

PUBLIC CONTRACTS REVIEW BOARD

Case 1199 – CT 020 – 0207/2018 - Tender for the Supply of Disposable 23G & 25G Maxi Grip Forceps

The publication date of the call for tenders was the 2nd March 2018 whilst the closing date of the call for tenders was the 22nd March 2018. The estimated value of the tender (exclusive of VAT) was € 47,660

On the 7th August 2018, ProCare Ltd filed an appeal against the Central Procurement and Supplies Unit (Ministry of Health) against their exclusion on the grounds that their offer was technically non-compliant. A deposit of € 400 was paid.

There were seven (7) bids.

On 21st August 2018 the Public Contracts Review Board composed of Dr Anthony Cassar as Chairman, Dr Charles Cassar and Mr Lawrence Ancilleri as members convened a public hearing to discuss the objections.

The attendance for this public hearing was as follows:

Appellant – ProCare Ltd

Dr Robert Galea	Legal Representative
Mr Pierre Calleja	Representative

Contracting Authority – Central Procurement and Supplies Unit – Health

Dr Marco Woods	Legal Representative
Ms Rita Zammit	Chairperson Evaluation Board
Mr Juan Zarb-Cousin	Secretary Evaluation Board
Ms Maria Cassar	Representative

Participating Bidder – Rodel Ltd

Mr Norman Vella	Representative
-----------------	----------------

Dr Anthony Cassar, Chairman of the Public Contracts Review Board, welcomed the parties and invited submissions.

Dr Marco Woods, Legal Representative of the CPSU, stated that a genuine mistake had been made when the Declaration of Conformity submitted by ProCare Ltd had been declared as not valid. The tender was being re-evaluated and the Appellants' objection will be taken into consideration.

The Chairman indicated that this decision met the Appellants objection and declared the hearing closed.

This Board,

having noted this Objection filed by ProCare Limited, (hereinafter referred to as the Appellants) on 17 July 2018, refers to the contentions made by the same Appellants with regards to the award of tender of Reference CT 020-0207/2018 issued by the Central Procurement and Supplies Unit and listed as Case No 1199 in the records of the Public Contracts Review Board.

Appearing for the Appellants: Dr Robert Galea

Appearing for the Contracting Authority: Dr Marco Woods

Whereby, the Appellants contend that:

- a) **The reason given by the Contracting Authority for the rejection of their offer was incorrect and not factual. In this regard, Appellants insist that they did indicate the notified body in their submission with regards to the declaration of conformity.**

This Board has also noted the Contracting Authority’s “*Letter of Reply*” dated 26 July 2018 and also its verbal submissions during the Public Hearing held on 21 August 2018, in that:

- a) **The Central Procurement and Supplies Unit admits that a genuine mistake was made by the Evaluation Committee in considering the Appellants’ Declaration of Conformity as not valid.**

This Board, after having examined the relevant documentation to this Appeal and heard submissions made by the parties concerned noted that the Central Procurement and Supplies Unit confirmed that an inadvertent mistake occurred during the Evaluation Process of the Appellants’ offer and in this regard, the Contracting Authority suggests that all the offers are to be re-evaluated, whilst taking into considerations the Appellants’ grievances.

In view of the above, this Board,

a) Instructs the Central Procurement and Supplies Unit to re-assess all the offers submitted;

b) Upholds ProCare Limited's Objection and recommends that the deposit paid by the same is to be fully refunded.

Dr Anthony Cassar
Chairman

Dr Charles Cassar
Member

Mr Lawrence Ancilleri
Member

28th August 2018