

PUBLIC CONTRACTS REVIEW BOARD

Case No. 652

DH 2984/2013

Call for Quotations with Extended Threshold for the Provision of Thermal Insulation Works and Waterproofing System for CPSU Premises in San Gwann.

The tender was published on the 12th November 2013. The closing date was the 29th November 2013.

The estimated value of the Tender was €115,128 (Exclusive of VAT)

Three (3) bids by two bidders had been received for this tender.

On the 18th December 2013 Jani Limited filed an objection against rejection of its bid and the proposed award of the tender to Polyurethane Plus.

The Public Contracts Review Board composed of Dr Anthony Cassar (Chairman), Dr Charles Cassar and Mr Lawrence Ancilleri as members convened a hearing on Tuesday the 14th January 2014 to discuss the objection.

Present for the hearing were:

Jani Limited - Appellant

Mr Alfredo Martinez Burgos Representative

Polyurethane Plus - Preferred Bidder

Mr Antoine Bonello Representative

Central Procurement & Supplies Unit - Contracting Authority

Mr Franco Cassar	Chairman Evaluation Board
Ms Stephanie Abela	Secretary Evaluation Board
Ms Alison Attard	Member Evaluation Board
Mr Wilfred Grech	Member Evaluation Board
Mr Claudio Tonna	Member Evaluation Board
Ing. Karl Farrugia	Representative

After a brief introduction by the Chairman, the appellant's representative was invited to make his submissions on the objection to the award.

Mr Alfredo Martinez Burgos on behalf of the appellant said that appellant's supplier, Texsa, has a vast experience in the field of waterproof membranes. The material requested by the contracting authority is not recommended for this type of job. There were three types of membrane available suggested by Texsa: liquid, synthetic and bitumen. Appellant was going to use either bitumen or synthetic as recommended by the supplier Texsa.

Ing. Franco Cassar on behalf of the contracting authority stated that the evaluation board had to evaluate according to the specifications of the tender and to the submitted offers. In the appellant's offer it was stated that appellant did not recommend our specifications. This was explained in a letter that had been submitted by the appellant with the tender. Appellant did not offer a liquid membrane but offered something quite different. Item 2.1.2 of the specifications was very clear in that the contracting authority wanted a liquid waterproofing system. Therefore appellant's offer was deemed to be technically non-compliant.

Mr Alfredo Martinez Burgos said that this was the second time that the tender was issued. The specifications say that a liquid membrane was preferable but continued that any other material can be substituted. Our suppliers had just contracted the Marina Bay Hotel in Singapore which is more than 300 metres high.

The Chairman explained that bidders have to abide with what the contracting authorities requested in their specifications.

At this point the hearing was brought to a close.

This Board,

Having noted the Appellant's objection, in terms of the 'Reasoned of Objection ' dated 18th December 2013 and also through Appellant's verbal submissions during the hearing held on 14th January 2014, had objected to the decision taken by the pertinent Authority, in that:

- a) The membrane which the Appellant offered was in accordance with the advice given by same as instructed by the supplier who are well experienced in this type of assignments**

Having considered the Contracting Authority's verbal submissions during the hearing held on 14th January 2014, in that:

- a) The Appellant specified a different type of product as that laid out in the tender document.**
- b) In this regard the Appellant's bid was 'technically non compliant'.**

Reached the following conclusions:

- 1. This Board opines that the tenderer must abide by the technical conditions and specifications as laid out in the tender document. It is futile for any prospective tenderer to dictate any alternatives to the technical conditions as specified in the tender document.**
- 2. It is vividly clear that the Appellant's bid was technically non compliant.**

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

Dr. Anthony Cassar
Chairman

Dr. Charles Cassar
Member

Mr. Lawrence Ancillieri
Member

18th February 2014