

PUBLIC CONTRACTS REVIEW BOARD

Case 1096 – CFT 022-6023/2017 – Tender for the Supply of Ricotta

The Publication Date of the Call for Tenders was 9 June 2017 whilst the Closing Date for Call of Tenders was 30 June 2017. The Estimated Value of the Tender, (Exclusive of VAT) was € 15,400.

Three (3) Bidders have submitted offers for this Tender.

On 5 October 2017, the Malta Dairy Products filed an Objection against the decision of the Central Procurement and Supplies Unit to award the Tender to Strand Palace Agencies Limited for the price of € 15,795 (Exclusive of VAT) against a deposit of € 400.

On 31 October 2017, the Public Contracts Review Board composed by Dr Anthony Cassar as Chairman, Mr Lawrence Ancilleri and Mr Carmel Esposito as members convened a Public Hearing to discuss the Objection.

The Attendance for this Public Hearing was as follows:

Appellant – Malta Dairy Products

No representative from Malta Dairy Products was present for this Public Hearing

Recommended Bidder – Strand Palace Agencies Limited

Mr Steve Calleja	Representative
Dr Anthony Cutajar	Legal Representative

Contracting Authority – Central Procurement and Supplies Unit

Mr Melvin Caruana	Member, Evaluation Board
Ms Joyce Grech	Member, Evaluation Board
Ms Rita Zammit	Member, Evaluation Board
Mr Trevor Attard	Representative
Dr Stefan Zrinzo Azzopardi	Legal Representative

Dr Stefan Zrinzo Azzopardi, the Legal Representative for the Central Procurement and Supplies Unit opened by saying that his clients were requesting the Public Contracts Review Board to cancel this Tender since the Hospital's needs and the Technical Specifications were changed.

Dr Anthony Cassar, the Chairman of the Public Contracts Review Board replied that this note was received by this Board's office on 11 October 2017.

Dr Stefan Zrinzo Azzopardi, the Legal Representative for the Central Procurement and Supplies Unit added that between the Publication Date for the Call of Tenders and the Award Stage, there were changes in the Technical Specification which did not currently tally.

Dr Anthony Cassar, the Chairman of the Public Contracts Review Board asked whether the technical parameters were changed at that time.

Dr Stefan Zrinzo Azzopardi, the Legal Representative for the Central Procurement and Supplies Unit, replied in the affirmative. The Contracting Authority had no other option than to reply to the Objection, issue an additional notice and wait for the Public Contracts Review Board to give the necessary directions.

Dr Anthony Cassar, the Chairman of the Public Contracts Review Board declared, that this Board needed to take a decision in order for the Authority to proceed.

Dr Anthony Cutajar, the Legal Representative for Strand Palace Agencies Limited said, that his clients were objecting to the decision taken by the Central Procurement and Supplies Unit. To cancel the tender at this stage and the decision for this Tender to be awarded, has been taken.

At this stage, the Public Hearing was adjourned to Tuesday 7 November 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 the Malta Dairy Products (herein after referred to as the Appellant) on 5 October 2017, refers to the Contentions made by the latter with regards to the award of Tender of Reference CFT 022-6023/17 listed as Case No 1096 in the records of the

Public Contracts Review Board, awarded by the Central Procurement and Supplies Unit; (herein after referred to as the Contracting Authority).

Appearing for the Appellant: Nobody was present for this Public Hearing.

Appearing for the Contracting Authority: Dr Stefan Zrinzo Azzopardi.

This Board noted that the Contracting Authority, through its verbal submissions and through its written communication dated 18 October 2017, intends to cancel this Tender and thus requests that the Public Hearing of this Appeal is to be suspended.

This Board, after considering the Central Procurement and Supplies Unit's request and after being given credible explanation as to why such a cancellation is being requested, opines that, since the original Objectives and Technical Specifications of this Tender have changed during the period between the Closing Date of the Tender and the Award thereof, it would be futile to Award the Tender, as is, whilst knowingly that the Award of such a Tender will not reap the Objective and Desired Results.

This Board also confirms that the reasons given for such a cancellation in that, “*The Technical Specifications, as currently dictated, do not tally with present requirements*”, are credible enough to justify such a cancellation.

In view of the above, this Board recommends that the regulatory procedure to be implemented for the cancellation of this Tender and, at the same instance, without prejudicing the Appellant’s rights at law, recommends that the deposit paid by the Malta Dairy Products is to be fully refunded.

Dr Anthony Cassar
Chairman

Mr Lawrence Ancilleri
Member

Mr Carmel Esposito
Member

7 November 2017