

PUBLIC CONTRACTS REVIEW BOARD

Case No. 827

CT 3037/2015

Tender for the Supply of Vertical Turbine Pumps.

The tender was published on the 5th May 2015. The closing date for the call was on the 16th June 2015. The estimated value of tender is €430,500.00 (Exclusive of Vat).

On the 3rd June 2015 Engineering & Technology Limited filed a pre-contractual concern in terms of Regulation 85 of LN 296 of 2010 requesting the extension of the delivery period.

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 7th July 2015 to discuss the objection.

Present for the hearing were:

Engineering & Technology Limited:

Mr Publius Paul Farrugia Representative

Water Services Corporation:

Engineer Mark Perez Representative
Mr Anthony Camilleri Representative

Department of Contracts:

Dr Franco Agius Legal Representative
Dr Christopher Agius Legal Representative
Ms Mary Anne Borg Procurement Manager

The Chairman made a brief introduction and asked the Appellant's representative to make his submissions.

Mr Publius Paul Farrugia for the Appellant explained that the pumps in question had to be custom made in a special process and said that a longer delivery time would be appropriate.

Engineer Mark Perez on behalf of the Contracting Authority explained that the pumps formed just a part of the project and an extension of the delivery time should cause no bottleneck for the finalisation of the project. He stated that the Contracting Authority would consider a 20 week delivery time. Following a further request from the Appellant in the present case and the Appellant's representative in the other case number 828, he said that the contracting authority would be extending the delivery period for the pumps to twenty-five weeks and would be issuing a clarification note explaining this.

At this point the hearing was closed.

This Board,

Having noted the Appellant's Pre-Contractual Concern dated 3rd June 2015 and also through the Appellant's verbal submissions during the Public Hearing held on the 7th July 2015, had objected to the time frame of the delivery period as imposed in the Tender Document, in that:

- a) The Appellant contends that since the pumps being requested must be custom made, it is not realistic for any supplier to consign the product in 20 weeks, as laid out in the Tender Document.**

Having considered the Contracting Authority's verbal submissions during the hearing held on the 7th July 2015, in that:

- a) Since the Tender consisted of the supply of pumps and these supplies consisted of part of a project, the Contracting Authority finds no objection of extending the delivery period.**

Reached the following conclusions:

- 1. This Board, after having comfort by the Contracting Authority that an extension of the delivery period would not delay or effect the whole project, justifiably opines that a delivery period of 25 weeks would be more practical.**

In view of the above, this Board finds in favour of the Appellant Company and recommends that:

- a) A clarification be made by the Contracting Authority whereby the delivery period of the pumps would be extended to 25 weeks;**
- b) The Tendering process is to be resumed without further delay.**

Dr. Anthony Cassar
Chairman

Dr. Charles Cassar
Member

Mr. Lawrence Ancillieri
Member

8 July 2015