

PUBLIC CONTRACTS REVIEW BOARD

Case 1293 – CFT020–1263/18 – Supply of Bair Hugger Blankets

The publication date of the call for tenders was the 7th December 2018 whilst the closing date of the call for tenders was 7th January 2019. The estimated value of the tender (exclusive of VAT) was € 28,962.36.

On the 22nd February 2019 Drugsales Ltd filed an appeal against the Central Procurement and Supplies Unit as the Contracting Authority objecting that their bid had been rejected as it was not according to specifications. A deposit of € 400 was paid.

There were three (3) bidders.

On 28th March 2019 the Public Contracts Review Board composed of Dr Anthony Cassar as Chairman, Mr Carmel Esposito and Mr Richard A Matrenza as members convened a public hearing to discuss the objections.

The attendance for this public hearing was as follows:

Appellants – Drugsales Ltd

Dr Douglas Aquilina	Legal Representative
Mr Jason Busuttill	Representative

Recommended Bidder – Medina Healthcare Ltd

Dr Matthew Cutajar	Legal Representative
--------------------	----------------------

Contracting Authority – Central Procurement and Supplies Unit

Dr Marco Woods	Legal Representative
Ms Marika Cutajar	Chairperson Evaluation Committee
Ms Josette Camilleri	Member Evaluation Committee
Mr Patrick Ghigo	Member Evaluation Committee

Dr Anthony Cassar Chairman of the Public Contracts Review Board welcomed the parties and said that the Board will deal with this Appeal on the basis of the letter from the Contracting Authority stating that a fresh evaluation is to be carried out.

Dr Matthew Cutajar Legal Representative for Medina Healthcare Ltd asked the Contracting Authority to identify the reason for the irregularity.

The Chairman asked for clarification that there was to be a re-integration and re-evaluation of the Appellants' bid.

Dr Woods Legal Representative of the Central Procurement and Supplies Unit said that following the appeal the Appellants' bid was reviewed and it was decided that it needed to be re-evaluated.

The Chairman thanked all parties and declared the hearing closed.

This Board,

having noted this Objection filed by Drugsales Limited (herein after referred to as the Appellants) on 22 February 2019, refers to the claims made by the same Appellants with regard to the Tender of reference CFT 020-1263/18 listed as Case No 1293 in the records of the Public Contracts Review Board, and awarded by the Central Procurement and Supplies Unit (herein after referred to as the Contracting Authority).

Appearing for the Appellants:

Dr Douglas Aquilina

Appearing for the Contracting Authority:

Dr Marco Woods

Whereby, the Appellants contend that:

- a) their main concern is that their offer was rejected due to the alleged claim that their product did not fit the warming unit model 505. In this regard, the Appellants insist that their offer was fully compliant with such specifications.**

This Board also noted the Contracting Authority’s ‘Letter of Reply’ dated 8 March 2019 and its verbal submissions during the hearing held on 28 March 2019, in that:

- a) the Central Procurement and Supplies Unit confirms that, after further review of the Evaluation Process, the reason given for the Appellants’ offer rejection, was found to be erroneous. In this respect, the Contracting Authority is to re-evaluate the offers.**

This Board, having heard submissions made by the Contracting Authority and having taken note of the latter’s “*Reasoned Letter of Reply*” dated 8 March 2019, would confirm that the reasons for the Appellants’ offer rejection were incorrect and in fact, erroneous.

In view of the above, this Board decides that,

- i) the Appellants’ offer is to be re-integrated and that the Evaluation process is to be carried out again;**
- ii) the deposit paid by the Appellants is to be refunded.**

Dr Anthony Cassar
Chairman

Mr Carmel Esposito
Member

Mr Richard A Matrenza
Member

9th April 2019