

PUBLIC CONTRACTS REVIEW BOARD

Case 1516– CFT 020 – 0630/20 – Tender for the Supply of Hydro-Colloid Dressings (Lots 3 & 4)

The tender was published on the 2nd June 2020 and the closing date of the tender was the 22nd June 2020. The estimated value of the tender (exclusive of VAT) was € 31,152 for Lot 3 and € 28,350 for Lot 4.

On the 29th October ProCare Ltd filed an appeal against the Central Procurement and Supplies Unit as the Contracting Authority objecting to their disqualification on both Lot 3 and 4 on the grounds that their bid was not technically compliant.

A deposit of € 400 was paid.

There were six (6) bidders.

On 27th November 2020 the Public Contracts Review Board composed of Dr Anthony Cassar as Chairman, Mr Lawrence Ancilleri and Mr Carmel Esposito as members convened a public virtual hearing to discuss the objections.

The attendance for this public hearing was as follows:

Appellants – ProCare Ltd

Dr Robert Galea	Legal Representative
Mr Pierre Calleja	Representative

Contracting Authority – Central Procurement and Supplies Unit

Dr Marco Woods	Legal Representative
Ms Marika Cutajar	Chairperson Evaluation Committee
Mr Edmond Balzan	Member Evaluation Committee
Ms Miriam Wubbels	Member Evaluation Committee
Ms Solange Vella	Member Evaluation Committee

Interested Party – V J Salomone Pharma Ltd

Invited to attend but not represented

Dr Anthony Cassar Chairman of the Public Contracts Review Board welcomed the parties. He noted that since this was a virtual meeting all the parties agreed to treat it as a normal hearing of the Board. He then invited submissions.

Dr Robert Galea Legal Representative for ProCare Ltd said that in view of the letter of reply from the Central Procurement and Supplies Unit they should be invited to confirm their offer.

Dr Marco Woods Legal Representative for the Central Procurement and Supplies Unit confirmed that on receipt of the appeal and an internal investigation the Contracting Authority realised that it would be in the best interest of all parties if a re-evaluation of Lots 3 and 4 was carried out and they were recommending this to the Board.

Dr Galea stated that Appellants agreed with this suggestion which ensured fairness to all parties concerned.

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 ProCare Ltd (hereinafter referred to as the Appellants) on 29th October 2020, refers to the claims made by the same Appellants with regard to the tender of reference CFT 020-0630-20 Lots 3 & 4 listed as case No. 1516 in the records of the Public Contracts Review Board recommended for award by Central Procurement and Supplies Unit (hereinafter referred to as the Contracting Authority).

Appearing for the Appellants: Dr Robert Galea

Appearing for the Contracting Authority: Dr Marco Woods

Whereby, the Appellants contend that:

- a) Appellants refer to the Contracting Authority’s ‘Letter of Reply’ in that, their offer is to be re-evaluated and, in this respect, they consent that such a limited re-evaluation process of their offer is justified and accepted.**

This Board also noted the Contracting Authority’s ‘Letter of reply’ dated 6th November 2020 and its verbal submissions during the virtual hearing held on 27th November 2020, in that:

- a) The Contracting Authority confirms that, after having reviewed Appellants’ objection, it is proposing that a limited re-evaluation of Appellants’ offer for Lot 3 and Lot 4, be carried out.**
- b) The Authority also contends that, the offers for Lot 1 and Lot 2, for which no objection was submitted be allowed to proceed.**

This Board, after having heard submissions from both the Appellants and the Contracting Authority directs that:

- a) a limited re-evaluation process be carried out on Appellants’ offer for Lot 3 and Lot 4,**
- b) upholds the Contracting Authority’s decision in the award of Lots 1 & 2,**
- c) the deposit paid by Appellants should be fully refunded.**

Dr Anthony Cassar
Chairman
27th November 2020

Mr Lawrence Ancilleri
Member

Mr Carmel Esposito
Member