

## **PUBLIC CONTRACTS REVIEW BOARD**

### **Case 1586 – CFQ 2459/20 – Call for Quotations for the Supply of PP Drain Pipes and Fittings.**

**21<sup>st</sup> June 2021**

The Board,

Having noted the letter of objection filed by Mr Joseph P. Attard on behalf of Attard Farm Supplies Ltd, (hereinafter referred to as the appellant) filed on the 25<sup>th</sup> March 2021;

Having also noted the letter of reply filed by Dr Marco Woods acting for Central Procurement and Supplies Unit (hereinafter referred to as the Contracting Authority) filed on the 29<sup>th</sup> March 2021;

Having taken cognisance and evaluated all the acts and documentation filed, as well as the submissions made by representatives of the parties;

Having noted and evaluated the minutes of the Board sitting of the 17<sup>th</sup> June 2021 hereunder-reproduced;

#### **Minutes**

### **Case 1586 - CFQ 2459/20. Call for Quotation for the Supply of PP Drain Pipes and Fittings**

The tender was published on the 22<sup>nd</sup> December 2020 and the closing date was the 11<sup>th</sup> January 2021. The value of the tender was € 9,999.99.

On the 25<sup>th</sup> March 2021 Attard Farm Supplies Ltd filed an appeal against Central Procurement and Supplies Unit as the Contracting Authority objecting to their disqualification on the grounds that their offer was not technically compliant.

A deposit of € 400 was paid.

There were two (2) bidders.

On 17<sup>th</sup> June 2021 the Public Contracts Review Board (PCRB) composed of Mr Kenneth Swain 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:

#### **Appellant – Attard Farm Supplies Ltd**

Mr Nicholas Attard

Representative

#### **Contracting Authority – Central Procurement and Supplies Unit**

Dr Marco Woods  
Ms Karen Scicluna

Legal Representative  
Representative

Mr Kenneth Swain 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 in line with Article 89 of the Public Procurement Regulations. He then asked Appellant to make his submissions.

Mr Nicholas Attard on behalf of Attard Farm Supplies Ltd said that the appeal was based on the misinterpretation of two technical points in the tender requirements.

Dr Marco Woods Legal Representative for Central Procurement and Supplies Unit stated that after carrying out an internal investigation following the receipt of the appeal the Contracting Authority was requesting a re-evaluation of all bids and requests the Board to refund the deposit paid by Appellant.

Mr Attard signified that Appellant had no objection to this course of action.

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

End of Minutes

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**Hereby resolves:**

The Board refers to the minutes of the Board sitting of the 17<sup>th</sup> June 2021.

Having noted the objection filed by Attard Farm Supplies Ltd (hereinafter referred to as the Appellant) on 25<sup>th</sup> March 2021, refers to the claims made by the same Appellant with regards to the tender of reference CFQ009-2459/20 listed as case No. 1586 in the records of the Public Contracts Review Board.

Appearing for the Appellant:

Mr Joseph P. Attard

Appearing for the Contracting Authority:

Dr Marco Woods

Whereby, the Appellant contends that:

- a) Referring to “Sec 6 Geometrical characteristics” of EN 1451, it is noted that size 150mm does not exist therefore, whenever there is reference to a pipe size which is not external diameter it is the normal practice to deduce that the requirement is referring to a DN (Nominal internal diameter). From standard pipe sizes, for all manufacturers, it should be noted that a 160mm polypropylene pipe size or fitting with a wall thickness of 3.9mm would result in an inside diameter of 152.2mm which is the equivalent to the DN 150 requested.
- b) Bend offered has an angle of 87.5 degrees and not 90 degrees as requested. Same standard EN1451 section 6.5 shows that “..... 87.5 to 90 degrees”. It is noted that while certain angles are fixed at a specific angle, for example 45 degrees, the last possible angle is written as a range i.e. 87.5 to 90 degrees.

This Board also noted the Contracting Authority’s Reasoned Letter of Reply filed on 29<sup>th</sup> March 2021 and its verbal submission during the virtual hearing held on 17<sup>th</sup> June 2021, in that:

- a) The contracting authority conducted an internal investigation to determine what led to the disqualification of the offer as submitted. In this regard, the evaluation committee concluded that it would be in the best interest of public procurement and transparency if a re-evaluation of the offers as submitted at tendering stage is to be carried out.

This Board, after having examined the relevant documentation to this appeal and heard submissions made by all the interested parties, will consider Appellant’s grievances, as follows:

- a) The Board takes note of the technical arguments brought forward by the Appellant;
- b) The Board also takes note of the internal investigation carried out by the Contracting Authority and the recommendation brought forward by its evaluation committee for a re-evaluation to be carried out.
- c) This course of action is the most plausible in such circumstances.

Therefore, this Board upholds the Appellant’s grievance.

**The Board,**

Having evaluated all the above and based on the above considerations, concludes and decides:

- a) To uphold the Appellant's concerns and grievance;
- b) To order the contracting authority to re-evaluate all the bids received in the tender;
- c) Directs that the deposit paid by Appellant to be reimbursed.

**Mr Kenneth Swain**  
Chairman

**Mr Lawrence Ancilleri**  
Member

**Mr Carmel Esposito**  
Member