

PUBLIC CONTRACTS REVIEW BOARD

Case No. 401

MRRA/W/69/2011

**Tender for the replacement of dangerous roofs using in situ concrete at the
Salesian Boys Brigade Premises – Ghajn Tuffieha**

This call for tenders was published in the Government Gazette on the 3rd February 2012. The closing date for this call with an estimated budget of € 23,883 was the 24th February 2012.

Five (5) tenderers submitted their offers.

Charles Sant Building Contractor filed an objection on the 14th March 2012 against the decisions of the Ministry for Resources and Rural Affairs to disqualify its offer as technically non-compliant and to recommend the re-issue of the tender.

The Public Contracts Review Board composed of Mr Alfred Triganza as Chairman, Mr. Carmel Esposito and Mr Joseph Croker as members convened a public hearing on Wednesday, 2nd May 2012 to discuss this objection.

Present for the hearing:

Charles Sant Building Contractor

Perit John Rizzo Naudi	Representative
Mr Charles Sant	Representative

Ministry for Resources and Rural Affairs (MRRA)

Evaluation Board

Mr Alex Cutajar	Member
Mr Oliver Debono	Member



After the Chairman's brief introduction, the appellant was invited to explain the motives of his objection.

Architect John Rizzo Naudi, representing Charles Sant Building Contractor, the appellant, submitted that:-

- i. by letter dated 9th March 2012, the contracting authority had informed his client that his offer had been disqualified as technically non-compliant and that it was being recommended that the tender be reissued;

and

- ii. albeit, admittedly, in his tender submission, his client had included the wrong specifications with regard to the bituminous membrane, yet, Charles Sant Building Contractor was prepared to offer another type of membrane which would be compliant with the published tender specifications at the same price quoted in his original tender submission.

At this point the Chairman Public Contracts Review Board intervened to note that an instance wherein an appellant's declaration that he had mistakenly submitted the wrong specifications with regard to the membrane and that he was prepared to offer another type of membrane which would be compliant with the published tender specifications at the same price quoted in his original tender submission was not permissible.

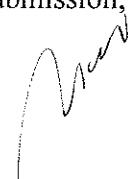
Undoubtedly, the Public Contracts Review Board's main spokesman emphasised, it was unthinkable for a bidder to alter his technical submission after the closing date of the tender.

Mr Alex Cutajar, a member of the adjudicating board, confirmed the appellant's version and added that since out of the five bids received, three were found administratively non-compliant and the other two failed the technical compliance phase, the adjudicating board had no other option but to recommend the re-issue of the tender.

At this point the hearing was brought to a close.

This Board,

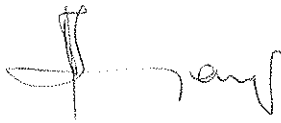
- having noted that the appellants, in terms of their 'letter of objection' dated 14th March 2012 and also through their verbal submissions presented during the hearing held on the 2nd May 2012, had objected to the decision taken by the pertinent authorities;
- having noted all of the appellant company's representative's claims and observations, particularly, the references made to the fact that (a) by letter dated 9th March 2012, the contracting authority had informed the appellant that his offer had been disqualified as it was considered to be technically non-compliant and that it was being recommended that the tender be reissued and (b) albeit, admittedly, in his tender submission, the appellant had included the wrong specifications with regard to the bituminous membrane, yet, Charles Sant Building Contractor was prepared to offer another type of membrane which would be compliant with the published tender specifications at the same price quoted in his original tender submission,



reached the following conclusions, namely:

1. The Public Contracts Review Board cannot accept a scenario wherein an appellant declares that he had mistakenly submitted the wrong specifications with regard to the membrane and that he was prepared to offer another type of membrane which would be compliant with the published tender specifications at the same price quoted in his original tender submission.
2. The Public Contracts Review Board contends that it is unthinkable for a bidder to alter his technical submission after the closing date of the tender.

In view of the above, this Board finds against the appellant and recommends that the said appellant forfeits the deposit paid for the appeal to be lodged.



Alfred R Triganza
Chairman

11th May 2012



Carmel Esposito
Member



Joseph Croker
Member