



proper locking mechanism. He tabled Doc 1 indicating the various methods of securing the manhole cover his offer included and one of which met the tender specifications.

Eng Stefan Cachia (28774M) called as a witness by the Public Contracts Review Board testified on oath that he was the Chairperson of the Evaluation Committee. He stated that the tender referred to manhole covers in generic terms plus a specific requirement laid out in page 15 para g (vii) namely that the cover must have a locking mechanism. This was essential to prevent access and traffic noise through vibration. Appellants offer does not have a locking mechanism. In reply to a question from the Chairman witness replied that the cover mechanism offered by Appellant could be easily lifted from the manhole and offered no security.

The Chairman thanked the parties for their submissions and declared the hearing closed.

End of Minutes

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## **Decision**

**This Board,**

**having noted this objection filed by Ragonesi and Co Ltd (herein after referred to as the Appellants) on 9 September 2019, refers to the claims made by the same Appellants with regard to the tender of reference WSC/T/26/2019 listed as case No. 1374 in the records of the Public Contracts Review Board, awarded by Water Services Corporation (herein referred to as the Contracting Authority).**

**Appearing for the Appellants: Mr Roberto Ragonesi**

**Appearing for the Contracting Authority: Dr Sean Paul Micallef**

**Whereby, the Appellants contend that:**

**a) Their offer was rejected due to the alleged claim that their product did not contain a proper locking mechanism. In this regard, Appellants insist that their product contained one of the security measures as duly indicated in the EN 124-1:2015 and the tender document did not indicate which type of mechanism is to be used for security measures.**

**This Board also noted the Contracting Authority's 'Letter of Reply' dated 12 September 2019 and its verbal submissions during the hearing held on 25 October 2019, in that:**

**a) The authority maintains that the tender dossier clearly requested a manhole cover with a locking mechanism and in this respect, Appellants' product lacked this feature and could easily be lifted from its place, so that the Evaluation Committee had no other option but to deem Appellants' offer as technically non-compliant.**

**This same Board also noted the testimony of the witness namely:**

**Engineer Stefan Cachia duly summoned by the Public Contracts Review Board.**

**This Board has also taken note of the documents submitted by Ragonesi and Co Ltd which consisted of:**

**Document No. 1 – Extracts from Standard EN 124-1:2015 (E)**

**This Board, after having examined the relevant documentation to this appeal and heard submissions made by the parties concerned, including the testimony of the witness duly summoned opines that, the only issue that merits consideration is whether Appellants’ product met the stipulated technical specifications.**

- 1. This Board would respectfully refer to clause 1(g) (vii) of section 4 of the tender dossier which states that:**

*“g. The cover shall:*

- i. Be round*
- ii. be of the hinged type,*
- iii. hold upright open at an angle greater than or equal to 110 degrees,*
- iv. be removable from the frame without unscrewing.*
- v. be self-centering on its frame.*
- vi. have slot/holders for inserting lifting tool (tee)/pick/hook/crowbar. Any slot/hole should not be right through ie closed.*
- vii. Have a locking mechanism.*
- viii. not vibrate (non-rocking) and generate noise when subjected to vehicular traffic.*
- ix. Block in the vertical position as a safety feature while being closed.”*

**The above clause clearly denotes how the manhole cover is being requested by the Authority, in particular, it is being stipulated that, the cover should have a locking mechanism and in this regard, this Board opines that, by a ‘Locking Mechanism’ is meant that the cover should have a feature whereby to remove it, it has to be unlocked by a key or a special implement designed for such a purpose.**

**2. With regard to Appellants’ contention in that, the tender document should have denoted what was required, as to the feature of a locking mechanism, this Board would again refer to article 1(g)(vii) where there is a self-explanatory description of what is being requested.**

**3. Appellants’ contention is that, their product conforms with the standard EN 124-1:2015. As duly requested in the tender dossier, this Board would refer to clause 6.6 of the standard EN 124-1, which states that:**

***“6.6 Securing of the cover/grating within the frame***

*The cover/grating shall be secured within its frame to meet the required conditions relevant to the intended place of installation defined in 4.2.*

*This shall be achieved by at least one of the following methods (see also Table E, 1):*

- a) *securing feature;*
- b) *mass per unit area;*
- c) *other methods.”*

**The above-mentioned clause is stating the policy and parameters of what security issues of the cover should be implemented to conform with the standard. At the same instance the above clause continues by stating that:**

*“NOTE For purposes such as prevention of unauthorized removal, lifting of cover/gratings or vandalism additional locking accessories can be required by the specifier. The selection of the appropriate locking accessory is in the responsibility of the specifier. The provision of the appropriate locking accessory is, in this case, not within the responsibility of the manufacturer.”*

**In this regard, this Board notes that the Authority, quite appropriately, specified what the security feature should be, i.e. a manhole cover with a locking mechanism. On the other hand, this Board notes that Appellants product’s security feature did not contain a locking mechanism.**

**4. This Board, as it has on several occasions, would remind the Appellants that, it is their duty and obligation to adhere strictly to the technical specifications of the tender dossier. At the same instance, if Appellants were not convinced or had serious doubts as to what was being requested by the Authority, same had the remedies to request the necessary clarifications and in this regard, this Board notes that Appellants did not avail themselves of such remedies.**

**In conclusion, this Board opines that:**

- a) The tender dossier denoted clearly that the manhole cover must contain a locking mechanism.**
  
- b) Appellants' product did not include the feature as explicitly requested in the tender document.**

**In view of the above, this Board,**

- i. does not uphold Appellants' contentions,**

**ii. directs that the deposit paid by Appellants should not be reimbursed.**

Dr Anthony Cassar  
Chairman

Dr Charles Cassar  
Member

Mr Carmel Esposito  
Member

*7 November 2019*