

PUBLIC CONTRACTS REVIEW BOARD

Case No. 723

ECCD/109/2012

Tender for the Supply of Care Workers to CommCare Outreach Team within the Department for the Elderly and Community Care

The call was published on the 8th March 2013. The closing date was the 4th April 2013.

The estimated value of the tender was €120,000 (Exclusive of VAT)

Two (2) offers had been received for this tender.

The case had been already decided upon by the Public Contracts Review Board on the 12th February 2014. The Court of Appeal had however, by a decision delivered on the 30th May 2014 over-ruled the said decision of Case number 644 and re-sent the case back to the Public Contracts Review Board to decide the objection raised by Support Services Limited considering the tender that had been submitted by St James Hospital Limited to be not valid.

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 22nd July 2014 to discuss the objection.

Present for the hearing were:

Support Services Limited - Appellant

Mr Philip Bonnici	Representative
Dr Ian Spiteri Bailey	Legal Representative

St James Hospital Limited - Preferred Bidder

Ms Maria Bugeja	Representative
Dr Alessandro Lia	Legal Representative

Ministry for Health - Contracting Authority

Mr Albert Briffa	Chairman Evaluation Board
Mr John Privitelli	Secretary Evaluation Board
Ms Isabelle Avallone	Member Evaluation Board
Mr John Bottilieri	Department for the Elderly

The Chairman declared that in this case there was nothing to be done but for the Public Contracts Review Board to adhere to the decision handed down by the Court of Appeal in the case number 71/2014, “Support Services Limited vs Direttur Generali tal-Kuntratti; Segretarju Permanenti fil- Ministeru tal- Familja u Solidarjeta` Soċjali responsabbli mid- Dipartiment għall-Anzjani u Kura fil- Kommunita; u s-soċjeta kummerċjali St James Hospital Limited għall-kull interess li jista` jkollha”.

To this end, the Chairman explained that the Board would be deciding to remit the adjudication of the tender to the evaluation board who will be directed to adjudicate the tender without taking into consideration St James Hospital Limited’s offer that has been decided by the Court of Appeal not to be valid.

At this point the hearing was closed.

This Board,

Having noted the Court of Appeals Decision, delivered by same on the 30th May 2014, in that, the same Honourable Court decided, that The Public Review Board’s decision, taken on 12th February 2014 was not upheld and in the same decision taken by the Honourable Court of Appeal, ordered that the Appeal should be reverted back to the ‘Public Contracts Review Board.

To this effect, this Board convened a hearing on the 22nd July 2014, wherein after hearing further submissions from both the Appellant Company and the Contracting Authority, taking into account the Honourable Court of Appeals’ decision, reached the following conclusions:

- 1. This Board opines that the Appellant’s offer should be reintegrated in the evaluation process.**
- 2. At the same instance, this Board recommends that all remaining offers should provide a breakdown of the quoted price into components. This analysis will indicate, to the Evaluation Board, any suspicious signs of precarious working conditions.**

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

Dr. Anthony Cassar
Chairman

Dr. Charles Cassar
Member

Mr. Lawrence Ancillieri
Member

28th August 2014