

PUBLIC CONTRACTS REVIEW BOARD

Case 1035 – WSC/T/57/2016 – Supply and Delivery of Hard Stone Sand in 25Kgs Bags for the Water Services Corporation (Framework Agreement)

The Publication Date of the Call for Tenders was 8 November 2016 whilst the Closing Date for Call of Tenders was 6 December 2016. The Estimated Value of the Tender, (Exclusive of VAT) was € 63,390.

Seven (7) Bidders have submitted offers for this Tender.

On 14 March 2017, Little Rock Quarry Ltd filed an Objection against the decision of the Water Services Corporation to award the Tender to Stones and Blocks for the price of € 47,440 (Exclusive of VAT) against a deposit of € 400.

On 6 April 2017, the Public Contracts Review Board composed by Dr Anthony Cassar as Chairman, Dr Charles Cassar and Mr Carmel Esposito as members convened a Public Hearing to discuss the Objection.

The Attendance for this Public Hearing was as follows:

Appellant – Little Rock Quarry Ltd

Mr Louis Grima	Representative
Dr Daniel Calleja	Legal Representative

Recommended Bidder – Stones and Blocks

Mr Victor Galea	Representative
Dr Jan Karl Farrugia	Legal Representative

Contracting Authority – Water Services Corporation

No representative was present for this Public Hearing

The Chairman of the Public Contracts Review Board, Dr Anthony Cassar, said that in view of the fact that no representative from the Water Services Corporation was present for the Public Hearing, this Board was going to refer to the Reasoned Letter of Reply issued by the latter on 21 March 2017 wherein in the last paragraph they were admitting that the test certificate should have been requested at Evaluation Stage since this falls under Note 2.

At this stage, the Public Hearing was adjourned to Tuesday 18 April 2017 at 09:00 wherein the Public Contracts Review Board will transmit the decision taken for this Objection verbally and then distribute a hard copy of the same to all parties concerned.

This Board,

Having noted this Objection filed by Little Rock Quarry Ltd (herein after referred to as the Appellant) on 14 March 2017, refers to the Contentions made by the latter with regards to the award of Tender of Reference WSC/T/57/2016 listed as Case No 1035 in the records of the Public Contracts Review Board, awarded by the Water Services Corporation (herein after referred to as the Contracting Authority).

Appearing for the Appellant: Dr Daniel Calleja

Appearing for the Contracting Authority: None Present

Whereby, the Appellant contends that:

- a) The Appellant contends that his offer was rejected due to the alleged fact that he did not submit the “*Test Certification*”. In this regard,**

Little Rock Quarry Ltd maintains that there was no requisite to submit such documentation in the Tender Document.

This Board also noted the Contracting Authority’s “*Letter of Reply*” dated 21 March 2017, in that:

- a) **The Water Services Corporation confirms that they should have requested the “*Test Certificate*” at the Evaluation Stage and as such, they will be requesting such documentation through a rectification as per its “*Reasoned Letter of Reply*” dated 21 March 2017.**

This Board, after having treated the merits of this case, arrived at the following conclusions:

1. **This Board takes notice of the Water Services Corporation’s “*Reasoned Letter of Reply*” whereby a rectification will be requested to enable the Appellant to submit the “*Test Certificate*” so that the Appellant’s offer will be evaluated.**

In view of the above, this Board recommends that the Award of the Tender is to be revoked and a rectification is to be requested by the Water Services Corporation to enable Little Rock Quarry Ltd to submit the “*Test Certificate*” in order for the latter’s offer to be re-integrated in the Evaluation Process.

At the same instance, this Board recommends that the deposit paid by the Appellants is to be fully refunded.

Dr Anthony Cassar
Chairman

Dr Charles Cassar
Member

Mr Carmel Esposito
Member

11 April 2017