PUBLIC CONTRACTS REVIEW BOARD

Case No. 835

CT 2003/2013/5089

Tender for Road Resurfacing Works Level 2 (North Region).

The tender was published on the 21st April 2015. The closing date was the 28th April 2015. The estimated value of tender is €114,402.25 (Exclusive of VAT).

Two (2) offers had been received for this tender.

On the 26th June 2015 Mr Raymond Calleja filed an objection against the decision of the contracting authority to award the tender to Dimbros Limited.

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 28th July 2015 to discuss the objection.

Present for the hearing were:

Mr Raymond Calleja:

Mr Raymond Calleja	Representative
Dr Gavin Gulia	Legal Representative

Dimbros Limited:

Ms Josephine Dimech	Representative
Dr Franco Galea	Legal Representative

Transport Malta:

Mr George Attard	Chairperson Evaluation Board
Mr Antoine Garnisi	Member Evaluation Board
Mr Alex Azzopardi	Member Evaluation Board
Ms Ethel Demicoli	Representative
Mr Ray Stafrace	Representative
Dr Franco Vassallo	Legal Representative

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

Dr Gavin Gulia on behalf of the Appellant asked for an explanation on what the "amount on summary BOQ not declared" in the opening schedule meant.

Mr George Attard, the Chairman of the Evaluation Board under oath explained that in the Preferred Bidder's tender all the rates were put down and given. However the Preferred Bidder omitted copying the total into the summary sheet. The Evaluation Board had all the information necessary to evaluate the said tender. An arithmetical correction had been made to the bid. All the offers contained such arithmetical error and were corrected by the Evaluation Board and all the bidders had accepted these corrections. The mistakes arose through rounding up the decimal points. The totals in question were checked individually by the Evaluation Board members and then cross checked.

Dr Gavin Gulia on behalf of the Appellant remarked that his client could not have known this fact as explained by the witness before. He said that in view of this explanation provided by the contracting authority his client was withdrawing the objection.

At this point the hearing was closed.

This Board,

Having noted the Appellant's objection in terms of the "Reasoned Letter of Objection" dated 26th June 2015 and also through the Appellant's verbal submissions during the Public Hearing held on the 28th July 2015, had objected to the decision taken by the pertinent Authority, in that:

a) **The Appellant's sole contention is that the other bidders were not disqualified by the Contracting Authority, despite the fact that they did not submit a copy of the Tender Document as requested.**

b) **The Appellant also requested as explanation as to what does "Amount on Summary BOQ not declared" meant.**

Having considered the Contracting Authority's verbal submissions in that:

a) **The Contracting Authority contends that although the Preferred Bidder did not submit a copy of the Tender Document, his offer was the cheapest and the Evaluation Board adopted the "Principle of Proportionality";**

b) **The Contracting Authority explained to the Appellant that with regards to his second query, the Preferred Bidder tendered for all the rates. However, the same has ommitted copying the total into the summary sheet.**

Having seen Dr Gavin Gulia's decleration on behalf of the Appellant whering he explained that in view of the explanation provided during the hearing by the Contracting Authority, his client was withdrawing the objection.

Decides not to take any further congnizance of the objection since it has been withdrawn;

In view of the above, this Board recommends that the deposit paid by the Appellant should be reimbursed.

Dr Anthony Cassar Chairman	Dr Charles Cassar Member	Mr Lawrence Ancilleri Member

31 July 2015