

In the Public Contracts Review Board



21st December 2020

Re: CPSU 2320/2020 – Tender for the Supply of Enzyme Immuno Assay/Chemilumnescent Test Kits with Equipment on Loan

Reply of the **Central Procurement and Supplies Unit (CPSU)** following the reasoned application lodged by ProCare Ltd.

By means of a letter dated 18th December 2020, the applicants allege that the manner in which the tender has been drafted will distort competition due to the fact that the technical specification limiting the number of tests per hour to 200 is limiting competition.

Submissions

With reference to the claims submitted by the objectors in the reasoned application, CPSU submits the following:

- 1) The tender in question was published to cater specifically for infectious diseases vis-à-vis patients being admitted to Mater Dei Hospital for treatment.
- 2) CPSU contend that given the nature and sensitivity of these tests in order to determine presence of infectious diseases in patients, the numbers cannot be fixed, assumed or limited to a pro rata for average.

On the contrary, Mater Dei Hospital needs to be adequately equipped with machinery / equipment which is capable of handling requests which come in spikes, which equipment would be able to comfortably process the spiked requests and provide results in a very quick manner.

- 3) CPSU submit that the hospital cannot find itself in a situation where the analyser in question would be worked to its absolute limit in the eventuality that spiked requests are made, as this would inevitably lead to breakdowns causing the whole process to stall.

Furthermore, in precarious times like today, one must appreciate and take into consideration the responsibilities and potential consequences which Mater Dei Hospital carries on its shoulders in the event that an analyser were to breakdown due to high demand causing the analyser to work at its absolute limits.

Therefore the hospital needs to be in a position where they would have their mind at rest with regard to the functionality of the equipment in the event that such spiked requests are received.

- 4) Whereas CPSU contend that such allegation that the technical specification requiring that ***"all test kits must be adapted to run on a NEW FULLY AUTOMATED RANDOM ACCESS analyser with a minimum throughput of 200 tests per hour and stat processing,*** is limiting competition is completely unfounded both in fact and at law.

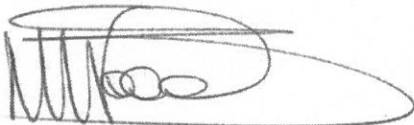
CPSU submit that there are numerous suppliers within the market which are capable of satisfying the technical specifications as published in the Tender.

- 5) CPSU refer to the reference made by the applicants to a Tender which was published five (5) years ago. CPSU contend that any reference to previous Tenders by the applicants in order to substantiate their claims is completely irrelevant and ought to be dismissed by this Board, as each Tender must be considered in a subjective manner and on its own merits, without taking into consideration the technical specifications and or requirements stipulated in tenders.

Consequesntly, CPSU submit that the application as lodged by the applicants ought to be rejected.

CPSU is hereby reserving the right to present further evidence both written and orally in order to further their submissions in relation to the said application throughout the hearings.

In view of the above, the application lodged by the objectors ought to be rejected, whilst the relevant deposit forfeited.

A handwritten signature in black ink, appearing to read 'M. Woods', enclosed within a large, irregular oval scribble.

Dr. Marco Woods