

PUBLIC CONTRACTS REVIEW BOARD

Case No. 745

UM 1811: Tender for the Supply and Delivery of Photocopy Paper Produced with an Environmental Friendly Process for the University of Malta.

The tender was published on the 20th May 2014. The closing date was the 11th June 2014. The estimated value of the Tender was €105,508.48 (Exclusive of VAT).

On the 18th July 2014 Office Essentials Limited filed a letter of objection objecting to the rejection of their tender.

Three (3) bidders had participated in this tender.

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 October 2014 to discuss the objection.

Present for the hearing were:

Office Essentials Limited - Appellant

Mr Anthony Micallef Representative

JPF Trading Limited - Preferred Bidder

Mr Jeffrey Ferriggi Representative

University of Malta - Contracting Authority

Mr Tonio Mallia	Chairperson Evaluation Board
Mr Paul Gauci	Secretary Evaluation Board
Mr Elton Baldacchino	Member Evaluation Board
Mr Mark Zerafa	Representative
Dr Oriella De Giovanni	Legal Representative

The Chairman made a brief introduction and invited appellant's representative to make his submissions.

Mr Anthony Micallef, on behalf of the appellant company, explained that appellant's tender, although the cheapest, had been rejected because the paper offered exceeded by more than 5% the requested weight per square meter. He insisted that it was not true that the paper submitted by appellant exceeded 85 gsm. The paper fell between the allowed margins of 2 to 5 %. Each ream of 500 sheets, without the wrapper weighed around 2.56 Kilograms. This was certified by the manufacturers' technical specifications and appellant sells around 3 container loads of the same paper each month. He could understand how the contracting authority found the paper to exceed the weight.

Mr Mark Zerafa, Id No. 384771M, a laboratory officer in the Chemistry Department of the University, under oath said that he was appointed the task to test paper samples in connection with the tender. All the samples were coded and the results were assigned to the relative coded paper. He had to check each sample's weight in grams per square meter. He conducted the tests twice for each coded paper sample. He used a very accurate balance and used 10 sheets for each test. These were weighted individually and the average for each sample worked out. The balance used was accurate for 1 milligram. Appellant's paper resulted to weight over 85 grams per square meter and was tested twice. Replying to questions by Mr Anthony Micallef, witness said that he did not weigh the full 500 sheet package but individual sheets.

Mr Albert Micallef on behalf of the appellant insisted that paper is purchased in tons and that it was common knowledge that one package of 500 sheets weighted 2.5 kilograms.

Mr Mark Zerafa continued that he weighed individually 10 sheets from each sample and for each test and then obtained the average. The procedure had been used to test paper weight for several years, and the same procedure was used in testing all samples.

The hearing was at this point closed.

This Board,

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

- a) **Appellant Company feels aggrieved due to the fact that his offer was considered as 'technically non compliant'. Appellant contests that his product is in conformity with the specifications as laid out in the tender document.**

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

- a) **The Contracting Authority maintains that through laboratory checks which have been long established, the Appellant's product failed the technical parameters as was dictated in the tender document.**

Reached the following conclusions:

- 1. From credible submissions made by the technical expertise of the Evaluation Board of the Contracting Authority, this Board is convinced that the procedure adopted by the Contracting Authority in determining the exact technical specifications of the product being offered, is a proven and reliable scientific method. In this regard, this Board opines that the product offered by Appellant did not reach the required technical expectations;**
- 2. With regards to Appellant's claim that paper is purchased in tons, this Board does not see any connection between the purchasing and the weight of the paper. From technical submissions, it was established that the method of verifying weight was carried out in a most scientific and proven manner and the product offered by Appellant failed the established tests.**

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

Dr Anthony Cassar
Chairman

Dr Charles Cassar
Member

Mr Lawrence Ancillieri
Member

28 October 2014