SCIBERRAS & LIA

ADVOCATES

162, Old Bakery Street, Valletta VLT 1455 Malta.
Telephone: 21222682
Email: info@sciberraslia.com

Pawlu Lia LL.D.
Phyllis Aquilina B.A., LL.M. (Lond.), LL.D.
Alessandro Lia LL.B., LL.M. (Lond.), LL.D.

17 ta' Marzu 2017

Attn: Procurement Office,
Malta Transport Authority,
Malta Transport Centre,
Marsa.

Ittra ta' Mediterranean Research & Solutions Ltd: Request for Proposals for the Design, Supply, Installation and Maintenance of Bus Shelters in Malta and Gozo and Maintenance of Existing Bus Shelters Canopies (Ref: TM_RFP 009/2016)

Bil-prezenti, Mediterranean Research & Solutions Ltd qed tilmenta ai termini tal-ligi u tas-sejha ghall-proposti mid-decizjoni tal-Awtorita' Kontraenti li r-*request for proposals* hawn fuq imsemmi jigi moghti lil 356 Holdings.

L-ilmenti ta' Mediterranean Research & Solutions Ltd huma s-segwenti:

Qabel xejn, l-appellanti tirrileva illi hija ma nghatat ebda raguni ghalxiex l-offerta taghha giet moghtija l-inqas punti kif jidher fl-*average evaluator score table*. Fi klawsola 12 (1) tat-tender document, l-Awtorita' kontraenti hija obbligata li taghti r-ragunijiet kollha ghalxiex l-offerta tal-appellanti (u tal-offerenti l-ohra) giet rifjutata. L-imsemmija klawsola tghid hekk:

"*The communication to each tenderer of the proposed award **shall be accompanied by a summary of the relevant reasons relating to the rejection of the tender** as set out in regulation 44 (3) and by a precise statement of the exact standstill period*".

Jirrizulta car mill-avviz mibghut mill-Awtorita' Kontraenti datat 7 ta' Marzu 2017 li l-Awtorita' naqset milli taghti lill-appellanti (jew lil xi offerenti iehor) ir-ragunijiet ghalxiex l-offerti taghhom gew moghtija anqas punti minn dik tal-offerent rakkomandat 356 Holdings.

Ghal dan il-ghan, l-appellanti ma tistax, f'dan l-istadju, tilqa' ghar-rifjut tal-offerta taghha qabel tkun taf ir-ragunijiet ghalxiex nghatat l-inqas punti u **qeghda minn issa tirrizerva l-posizzjoni taghha u tirrizerva li taghmel eccezzjonijiet u/jew sottomissjonijiet ulterjuri wara li tkun giet infurmata dettaljatament bir-ragunijiet ghar-rifjut tal-offerta taghha.**

F'kull kaz, l-appellanti tissottometti bil-qawwa illi s-sistema tal-punti kif indikata fit-*table* immedjatament wara klawsola 11.6, tirreferi ghal rekwiziti oggettivi li l-appellanti mhux biss

issoddisfathom kollha, izda offriet ukoll elementi ultejuri b'zieda ma dawk mitluba, u dan sabiex l-Awtorita' kontraenti isserrah rasha li l-offerta tal-appellanti mhux biss tissoddisfa dak li talbet l-istess Awtorita', izda tinkopora fatturi oltre li jaghmluha l-ahjar offerta.

Ghalhekk, l-appellanti ssostni li l-offerta taghha mhux talli ma tistax tkun l-aghar wahda skond ir-rizultat kif komunikat lilha fl-avviz tas-7 ta' Marzu 2017, izda kienet sahansitra l-ahjar fost l-offerenti kollha.

Ghaldaqstant, ghar-ragunijiet premessi u ai termini tal-ligi, Mediterranean Research & Solutions Ltd titlob bir-rispett li dan il-Bord joghgbu:

(i) jiehu mizuri temporanji sabiex jipprevjeni milli ssir aktar hsara partikolarment, fost ohrajn billi jordna s-sospensjoni tad-decizjoni tal-Awtorita' ghall-ghoti tal-RFP lil 356 Holdings.

(ii) jordna li tigi mwarrba d-decizjoni li biha l-Awtorita' rrakkomandat lil 356 Holdings bhala l-ahjar offerent;

(iii) jordna li ssir mill-gdid l-evalwazzjoni u l-aggudikazzjoni tal-RFP hawn fuq imsemmi, u b'mod partikolari isir rivalwar tal-punti allokati lil Mediterranean Research & Solutions Ltd biex jirrifletti li l-istess appellanti kienet l-ahjar offerent fit-termini tas-sejha ghall-proposti.

Av. Alessandro Lia