not specified in the offer. However certain anomalies in the tender document preclude a bidder from being according to specifications as well as according to conditions regarding the delivery period.

Connie Miceli on behalf of the contracting authority admitted that there was a discrepancy in the tender document. There was requested a delivery period, while in another part of the tender there was reference to a weekly delivery period. This could be misleading to bidders and the evaluation board considered that the best option would be to recommend cancellation of the tender. The evaluation board members were also aware that there were other specifications in the tender document as issued that had to be corrected, and the best outcome would be the cancellation. In fact a new tender was issue with the corrected specifications and minus the above mentioned discrepancy. The appellant company also submitted an offer for the new tender, and was successful. Appellant was awarded the new tender.

At this point the hearing was brought to a close.

This Board,

Having noted the Appellant's objection , in terms of the 'Reasoned Letter of Objection' dated 26th July 2013 and also through the Appellant's verbal submissions during the hearing held on 10th October 2013, had objected to the decision taken by the pertinent Authority, in that:

- a) **The Appellant's Bid was discarded due to the fact that the 'delivery period' was not clear in the tender document.**

Having noted the Contracting Authority's admission that the details regarding the 'delivery period' were somewhat misleading, the same Contracting Authority decided to issue another tender.

Reached the following conclusions:

- 1. This Board wishes to commend the Contracting Authority's representatives for being professional and responsible.**
- 2. This Board confirms the decision taken by the Evaluation Board to issue a fresh tender.**

In view of the above, this Board finds in favour of the Appellant Company and recommends that the deposit paid by the Appellant should be reimbursed.

Dr. Anthony Cassar
Chairman

Dr. Charles Cassar
Member

Mr. Richard A. Matrenza
Member

28 November 2013