

The Chairman made an introduction and the appellant's representative was invited to make his submissions on the objection.

Mr Joseph P. Attard Managing Director of the appellant company, on behalf of the appellant said that in the letter of objection it was stated that appellant did not agree to the disqualification and claims that appellant was compliant. The product appellant offered was compliant and the function of the product, as proposed, would not be compromised. He admitted that one of the forms submitted with the tender, carried an error made by the product's supplier. This error consisted in putting down one strap instead of two when the requisite of the tender was two. But the responsibility of providing the product on site was with the bidder, and it was evident that there was no way a roll could be handled using just one strap.

Ms Henriette Putzulu Caruana, the Chairperson of the evaluation board, on behalf of the contracting authority stated appellant's bid was not rejected because of the offered lining but because of the 2 straps. Clause 7.5.5 required that each roll of liner be fitted with 2 straps for handling. Appellant's offer indicated '2 straps for 2 rolls', thus the evaluation of the appellant's bid had to stop at that stage. Furthermore in appellant's bid regarding the Geotextile Protector, there was an entry showing straps per roll provided, the reply to which had tick box replies saying "yes" or "no". Appellant's bid had the "no" box ticked. The evaluation board had to decide on disqualification because there was no cause to ask for clarification because it was clearly shown in appellant's bid that it was offering one strap per roll.

The Chairman explained that the evaluation board had to adjudicate on the documentation submitted.

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 20th November 2013 and also through the Appellant's verbal submissions during the hearing held on 16th January 2014, had objected to the decision taken by the pertinent Authority, in that:

- a) **The Appellant contends that the product offered by same was 'technically compliant'.**
- b) **The Appellant admits that inadvertent errors were made by same when compiling data in the tender document. However, the Appellant was responsible enough to carry out the required assignment as stipulated in the tender document.**

Having Considered the Contracting Authority's verbal submissions during the hearing held on 16th January 2014, in that:

- a) **The Technical details as submitted by the Appellant fell short of the requirements as stipulated in the tender document.**

- b) **The Evaluation Board had to assess the technical compliance aspect on the information submitted by the Appellant.**

Reached the following conclusions:

- 1. This Board notes that due to inefficient compilation of data to be submitted in the tender document, the Appellant failed to provide a clear and vivid description of the product being offered by same appellant.**
- 2. This Board opines that more attention should be given by tenderers when providing technical specifications of their products in a tender document. The tender document is a contract so that great due diligence must be applied by the tenderer prior to the submission of the document itself.**
- 3. The Evaluation Board is in duty bound to assess a tender on the information submitted by the tenderer. In this case, the Evaluation Board acted in a most transparent and diligent manner.**

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 Ancilleri
Member

20 January 2014