

BEFORE THE PUBLIC CONTRACTS REVIEW BOARD



CT2246/2018

VJ Salomone Pharma Ltd

vs

CPSU and Director General (Contracts)

Respectfully submit

This is the reply by CPSU and the Director General (Contracts) (hereinafter referred to as the defendants) to the appeal filed by Galea Salomone & A in respect to the tender bearing the reference CT2246/2018 Tender For The Supply Of Cyclin-Dependent Kinase 4/6 (Cdk 4/6) Inhibitor - Ct2246/2018

Facts

The Director of Contracts on behalf of CPSU on the 6th February 2019 published a call for tenders **Tender For The Supply Of Cyclin-Dependent Kinase 4/6 (Cdk 4/6) Inhibitor**

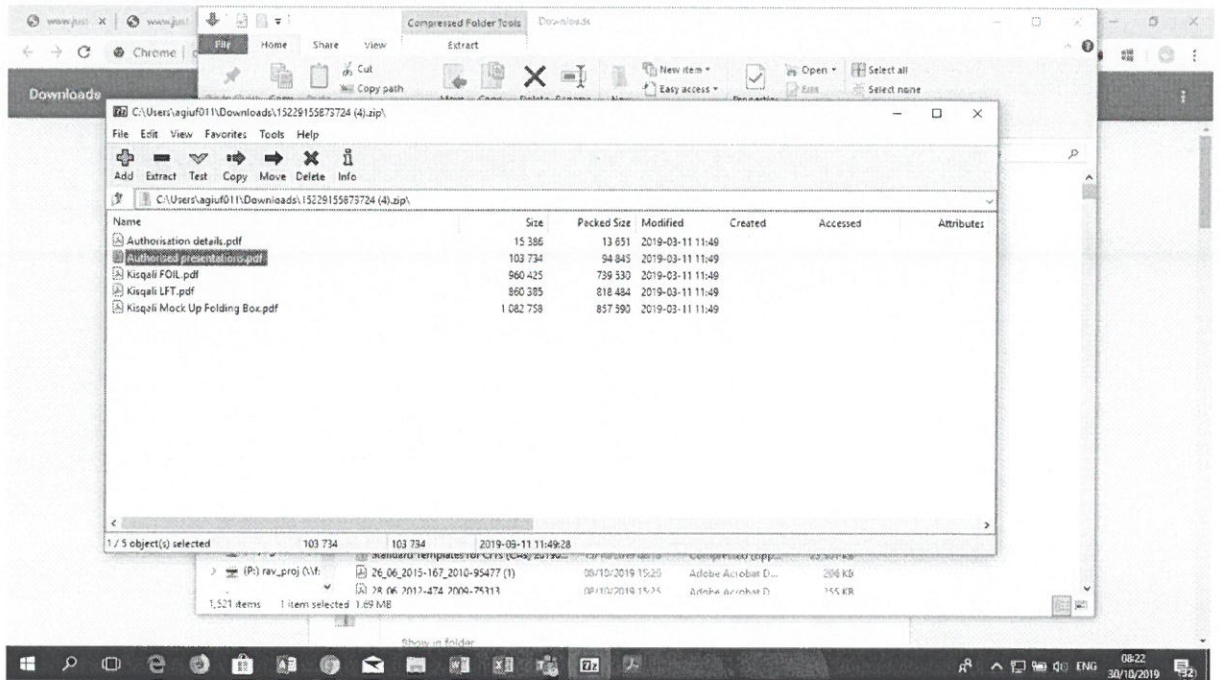
1. The deadline for the submission of this call for tenders was the 12th March 2019.
2. This call for tenders was not divided into lots.
3. In effect, the tender was awarded to the objecting company with a second bid for a price of €3,363,808.50.
4. The Department Of Contracts by means of a letters dated 18th October 2018 informed the objecting company that its offer TID 109326 had been rejected because it did not submit the SPC of the product on offer as requested by Section 4 Article 2.1 of the tender Dossier.
5. The deadline for the submission of the appeal was 28th October 2019 and the deposit to be paid was €19,547.00.
6. The objecting company filed an appeal on the 25th October 2019 and paid the necessary deposit.

Points raised by the objector company.

7. THE OBJECTING COMPANY IS BASING ITS appeal on the allegation that the SPC has been submitted.

Spc has been Submitted

8. Under this ground the objecting company is stating that it has submitted the SPC and that the EPPS has confirmed that the offer by the company has been successfully submitted. In order to substantiate its Claim the objecting company has attached a screen shot of what allegedly has been submitted in its offer.
9. In particular, the objecting company is alleging that it has submitted the SPC in the file bearing the name Kisqali SmPC clean.pdf. The defendants rebut the allegation made by the objecting company. In particular, the file indicated has not been found in the zip file. The contents of the zip file is being reproduced hereunder.



10. From the list of files, the file in question does not appear. In this regard no rectification is allowed for the SPC consequently the bid had to be disqualified. The mere fact that the system has generated a message that the bid has been uploaded can in no circumstance suffice to determine that the offer is compliant. what the system verified is that a file has been uploaded the contents of such file is verified only during the evaluation process.

Given the above the defendants humbly submit that this appeal should be rejected, and the expenses should be borne by the objector.

Dr Franco Agius
Department of Contracts

Dr Marco Woods
CPSU

List of witnesses

Employees of the Defendants to confirm the facts relevant to this case