

PUBLIC CONTRACTS REVIEW BOARD

Case 1517– WSC/T/43/2020 – Tender for the Supply and Delivery of Electro Submersible Centrifugal Pumps for Ta Cenc 1 Reservoir to the Water Services Corporation

The tender was published on the 1st June 2020 and the closing date of the tender was the 17th July 2020. The estimated value of the tender (exclusive of VAT) was € 30,000

On the 6th November 2020 Attard Farm Supplies Ltd filed an appeal against the Water Services Corporation as the Contracting Authority objecting to their disqualification 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 – Attard Farm Supplies Ltd

Mr Joseph Attard	Representative
Mr Nicholas Attard	Representative

Contracting Authority – Water Services Corporation

Dr Sean Paul Micallef	Legal Representative
Eng Charles Camilleri	Chairperson Evaluation Committee
Eng Anthony Muscat	Representative

Preferred Bidder – J P Baldacchino Ltd

Mr Luca Baldacchino	Representative
Mr Giampaolo Milan	Representative

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.

Mr Joseph Attard Representative of Attard Farm Supplies Ltd said that the basis of their appeal was that while the tender specified an 8” motor they offered a standard NEMA motor which is the only motor that has perfect interchangeability and which gives the necessary allowance to fit an 8” borehole.

Dr Sean Paul Micallef Legal Representative for the Water Services Corporation said that prima facie the offer by Appellants of a motor with a diameter of 7.26” did not meet the specifications. On receipt of objection by Appellants the Contracting Authority felt that since this was a technical matter the best option would be for the parties concerned to discuss the matter further.

Engineer Charles Camilleri (16973M) called as a witness by the Contracting Authority testified on oath that he was the Chairperson of the Evaluation Committee. He stated that on receipt of Appellants’ objection all other bids were checked and it transpired that offers were for various sizes less than 8”. He confirmed that Appellants’ offer was for a motor of less than 8” diameter.

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 Attard Farm Supplies Ltd (hereinafter referred to as the Appellants) on 6th November 2020, refers to the claims made by the same Appellants with regard to the tender of reference WSC/T/43/2020 listed as case No. 1517 in the records of the Public Contracts Review Board recommended for award by Water Services Corporation (hereinafter referred to as the Contracting Authority).

Appearing for the Appellants: Mr Joseph Attard

Appearing for the Contracting Authority: Dr Sean Paul Micallef

Appearing for the Preferred Bidder: Mr Luca Baldacchino

Mr Giampaolo Milan

Whereby, the Appellants contend that:

- a) **Their main concern refers to the fact that, the tender requested an 8” motor and they, in turn, offered a standard motor which will fit in an 8” borehole. In this respect, they maintain that the motor should have a diameter less than 8” to fit in an 8” borehole.**

This Board also noted the Contracting Authority’s ‘Letter of reply’ dated 16th November 2020 and its verbal submissions during the virtual hearing held on 27th November 2020, in that:

- a) **The Authority, through their engineer, informed this Board that, on further review of the offers, it was noted that offers were of various diameters, all of which were less than 8”, so that Appellants’ offer does comply with such a standard diameter of less than 8”.**

This Board, after having heard submissions made by all the interested parties confirms that:

- a) **The fact that, the tender document requested an 8” motor is technically not feasible.**
- b) **All the other offers, in fact, have a motor diameter of less than 8”.**

c) It has been established that the dimension of the motor, to fit in an 8” borehole, must obviously have a tolerance and must have a diameter of less than the diameter of the borehole.

In view of the above, this Board,

- i. directs the Authority to cancel the award of the tender,**
- ii. directs that a re-evaluation process on all the offers be carried out,**
- iii. directs that the deposit paid by Appellants be fully refunded.**

Dr Anthony Cassar
Chairman
1st December 2020

Mr Lawrence Ancilleri
Member

Mr Carmel Esposito
Member