

PUBLIC CONTRACTS REVIEW BOARD

Case No. 749

MCH 98/2014

Quotes for the Supply of Cleaning Services to the Medical Health Services.

The tender was published on the 25th June 2014. The closing date was the 2nd July 2014.

The estimated value of the Tender was €450,000 (Exclusive of VAT).

On the 25th August 2014 Omnicare Cooperative Limited filed a letter of objection objecting to the proposed award of the tender to Messrs WM Environmental Ltd for the total amount of €446,748.00.

Five (5) tenders had been received.

The Public Contracts Review Board composed of Dr Anthony Cassar (Chairman), Dr Charles Cassar and Mr Lawrence Ancilleri as members convened a hearing on Tuesday the 28th October 2014 to discuss the objection.

Present for the hearing were:

Omnicare Cooperative Limited - Appellant

Ms. Esmeralda Borg Azzopardi	Representative
Mr Mario Gerada	Representative
Mr Jonathan Gerada	Representative
Dr Maria Azzopardi	Legal Representative
Mr Beppe Muscat	Representative

WM Environmental Limited - Recommended Bidder

Mr Wilson Mifsud	Representative
Mr Adolfo Camilleri	Representative
Dr John Bonello	Legal Representative

Mental Health Services - Contracting Authority

Mr Gilbert Bonnici	Financial Controller
Dr Yana Micallef Stafrace	Legal Representative

Department of Contracts

Dr Franco Agius	Assistant Director
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The Chairman explained that this objection was not admissible. The call for quotations had an estimated value of Four hundred and fifty thousand euro (€450,000) excluding VAT and according to the Public Procurement Regulations LN 296/2010; an objection could be raised before the Public Contracts Review Board together with a deposit amounting to .75% of the estimated value, according to Regulation 84 of the said regulations. The present letter of objection was filed under Regulation 21 (3) of the Regulations, and filed with the contracting authority and having paid a deposit of €600. The Board therefore cannot continue hearing the objection since it was not filed according to law.

Dr Maria Azzopardi on behalf of the appellant insisted that when her clients went to file the objection, they were not told to file the objection with the Public Contracts Review Board. The contracting authority had accepted both the letter of objection and the deposit.

The hearing was at this point closed.

This Board,

Having noted:

- 1. That the value of the contract value for this call for quotes was €450,000 exclusive of VAT.**
- 2. That the letter of objection had been filed in accordance with Regulation 21 (3) of part II of the Public Procurement Regulations since it was submitted to the contracting authority and the deposit only amounted to €600.**

Having considered that, the objection being for a quote in excess of €120,000, should have been filed in accordance with Regulation 84 of the said Regulations. This Regulation states that objections have to be made with the Public Contracts Review Board, accompanied by a deposit of 0.75% of the estimated value.

Resolves that since the objection was not filed with the Public Contracts Review Board but was filed instead with the contracting authority; and since the deposit paid was not for the correct amount of €3,375 according to the Regulations, this objection was not admissible.

The Board therefore declares that the objection is not according to Regulations and cannot be considered any further, however in view of circumstances this same Board recommends that the deposit payed by the appellant should be reimbursed.

Dr Anthony Cassar
Chairman

Dr Charles Cassar
Member

Mr Lawrence Ancilleri
Member

5 November 2014