

## **PUBLIC CONTRACTS REVIEW BOARD**

**Case No. 750**

**MCH 98/2014**

### **Quotes for the Supply of Cleaning Services to the Medical Health Services.**

The tender was published on the 25<sup>th</sup> June 2014. The closing date was the 2<sup>nd</sup> July 2014.

The estimated value of the Tender was €450,000 (Exclusive of VAT).

On the 25<sup>th</sup> August 2014 TF Services Limited filed a letter of objection objecting to the proposed award of the tender to Messrs WM Environmental Ltd for the total amount of €446,748.00.

Five (5) tenders had been received.

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 28<sup>th</sup> October 2014 to discuss the objection.

Present for the hearing were:

#### **TF Services Limited - Appellant**

Ms Rosanne Avallone	Representative
Dr Antoine Naudi	Legal Representative

#### **WM Environmental Limited - Recommended Bidder**

Mr Wilson Mifsud	Representative
Mr Adolfo Camilleri	Representative
Dr John Bonello	Legal Representative

#### **Mental Health Services - Contracting Authority**

Mr Gilbert Bonnici	Financial Controller
Dr Yana Micallef Stafrace	Legal Representative

#### **Department of Contracts**

Dr Franco Agius	Assistant Director
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The Chairman explained that this objection was not admissible. The call for quotations had an estimated value of Four hundred and fifty thousand euro (€450,000) excluding VAT and according to the Public Procurement Regulations LN 296/2010; an objection could be raised before the Public Contracts Review Board together with a deposit amounting to .75% of the estimated value, according to Regulation 84 of the said regulations. The present letter of objection was filed under Regulation 21 (3) of the Regulations, and filed with the contracting authority and having paid a deposit of €600. The Board therefore cannot continue hearing the objection since it was not filed according to law.

Dr Antoine Naudi on behalf of the appellant queried from where it results that the objection was filed under Regulation 21. The letter of objection did not cite any regulation.

The Chairman explained that since the objection was filed with the contracting authority with a deposit of €600, it follows that it was filed under regulation 21.

Dr Antoine Naudi explained that since there were two cases where the objection was wrongly filed then it follows that there could have been misleading information from the contracting authority.

The hearing was at this point closed.

**This Board,**

**Having noted:**

- 1. That the value of the contract value for this call for quotes was €450,000 exclusive of VAT.**
- 2. That the letter of objection had been filed in accordance with Regulation 21 (3) of part II of the Public Procurement Regulations since it was submitted to the contracting authority and the deposit only amounted to €600.**

**Having considered that, the objection being for a quote in excess of €120,000, should have been filed in accordance with Regulation 84 of the said Regulations. This Regulation states that objections have to be made with the Public Contracts Review Board, accompanied by a deposit of 0.75% of the estimated value.**

**Resolves that since the objection was not filed with the Public Contracts Review Board but was filed instead with the contracting authority; and since the deposit paid was not for the correct amount of €3375 according to the Regulations, this objection was not admissible.**

**The Board therefore declares that the objection is not according to Regulations and cannot be considered any further, however in view of circumstances this same Board recommends that the deposit paid by the appellant should be reimbursed.**

Dr Anthony Cassar  
Chairman

Dr Charles Cassar  
Member

Mr Lawrence Ancilleri  
Member

*5 November 2014*