

Dr Carlos Bugeja Legal Representative for Signal 8 Security Services Malta Ltd said that this appeal was triggered by Appellants' disqualification as according to the Evaluation Committee they had supplied inadequate information on two requirements of the tender.

Appellants maintain that they had provided the requested 500 words on patrolling together with a detailed appendix and the same applied to the RFID system required for the security checks. It was difficult to gauge what the Evaluation Committee considered as adequate on a matter that was highly subjective.

Mr Mark Camilleri (438285M) called as a witness by the Public Contracts Review Board testified on oath that he was the Chairperson of the Evaluation Committee. He stated that the methodology expected of Bidders was as laid down in article 4.2 of the terms of reference of the tender, in particular with the detailed points therein. Appellants missed certain detailed elements in points 3, 4, 5 and 6 in article 4.2 and consequently were awarded only 1.5 points out of a possible 4. This omission applied to the two grievances raised by Appellants.

As there were no further submissions the Chairman thanked the parties and declared the hearing closed.

End of Minutes

Decision

This Board,

having noted this objection filed by Signal 8 Security Services Malta Ltd (hereinafter referred to as the Appellants) on 5th August 2020, refers to the claims made by the same Appellants with regard to the tender of reference MT/49/2020 listed as case No. 1489 in the records of the Public Contracts Review Board recommended for award by Ministry for Tourism and Consumer Protection (hereinafter referred to as the Contracting Authority).

Appearing for the Appellants: Dr Carlos Bugeja

Appearing for the Contracting Authority: Dr Jonathan Attard

Appearing for the Preferred Bidder: Dr Shazoo Ghaznavi

Whereby, the Appellants contend that:

- a) **Their concern refers to the fact that, their offer was disqualified due to the alleged non-submission of adequate information regarding the two requirements namely; ‘Patrolling Areas’ and ‘Security Checks’. In this respect, Appellants maintain that they had supplied all the relevant information regarding these two issues whilst at the same instance, Appellants insist that assessment on such issues are highly subjective.**

This Board also noted the Contracting Authority’s ‘Letter of reply’ dated 14th August 2020 and its verbal submissions during the virtual hearing held on 16th September 2020, in that:

- a) **The Authority maintains that, with regard to the issues raised by Appellants, the latter failed in their submission to include the mandatory requirements stipulated in articles 3, 4, 5 and 6 of article 4.2. In this regard, Appellants were awarded 1.5 points out of 4, under the BPQR award criteria.**

This same Board also noted the testimony of the witness namely:

Mr Mark Camilleri, Chairman Evaluation Committee duly summoned by the Public Contracts Review Board

This Board, after having examined the relevant documentation to this appeal and heard submissions made by the parties concerned, including the testimony of the Chairman of the Evaluation Committee, opines that, the issues that merit consideration relates to Appellants' submission with regard to:

a. Patrolling Areas

b. Security Checks.

1. Patrolling Areas

1.1. This Board examined closely Appellants' submissions in this regard, taking into consideration that, the bidders had to consider, in their methodology, the issues stipulated in clause 4.2.1 (Security Services) of the terms of reference.

1.2. In brief, clause 4.2.1 stipulated that, in the methodology write-up, the following specific activities had to be included, viz: security series, duties at reception desk, attitude, uniforms and general appearance, confidentiality and provision of training.

1.3. With regard to 'Patrolling', clause 4.2.1 specifically denotes what is to be included under this particular head which states that:

"Carrying out patrols within the premises, at roof level and the designated parking spaces allocated specifically for the vehicles of the Ministry"

1.4. From the Appellants' methodology - patrolling plans, there is a general description of the normal patrolling procedure however, such write-up

does not include specific references to items 3, and 6 of clause 4.2.1, which, this Board established represent the following issues:

Item: 3

“Carrying out patrols within the premises, at roof level and the designated parking spaces allocated specifically for the vehicles of the Ministry.”

and

Item: 6

“The security officers shall be responsible for the un/locking of all entry/exit points to the premises, including (but not limited to) interior and exterior doors, interior and exterior windows, amongst others;”

2. Security Checks

2.1. This Board would, again respectfully refer to clause 4.2.1 wherein, specific duties were stipulated with regard to security checks and after examining Appellants’ submissions, the following issues were noted to have been omitted namely:

Items: 4 & 5

4. *“Place ‘No Parking’ signs in the designated parking spaces reserved specifically for the Minister’s vehicle, and remove and store the ‘No Parking’ sign when the Minister’s vehicle requires use of the allocated parking space;”*

5. *“Ensure that no unauthorised vehicles park on the designated parking spaces for the Ministry’s vehicles. Some of the designated parking spaces are located in a street adjacent to the Ministry’s premises, so it is important that frequent patrols are carried out throughout the working day.”*

3. **This Board would also clarify that, Appellants’ offer was not deemed technically non-compliant but was awarded 1.5 points out of 4 and such allocation of marks was integrated in the BPQR system of award. In this regard this Board opines that it is appropriate and proportionate that, Appellants’ offer sustains deduction of marks for the non-inclusion of the above-mentioned issues in their submissions.**

In conclusion, this Board opines that,

- a) **Appellants’ methodology report with particular reference to ‘Patrolling Issues’ failed to include consideration of the points 3 and 6 of clause 4.2.1**
- b) **Appellants failed to include issues mentioned in points 4 and 5 of clause 4.2.1 of the tender document, in their methodology report with special reference to ‘Security Checks.’**
- c) **The marks allotted by Appellants were proportionate to Appellants’ submissions with regards to ‘Patrolling’ and ‘Security Checks’**

In view of the above, this Board,

- i. **does not uphold Appellants’ contentions,**

- ii. upholds the Contracting Authority's decision in the recommendation for the award of the tender,**
- iii. directs that the deposit paid by Appellants should not be refunded.**

Dr Anthony Cassar
Chairman
18th September 2020

Dr Charles Cassar
Member

Mr Lawrence Ancilleri
Member