

Mr Geoffrey Farrugia Representative of Handson Systems Ltd stated that the main point of their appeal was that no technical explanation was requested in this tender unlike the first phase of this contract. This led one to believe that there has not been a knowledgeable assessment of the offers. It is not fair on any of the bidders to simply ask for a price without insisting on a technical explanation of what was being offered – asking for a Gantt chart and a series of ‘Yes’ answers was not sufficient on this complicated contract.

The Chairman pointed out that all the matters raised by Appellants could have been resolved prior to the submission of their offer either by seeking a remedy before the closing date of the call or through a clarification.

Dr Marouska Debono Legal Representative of the Ministry for Energy and Water Management said that the tender criterion was the cheapest price satisfying the administrative and technical specifications. All the points raised by Appellant were dealt with at length in the letter of reply.

Mr Christian Attard (514383) called as a witness by the Public Contracts Review Board stated on oath that he was the Chairperson of the evaluation committee. He said that the recommended bid was fully compliant and the cheapest. Appellants’ offer was also compliant but price was the deciding factor.

Questioned by Mr Farrugia witness confirmed that the tender submissions had been fully assessed and the preferred bidder met all the tender requirements – there was no need to seek further information from the successful bidder as they met all requirements.

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

End of Minutes

Decision

This Board,

having noted this objection filed by Handson Systems Ltd (hereinafter referred to as the Appellants) on 19th May 2020, refers to the claims made by the same Appellants with regard to the tender of reference MEW/T/01/2020 listed as case No. 1451 in the records of the Public Contracts Review Board awarded by Ministry for Energy and Water Management (hereinafter referred to as the Contracting Authority).

Appearing for the Appellants: Mr Geoffrey Farrugia

Appearing for the Contracting Authority: Dr Marouska Debono

Appearing for the Preferred Bidder: Mr Sumeet Maru

Mr Pranjal Jain

Whereby, the Appellants claim that:

- a) **Their main contention refers to the fact that, the way the tender was drafted did not cater for the technical submissions of what was requested from the bidder. In this respect, Appellants maintain that, the Evaluation Committee should have delved deeper into the technical aspects and considerations of the offers so as to award the tender to the most advantageous offer.**

This Board also noted the Contracting Authority's 'Letter of Reply' dated 29th May 2020 and its verbal submissions during the virtual hearing held on 10th June 2020, in that:

- a) **The Authority insists that, the Evaluation Committee abided by the principle of self-limitation in that, they assessed all the offers in accordance with what was dictated in the tender dossier and in this regard, the successful offer was the cheapest compliant bid.**

This Board, after having examined the relevant documentation to this appeal with particular reference to the evaluation report and heard submissions made by the

parties concerned opines that, the issue that merits consideration is whether the evaluation process was carried out in a fair, just and temperate manner.

- 1. With regard to Appellants' reference to a previous tender namely of reference MEW/T/04/2019, this Board considers such an issue as irrelevant to this particular tender to which this objection relates.**
- 2. With regard to Appellants' contention that, the Evaluation Committee should have gone deeper into the technical aspect of the offers so submitted, this Board would respectfully point out that, the technical requirements were clearly stipulated under Section 3 of the tender dossier. At the same instance, the Evaluation Committee assessed, in an appropriate manner, all the offers in accordance with the technical specifications under this section of the tender dossier and from the evaluation report, this Board credibly confirms that all the stipulated technical requirements were taken into consideration on all the offers, in their deliberations.**
- 3. With regard to Appellants' claim that no technical explanation was requested by the Evaluation Committee, this Board would point out that, clarifications are requested when the submitted documentation is not clear enough to enable the Evaluation Committee to assess an offer in a transparent manner. In this respect, this Board notes that Appellants' offer was technically compliant with what was requested in the tender dossier, so that, there was no need to seek any clarifications in this regard.**

- 4. This Board noted that, all the issues raised by Appellants could have been submitted for clarification or possible ratification through other remedies available, prior to the submission of their offer. At the same instance, this Board would point out that, such remedies were not availed of by Appellants.**
- 5. It must be emphasized that, once a bidder submits his offer, he is accepting all the conditions and requirements as duly stipulated in the tender document, so that, any complaint on any condition or requirement stipulated therein cannot be considered and treated, at this stage of the tendering process before this Board.**

In conclusion, this Board opines that:

- a) All the conditions and technical requirements were clearly denoted under Section 3 of the tender document and Appellants offer complied with same.**
- b) Reference to previous tenders is irrelevant to this particular appeal.**
- c) The Evaluation Committee acted in a diligent and transparent manner in their adjudications by adhering to the principles of self-limitation, equal treatment and level playing field.**
- d) Appellants contentions could have been evened out prior to the submission of his offer through available remedies.**

In view of the above, this Board,

- i. does not uphold Appellants' contentions,**
- ii. upholds the Contracting Authority's decision in the award of the contract,**
- iii. directs that the deposit paid by Appellants should not be refunded.**

Dr Anthony Cassar
Chairman

Mr Lawrence Ancilleri
Member

Mr Carmel Esposito
Member

12th June 2020