



The Public Contracts Review Board

Department of Contracts

Note Dame Ravelin

Floriana VLT2000

6th May 2024

Re: Objection 446 – 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 OK Medical Limited (hereinafter "the Appellant").

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

Appellant's Reason for Appeal: The Appellant's Bid is Technically Compliant

1. The Appellant argues in its appeal that its product is compliant with the technical specifications in that it is capable of being emptied without tilting the urine container. The Appellant further argues that the urine flows freely and does not require any "milking out". The Appellant therefore argues that its bid is technically compliant and should not have been rejected.
2. Drugsales Limited submits that it does not have access to the specifications of the product offered by the Appellant nor to the samples submitted by the Appellant. With reference to the declaration made by the Appellant in paragraph 11 of the appeal, should the Appellant refer to technical literature and its samples in furtherance of its appeal, such technical literature and samples need to be open and available to scrutiny and inspection by all interested parties, including Drugsales Limited.
3. As to whether the samples provided by the Appellant did not flow freely and required "milking out", this was assessed and determined by the contracting authority. Should the Appellant be contesting such assessment by the contracting authority, it is to be noted that the Appellant must rely on the samples submitted and may not replace the samples, as this would be akin to altering a bid after submission deadline.
4. 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



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ADVOCATES

bidders. Samples were requested specifically to test the product and they form an integral part of the bid.

5. 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.

Conclusion

For the reasons mentioned in this reply, Drugsales Limited humbly submit that the appeal lodged by OK Medical Limited on the 29th 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.

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