

IN THE PUBLIC CONTRACTS REVIEW BOARD

14th September 2023

Re: 090 – Objection - CT2172/2022 - Tender for the Supply of Gauze Swabs X-Ray Detectable – Lot 3

Reply of the **Central Procurement and Supplies Unit (CPSU)** on behalf of the Department of Health to the reasoned application lodged by Drugsales Limited (the objector) for Lot 1 of the above captioned tender (CT2172/2022).

On the 09th January 2023 a call for tenders for the supply of Supply of Gauze Swabs X-Ray Detectable was issued.

A number of bids were submitted and a recommendation was made in favour of Associated Equipment Ltd (Recommended bidder) being the cheapest compliant bidder;

The Objector's offer was rejected on the basis of technical compliance for the reason below:

"Lot 3

Not accepted. Samples submitted. The three peelable traceability labels were found inside the packaging. While specs state that peelable labels must be fixed to the outer package of the swabs. Not recommended."

The objector felt aggrieved with the decision of the evaluation committee and filed its objection stating that the product ought not to have been declared as technically non-compliant and rejected.

CPSU respectfully disagrees with the Objection and is filing the below reply and submissions.

Submissions

1. CPSU respectfully submits that the evaluation committee's decision was legally, factually and technically correct for the below reasons, thus the conclusions of the evaluation committee should be confirmed and upheld;
2. Amongst other specifications, the tender document at point 2.11.1 under Section 3 – Specifications – Technical Specifications (page 19), provided that the product is to have:

Peelable labels must be fixed to the outer¹ packed of the swabs

3. The evaluation committee requested samples, and after the product was seen and inspected by the evaluation committee it was clearly evident that the product

¹ Highlight for emphasis

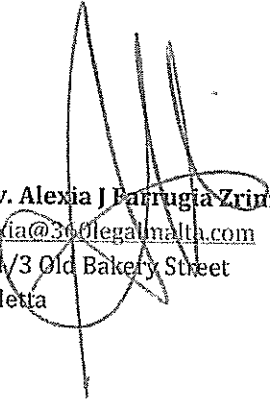


presented by the objector did not satisfy this specification which is marked as 'Mandatory'.

4. As will be seen during the hearing of this objection, the peelable labels on the product as presented by the objector are found on the inside of the package rather than 'fixed to the outer packed of the swabs', hence not satisfying the specification at point 2.11.1 of the tender document.
5. Thus, the evaluation committee was correct in finding the product as presented by the objector not according specifications, and rejected the bid as presented.

CPSU is hereby reserving its right to present further evidence both written and orally to further their submissions in relation to this objection.

In view of the above, the objection lodged by the objector ought to be rejected in full, whilst the decision of the Contracting Authority and the Evaluation Board confirmed, and the relevant deposit forfeited.



Avv. Alexia J Farrugia Zrinzo
alexia@360legalmalta.com
204/3 Old Bakery Street
Valletta

Avv. Leon Camilleri
leon@360legalmalta.com
204/3 Old Bakery Street
Valletta