

The Chairman
Transport Malta
Malta Transport Centre
Xatt L-Ghassara Tal Gheneb
Marsa MRS 1917

20th February 2015

Dear Sir,

Your Ref: TM_RFP002/2014

We write in connection with the Concession for the Development, Operation and Management of a Yacht Marina at Sa Maison and, specifically, in reply to your correspondence dated 11th February 2015 announcing the conclusion of the evaluation process and the selection of Marina Di Valletta Consortium as the recommended bidder.

In virtue of this letter we hereby formally submit our objections in terms of sub-Article 6.5.2 of the Request for Proposal document dated 15th July 2014 (the 'RfP').

In terms of the RfP and the assessment criteria set out therein, in so far as the evaluation of the Financial Offer is concerned the adjudication process should have entailed an addition of the bidders' Upfront Payment to the net present value of the Concession Fees receivable by Transport Malta over the term of the Concession, so as to arrive at the total Financial Offer of each bidder – one single amount per bidder.

It is recognized that an offer including a large up-front payment is commercially more favourable than one that is largely composed of later payments. The tender recognises this. By discounting future Concession Fees at 7%, the RfP clearly included a punitive discount rate designed deliberately to give added weight to an offer with a larger Up-Front consideration (the latest proposed issue of Government bonds having a 25 year term is priced at 3%).

The adjudication process departed materially from the RfP. Instead of arriving at the Financial Offer of each bidder, it gave a separate weighting to the Upfront Payment (25 points) and to the Concession Fees (25 points). This changes the scoring in a material manner as it introduces a material consideration that was not made known to bidders and that, had it been communicated earlier, would have influenced the bidders' plans. It also introduces a large element of double-counting, duplicating the impact that is already attained by the high discount rate of 7%.

In this regard we also note that in the case of the Technical Offer the maximum of 50 points were broken down into separate pre-established criteria – no such distinction among separate criteria was contemplated in respect of the Financial Offer.

Had the scoring system included in the RfP been followed, our offer and that of the recommended bidder would have been largely equivalent, such that the bid adjudication would have rested in the main on the technical appraisals, which are by nature more subjective.

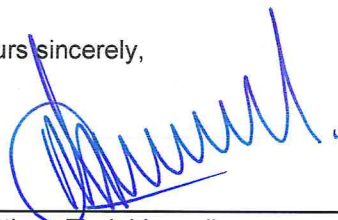
Specifically, had the computation been carried out strictly in accordance with the terms of the RfP, our points for the Financial Offer would have amounted to 48.60 points, as opposed to 37.63 points as indicated in the Financial Evaluation table made available by yourselves. These points, coupled with our 50 points under the Technical Evaluation table, would have resulted in a total of 98.60 points (compared to the total of 99.89 points scored by the recommended bidder).

In view of the considerations set out above, we are firmly of the opinion that it would have been appropriate at the least that further discussions and/or presentations be solicited from the two best bids, as contemplated in sub-Articles 4.5.1 and 4.5.2 of the RfP, to ensure that no aspect of the technical submissions be misunderstood, particularly in consideration of the apparent strength of our technical study. Another possible solution, adopted in the past in the case of the Dragonara casino tender, would have been that of soliciting a second, final bid from the two short-listed bidders.

Please note that in terms of sub-clause 6.5.3 of the RfP we hereby appoint Mr. Tonio Zarb, Partner at KPMG Malta, Portico Building, Triq Marina Tal-Pietà, PTA 9044 as one of the 3 members to compose the Review Board.

We remain available for any clarifications you may require in connection with the foregoing.

Yours sincerely,



Matthew Fiorini Lowell
obo Valletta Marina Consortium