

PUBLIC CONTRACTS REVIEW BOARD

Case 1670 – SPD7/2021/050 – Services – Tender for the Provision of Health and Life Insurance Policies for the Malta Business Registry Lot 2: Group Life Insurance

14th January 2022

The Board,

Having noted the letter of objection filed by Ms Tracy Teuma for and on behalf of Antes Insurance Brokers Ltd, (hereinafter referred to as the appellant) filed on the 2nd December 2021;

Having also noted the letter of reply filed by Dr Geraldine Ann Spiteri Lucas acting for the Malta Business Registry (hereinafter referred to as the Contracting Authority) filed on the 9th December 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 11th January 2022 hereunder-reproduced;

Minutes

Case 1670 – SPD7/2021/050 – Tender for the Provision of Life Insurance Policies for the Malta Business Registry (Lot 2 Group Life Insurance)

The tender was issued on the 18th September 2021 and the closing date was the 18th October 2021. The value of the tender, excluding VAT, was € 113,920.91 (for Lot 2).

On the 2nd December 2021 Antes Insurance Brokers filed an appeal against the Malta Business Registry as the Contracting Authority objecting to their disqualification on the grounds that their bid was considered to be technically non-compliant.

A deposit of € 569.60 was paid.

There were two (2) bidders.

On the 11th January 2022 the Public Contracts Review Board composed of Mr Kenneth Swain as Chairman, Dr Charles Cassar and Mr Lawrence Ancilleri as members convened a public virtual hearing to consider the appeal.

The attendance for this public hearing was as follows:

Appellant – Antes Insurance Brokers

Mr Mark Spiteri
Ms Tracy Teuma

Representative
Representative

Contracting Authority – Malta Business Registry

Dr Damien Paul Cassar	Legal Representative
Mr Kenneth Brincat	Chairperson Evaluation Committee
Mr Colin McElhatton	Secretary Evaluation Committee
Ms Annelise Zammit	Member Evaluation Committee
Ms Abigail Caruana	Member Evaluation Committee

Preferred Bidder – AIB Insurance Brokers

Mr Ramon Mizzi 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 invited submissions.

Mr Mark Spiteri Representative of Antes Insurance Brokers referred to the tender documents especially the Technical Requirements and the Financial Bid and said that he suspects that the preferred bidder was not compliant with the tender requirements and that the documents submitted had not been evaluated correctly as the quotation for Group Life Insurance did not tally.

Mr Kenneth Brincat Chairperson of the Evaluation Committee said that the appeal seemed to be contested on what was proposed by the preferred bidder as there was no indication of any objections raised on the evaluation of the Appellant's bid. According to the Evaluation Committee the literature list supplied by the preferred bidder meets the tender requirements in the technical requirements section. In any case AIB's offer was cheaper than the Appellant's bid, and there was no alternative for the Authority except to award the tender to the successful bidder.

Mr Spiteri simply stated that the terms of the AIB offer do not match the tender requirements.

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

End of Minutes

Hereby resolves:

The Board refers to the minutes of the Board sitting of the 11th January 2022.

Having noted the objection filed by Antes Insurance Brokers Ltd (hereinafter referred to as the Appellant) on 2nd December 2021, refers to the claims made by the same Appellant with regards to the tender of reference SPD7/2021/050 as case No. 1670 in the records of the Public Contracts Review Board.

Appearing for the Appellant: Mr Mark Spiteri

Appearing for the Contracting Authority: Mr Kenneth Brincat

Whereby, the Appellant contends that:

- a) It seems that the contract is being awarded on the basis of a Quotation Ref No. 162739 identical to the one submitted by Antes Insurance Brokers Ltd (ID Tender 162743) which was considered as not technically compliant.
- b) Thus, how can a quotation from Antes Insurance Brokers Ltd be considered as non-compliant but the quotation for AIB Insurance Brokers Ltd is considered Compliant. We feel that the cheapest compliant offer is that of Antes Insurance Broker Ltd with ID Tender Ref No. 162736

This Board also noted the Contracting Authority's Reasoned Letter of Reply filed on 9th December 2021 and its verbal submission during the virtual hearing held on 11th January 2022, in that:

- a) Antes Insurance Brokers Limited are stating that the quotations provided by the two bidders i.e. Antes Insurance Brokers Limited and AIB Insurance Brokers Limited (C29741) are identical and Antes Insurance Brokers Limited are therefore not in agreement with the recommendation of the Evaluation Committee.
- b) In their evaluation of the submittid bid, the Evaluation Committee's reasoning was as follows: In Item No. 4 of the Tenderer's Technical Offer, Antes Insurance Brokers have failed to tick the box indicating that the rates are applicable for a period of three (3) years (neither yes or no was ticked), stating also that any guarantees are subject to various conditions. On the other hand, AIB Insurance Brokers Limited have guaranteed the rates for the whole three (3) years by ticking the appropriate box, hence the reason why AIB Insurance Brokers Limited has been considered as technically compliant as opposed to Antes Insurance Brokers Limiteds

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 notes there were 3 offers for Lot 2 Group Life Insurance
 - i. Tender ID – 000162739 submitted by AIB Insurance Brokers Limited (AIB)
 - ii. Tender ID – 000162736 submitted by Antes Insurance Brokers Limited (Antes) and
 - iii. Tender ID – 000162743 submitted by Antes Insurance Brokers Limited
- b) Tender ID – 000162739 was awarded lot 2 being deemed the cheapest compliant bid, while Tender ID – 000162736 ranked second and Tender ID – 000162743 was deemed non-technically compliant.
- c) The Appellant is arguing that since their bid '000162743' was deemed non-technically compliant, then AIB's offer was also to be deemed non-technically compliant and hence tender was to be awarded to Tender ID - 000162736.
- d) At this point the Board refers to Regulation 270 of the Public Procurement Regulations, whereby: *"..... may file an appeal by means of an objection before the Public Contracts Review Board, which shall contain in a very clear manner the reasons for their complaints."* The Board opines that no clear reasons were brought forward by the Appellant as part of their objection letter. Moreover, no proof was submitted to substantiate their grievances. Technical expertise and / or knowhow of the Evaluation Committee was also not challenged.

When considering all the above, this Board cannot uphold Appellant's grievances.

The Board,

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

- a) Does not uphold Appellant's Letter of Objection and contentions,
- b) Upholds the Contracting Authority's decision in the recommendation for the award of the tender,
- c) Directs that the deposit paid by Appellant not to be reimbursed.

Mr Kenneth Swain
Chairman

Mr Lawrence Ancilleri
Member

Dr Charles Cassar
Member