



The Public Contracts Review Board

Department of Contracts
Note Dame Ravelin
Floriana VLT2000

6th May 2024

Re: Objection 445 – CT2323/2023 – Tender for the Supply of Sterile Disposable Urinometer with Urine Collection Bag

We write on behalf of **Drugsales Limited (C-1780)** of Ferreri Buildings, Idward Street, Ta' Qali National Park, Attard with reference to the appeal lodged by Reactilab Limited (hereinafter "the Appellant").

Drugsales Limited respectfully submits that following reply to the appeal submitted by the Appellant:

Appellant's Grievances: (1) Misinterpretation of Product Functionality
(2) Inconsistent Evaluation Criteria

1. The Appellant argues in its appeal that the fact that its product requires "milking" of the tube, is a common practice across all brands of urinometers, is not a flaw in design, and does not render the product technically non-compliant.
2. Compliance with specifications of the tender is not simply a matter of "checking the boxes". Page 6 of the Tender Document specified that samples would be requested in order to supplement the technical offer, and in fact samples were requested from the bidders. Samples were requested specifically to test the product and they form an integral part of the bid.
3. It appears that since the samples submitted by the Appellant do not have the required flow and need to be "milked" out, such samples did not carry out the required function and were non-compliant with the technical specifications.
4. Contrary to what is suggested in the Appellant's appeal, it appears that lack of flow and "milking" of tubes is not standard across the board. In fact it appears that the samples submitted by Drugsales Limited satisfied the function with free flow and without needing to be "milked".
5. As to the allegation by the Appellant of inconsistent evaluation criteria and limitation of competition, it is up to the contracting authority (not the Appellant) to determine



ATTARD MONTALTO & AQUILINA
ADVOCATES

the evaluation criteria of the tender. The contracting authority may impose such specifications and criteria that are justified according to its needs.

Conclusion

For the reasons mentioned in this reply, Drugsales Limited humbly submit that the appeal lodged by Reactilab Limited on the 26th April 2024, before the Public Contracts Review Board, should be rejected in toto, whereby the decision of the contracting authority of the 19th April 2024, shall be confirmed and upheld.

With costs.

Avv Mark Attard Montalto
110 St Lucia Street, Valletta
mark@amamadvocates.com

Avv Douglas Aquilina
110, St Lucia Street, Valletta
douglas@amaadvocates.com

Avv Samira Briffa
110, St Lucia Street, Valletta
samirabriffa@amaadvocates.com