

## **PUBLIC CONTRACTS REVIEW BOARD**

**Case No. 828**

**CT 3037/2015**

### **Tender for the Supply of Vertical Turbine Pumps.**

The tender was published on the 5<sup>th</sup> May 2015. The closing date for the call was on the 16<sup>th</sup> June 2015. The estimated value of tender is €430,500.00 (Exclusive of Vat).

On the 11<sup>th</sup> June 2015 AFS Limited filed a pre-contractual concern in terms of Regulation 85 of LN 296 of 2010 requesting the extension of the delivery period.

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 7th July 2015 to discuss the objection.

Present for the hearing were:

#### **AFS Limited:**

Mr George Mangion Representative

#### **Water Services Corporation:**

Engineer Mark Perez Representative  
Mr Anthony Camilleri Representative

#### **Department of Contracts:**

Dr Franco Agius Legal Representative  
Dr Christopher Agius Legal Representative  
Ms Mary Anne Borg Procurement Manager

The Chairman explained that the merits of this pre-contractual concern were identical to those in the case previously heard number 827. He referred to the declaration made in that case by Engineer Mark Perez on behalf of the Contracting Authority which meant that the concern has been settled to both Appellants' satisfaction in that the delivery period would now be extended to 25 weeks.

At this point the hearing was closed.

**This Board,**

**Having noted the Appellant's Pre-Contractual Concern dated 3<sup>rd</sup> June 2015 and also through the Appellant's verbal submissions during the Public Hearing held on the 7<sup>th</sup> July 2015, had objected to the time frame of the delivery period as imposed in the Tender Document, in that:**

- a) The Appellant contends that since the pumps being requested must be custom made, it is not realistic for any supplier to consign the product in 20 weeks, as laid out in the Tender Document.**

**Having considered the Contracting Authority's verbal submissions during the hearing held on the 7<sup>th</sup> July 2015, in that:**

- a) Since the Tender consisted of the supply of pumps and these supplies consisted of part of a project, the Contracting Authority finds no objection of extending the delivery period.**

**Reached the following conclusions:**

- 1. This Board, after having comfort by the Contracting Authority that an extension of the delivery period would not delay or effect the whole project, justifiably opines that a delivery period of 25 weeks would be more practical.**

**In view of the above, this Board finds in favour of the Appellant Company and recommends that:**

- a) A clarification be made by the Contracting Authority whereby the delivery period of the pumps would be extended to 25 weeks;**
- b) The Tendering process is to be resumed without further delay.**

Dr. Anthony Cassar  
Chairman

Dr. Charles Cassar  
Member

Mr. Lawrence Ancillieri  
Member

*8 July 2015*