

DR JOHN L GAUCI
& ASSOCIATES

19th June 2023

Public Contracts Review Board
Department of Contracts
Notre Dame Ravelin
Floriana VLT 2000



Tender for the Supply, Installation, and Commissioning of a Dual-Energy CT Scan at SVP Long-Term Care Facility - Reference No. CT2385/2021 (the 'Tender')

Reply by Triomed Limited (C-36613) (the 'Recommended Bidder');

Whereas Triomed Limited is recommended for the award of the above-captioned Tender;

Whereas on the 9th June 2023, Suratek Limited ('Objector') submitted an objection ('Objection') in relation to this recommended award;

Whereas in essence, the Objector is alleging that the tender could not have been awarded to the Recommended Bidder in view of the PCR'B's decision number 1740 of 2022 (hereinafter 'the First Decision');

Whereas Objector wishes to reply to the Objection as follows:

ADVOCATE

45/11, Strait Street, Valletta, Malta, VLT 1434

Tel: +(356) 2099 1010 Fax: +(356) 2099 101 Mob: +(356) 7925 3794 Email: Info@gaucillegal.com

1. The newly appointed Evaluation Committee justly confirmed what the Recommended Bidder has been arguing all along even throughout the course of proceedings that led to the First Decision that the offer of the Recommended Bidder is fully compliant with the tender specifications.
2. This fresh Recommendation is also in line with the First Decision and this in view of the fact that, in the First Decision it is clear that this Board ordered a fresh evaluation of all bids, including the bid of the Recommended Bidder, in order to verify whether the doubts raised during the proceedings leading to the First Decision were indeed justified or not:

“To order the contracting authority to re-evaluate all the bids received in the tender through a newly constituted Evaluation Committee composed of members which were not involved in the original Evaluation Committee whilst also taking into consideration this Board’s findings;

3. That indeed, this new evaluation reconfirmed that the Recommended Bidder’s bid is indeed compliant even after taking into consideration the specific objections raised in the proceedings.
4. Without any prejudice to the above, at no point did any Philips representative ‘admit’ non-compliance of any sort. To the contrary, as the full transcripts of the testimony would show (as opposed to snippets taken out of context), Dr. Chiara Romei actually went into great lengths to explain why the Recommended Bidder’s offer was indeed compliant and this with specific reference to the objections raised by the Objector:

“Dr Chiara Romei (AF 4772956) called as a witness by Triomed Ltd testified on oath that she was a Product Specialist at Philips, was familiar with the tender and that the product offered perfectly matches the tender request in regard to all bodily organs. The video shown earlier during this hearing was merely indicating the use of the product not its performance which can extend to all

examinations. This is the case for examination of the lungs and one can use other software if more than 4 cm coverage is required – this is comparable to other systems on the market when performing lung perfusion. **These specifications match perfectly what is requested in the tender.** The safety of the product is guaranteed through certification by the European Safety Authorities.

Referring to the video shown, witness stated that that is purely a teaching aid and is not meant to explain the functions of the system. The 40mm. specification is well known normal segmenter of the system and is the minimum required for full examination. In this respect this matches perfectly anything offered by the competition which offers the same coverage. Witness confirmed that she had not been contacted by the expert appointed by the Board.

Questioned by Dr Mifsud Bonnici, witness stated that her job is as a modality specialist with a background in medical engineering, managing both hardware and software of a product. She started work as a clinical application user. Witness confirmed that the product offered by Philips can perform dual energy lung perfusion through one low and one high energy scans. There is other software available to deal with more than the 4cm. product. Witness agreed that she was making a distinction between part of a scan and a whole scan and that for a dual energy scan repetition and extension of the scan was required. Dr Mifsud Bonnici referred the witness document SL5 (Page 177) filed by Appellant and directed the witness' attention to the section regarding dual energy process which states "repeat and extend as not available for dual energy acquisitions". Witness replied that perfusion could be performed in particular regions of the lung as one analyses only that part. She went on to state that there is different software technology available to scan the whole lung but it is a completely different system to that offered. Witness said she was not in a position to comment about prices but agreed that there would be

a difference in price and the different software technology would be more expensive.

Dr Noel Bezzina asked the witness two questions to which she replied that lung perfusion would still be possible with a 4cm scanner and the model offered satisfies the tender criteria."

5. Conclusion

Therefore, the Recommended Bidder kindly requests this Board to dismiss all the Objector's insinuations, allegations and demands, and consequently confirm the recommended award to the Recommended Bidder.



Dr. John L. Gauci LL.D

Recommended Bidder: Triomed Limited, Angelica Court No. 1, Giuseppe Cali' Street, Ta' Xbiex XBX 1425,