



Public Contracts Review Board
Department of Contracts
Notre Dame Ravelin
Floriana VLT2000

29 April 2024

Dear Sirs,

Re: CT2323/2023—TENDER FOR THE SUPPLY OF STERILE DISPOSABLE URINOMETER WITH URINE COLLECTION BAG (the “Tender”)

1. We have been instructed by **OK Medical Limited (C-79739)** (the “Appellant”) to file an appeal in terms of Article 270 of the Public Procurement Regulations (the “PPR”) in connection with the above-captioned Tender.
2. The Appellant is aggrieved by the Central Procurement and Supplies Unit’s (the “Contracting Authority”) decision to reject its offer as technically non-compliant and recommend a more expensive offer for award.

FACTS

3. On 19 April 2024, the Appellant received a letter of rejection (attached and marked as “Document OK1”) from the Contracting Authority whereby it was informed that its bid was being rejected on the basis that such bid was not technically compliant.

In the same letter, the Contracting Authority informed the Appellant that the Tender was being recommended for award to Drugsales Ltd (C-1780) (the “Recommended Bidder”). The Recommended Bidder submitted a more expensive offer than the Appellant.

4. The reason for technical non-compliance was:

Not accepted. Samples when tested by speciality nurses was found that they have a flow problem from the connecting tube to the measuring chamber. Urine does not flow freely but has to be milked out especially with oliguric patients. Since samples falls under note 3 they are not rectifiable. Based on this non-compliance with the specified criteria, we cannot recommend the samples for further evaluation, and they do not meet the standards necessary for our procurement needs.

5. On 26 October 2023, the Central Procurement and Supplies Unit (the “Contracting Authority”) published the above-captioned Tender for the supply of sterile disposable urinometers with urine collection bag. The estimated procurement value for this call for

Tenders was €148,761.93 (excluding VAT) for an estimated quantity of 30,435 units. The Tender was to be awarded in accordance with the sole criterion of price.

6. Section 3 – Specifications of the Tender required that the product offered by bidders would satisfy, amongst others, the following technical specifications:

2.5	Urinometer must be designed to be able to empty urine into urine bag without having to tilt the urinometer	N/A	Mandatory
2.11	Should be able to be emptied without tilting the urine container to enable total emptying of urine especially when patient is oliguric.	N/A	Mandatory

7. By the closing date of 19 December 2023, the Appellant submitted its bid for this Tender along with 11 other economic operators. The Appellant submitted multiple bids, but this appeal concerns only the bid with reference number 203025.

Bidder	TID	Financial Offer (€)
Ferox Trading Limited	203042	106,218.15
Ferox Trading Limited	202020	120,826.95
ProCare Ltd.	201851	124,174.80
RnD Limited	203043	135,131.40
Krypton Chemists Ltd	201658	138,436.64
Medina Healthcare Ltd	202955	143,044.50
Reactilab Ltd	203032	153,940.23
OK Medical Ltd	203025	155,522.85
Ruslan Cilia	202268	160,088.10
Cherubino Ltd.	202943	177,131.70
Drugsales Ltd	202945	184,664.36
OK Medical Ltd	203026	185,653.50
Reactilab Ltd	203030	190,781.80
ProCare Ltd.	201849	226,740.75

REASONS FOR APPEAL: THE APPELLANT'S BID IS TECHNICALLY COMPLIANT

8. The Appellant is aggrieved by the Contracting Authority's decision of 19 April 2024 and this for the following reasons.
9. The Appellant submits that the product proposed in its bid is compliant with the technical specifications. Therefore, it is capable of being emptied without tilting the urine container. This is clearly and unambiguously stated in the technical literature submitted by the Appellant in its bid.
10. Furthermore, the samples were tested by the Appellant before and after the Contracting Authority's decision by a speciality nurse. It was confirmed on both occasions that urine flows freely and does not require any "milk[ing] out" as alleged by the Contracting Authority. This will be proven in proceedings.

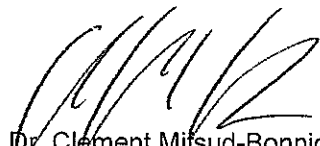
11. For the avoidance of doubt, the technical literature submitted by the Appellant with its bid is strictly confidential and it is not to be disclosed to any party or entity other than this Honourable Board.
12. The Appellant further submits that the evaluation committee should have been able to achieve the free flow of urine, including from the connecting tube to the measuring chamber, by following the product's instructions for use to the letter. This shall be proven during proceedings.

THEREFORE, in view of the above and for other reasons that may be brought in due course at law, the Appellant humbly requests that this Public Contracts Review Board:

- a. declares that the Contracting Authority's decision of 19 April 2024 is wrong and/or unlawful;
- b. consequently, quashes the Contracting Authority's decision of 19 April 2024;
- c. orders the refund of the deposit paid to the Appellant;

subject to any declaration or order as it deems fit and opportune.

Yours sincerely,
Ganado Advocates


Dr. Clement Mifsud-Bonnici
(cmifsudb@ganado.com)


Dr. Calvin Calleja
(ccalleja@ganado.com)

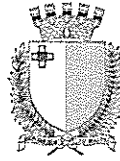
**APS BANK
Plc**Registration
Number:
Address:C 2192
APS Centre, Tower Street B'Kara
BKR 4012Transaction
Reference:
Printed On:
Printed By:220754455
08:1929.04.2024
GLENN LUCAS**Transfer to a non-APS account**From Account: **40715610011**Status: **Authorized**Currency: **EUR**

Amount:	744.00
To Account:	MT55MALT011000040001EURCMG5001H
Payment Date:	29.04.2024
Payment Reference:	Tender Ref: CT2323/2023 TID 203025
Fee:	0
Charges:	SHA
Sort Code:	
Swift Code:	MALMTMTXXX
Beneficiary Bank Name:	CENTRAL BANK OF MALTA
Beneficiary Bank Address Line 1:	Castille Place,
Beneficiary Bank Address Line 2:	Valletta
Beneficiary Bank Country:	MALTA
Beneficiary Name:	Cashier Malta Government
Beneficiary Address Line 1:	Malta
Beneficiary Address Line 2:	
Beneficiary ZIP Code:	
Beneficiary City:	
Beneficiary Country:	MALTA

Intermediary Bank Swift Code:

DOCUMENT OK1

DIPARTIMENT TAL-KUNTRATTI
Notre Dame Ravelin
Floriana FRN1600 – MALTA



DEPARTAMENTI KONTRATTI
Notre Dame Ravelin
Floriana FRN1600 – MALTA

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19th April 2024

OK Medical Ltd
TID 203025

REFERENCE: CT2323/2023

SUBJECT: Tender for the supply of sterile disposable urinometer with urine collection bag

Dear Sir/Madam,

Thank you for participating in the above-mentioned tender procedure. However, I regret to inform you that the tender submitted by your company was found to be technically non-compliant for the following reason:

Not accepted. Samples when tested by speciality nurses was found that they have a flow problem from the connecting tube to the measuring chamber. Urine does not flow freely but has to be milked out especially with oliguric patients. Since samples falls under note 3 they are not rectifiable. Based on this non-compliance with the specified criteria, we cannot recommend the samples for further evaluation, and they do not meet the standards necessary for our procurement needs.

The tender was recommended for award to TID 202945 Drugsales Ltd for the amount of €184,664.36 excluding VAT, these being the cheapest priced tender satisfying the administrative and technical criteria.

If you intend to object to this decision, the Public Procurement Regulations allow for an official objection which in this case has to be lodged electronically with the Public Contracts Review Board by sending an email on: info.pcrb@gov.mt by noon of Monday 29th April 2024 against a deposit of €744.00.

Payments are to be made through bank transfer in terms of the following details:

Name of Account Holder	Cashier Malta Government
Name of Bank	Central Bank of Malta
Address of Bank	Castille Place, Valletta
Account Number	40001EUR-CMG5-001-H
BIC	MALT MT MT
IBAN Code	MT55MALT011000040001EURCMG5001H
Bank Code	01100

The official schedule can be accessed on the website: www.etenders.gov.mt.

Although we have not been able to make use of your services on this occasion, I trust that you will continue to take an active interest in our initiatives.

Yours sincerely,

Gianella Bonnici
f/Director General (Contracts)

DIPARTIMENT TAL-KUNTRATTI
Notre Dame Ravelin
Floriana FRN1600 – MALTA



DIPARTIMENT TAL-KUNTRATTI
Notre Dame Ravelin
Floriana FRN1600 – MALTA

Telephone: (0356) 237310/212
e-Mail: info.contracts@gov.mt
Fax: (0356) 2124 7681
e-Mail: info.contracts@gov.mt

19th April 2024

OK Medical Ltd
TID 203026

REFERENCE: CT2323/2023

SUBJECT: Tender for the supply of sterile disposable urinometer with urine collection bag

Dear Sir/Madam,

Thank you for participating in the above-mentioned tender procedure. However, I regret to inform you that the tender submitted by your company was not successful since the criteria for award of this tender was the cheapest priced offer satisfying the administrative and technical criteria.

The tender was recommended for award to TID 202945 Drugsales Ltd for the amount of €184,664.36 excluding VAT, this being the cheapest priced tender satisfying the administrative and technical criteria.

If you intend to object to this decision, the Public Procurement Regulations allow for an official objection which in this case has to be lodged electronically with the Public Contracts Review Board by sending an email on: info.pcrb@gov.mt by noon of Monday 29th April 2024 against a deposit of €744.00.

Payments are to be made through bank transfer in terms of the following details:

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Name of Bank	Central Bank of Malta
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Account Number	40001EUR-CMG5-001-H
BIC	MALT MT MT
IBAN Code	MT55MALT011000040001EURCMG5001H
Bank Code	01100

The official schedule can be accessed on the website: www.etenders.gov.mt.

Although we have not been able to make use of your services on this occasion, I trust that you will continue to take an active interest in our initiatives.

Yours sincerely,

Gianella Bonnici
f/Director General (Contracts)