



Public Contracts Review Board
Notre Dame Ditch
Floriana FRN 1600.

Thru: Transport Malta
Procurement Department
Transport Malta Centre
Marsa

13th January 2015

Dear Sir / Madam,

Notice of Objection - Tender For the Provision of Scheduled Public Transport Monitoring Services – TM 085/2014

Whilst referring to Volume 1 Section 6 [Extracts from the Public Procurement Regulations] on page 26 of the above described tender document and in accordance with Regulation 21 of the Public Procurement Regulations [S.L.174.04], in response to the tender award notification which was emailed to us on 6th January 2015, we would like to formally object that the firm Signal 8 Security are the recommended bidder for this call. For reasons listed below, we firmly believe that this decision should be revoked and our offer should instead be recommended.

In view of the foregoing, enclosed please find our cheque for the amount of five hundred and ninety five Euro (€595) representing our deposit in compliance with Regulation 21 (3) of the Public Procurement Regulations.

Consequently, we would like to object the attribution of tender TM 085/2014. The tender was attributed to Signal 8 Security for the offer price of €95,480 because it was the cheapest bid. We would like to highlight the following:

1. From a procedural point of view, the Evaluation Committee did not abide by the timetable as set out in Section 2 [page 4] of the tender document. The tenders were not opened on the day and at the time scheduled in the timetable. We were informed that the tenders were not to be opened on the fixed date and time because a responsible person was absent. No information about this modification setback was provided to us in accordance with Clause 11.3 and Clause 27 (page 11) of the tender document. The Opening Schedule document bears no remarks except the details of the deadline for submission. To our knowledge therefore the tenders were not opened as required by the call for tenders.

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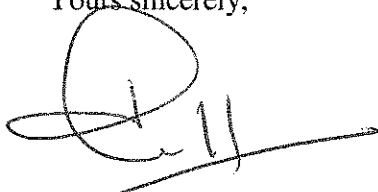
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Company No. C42265

2. In our view, the Evaluation Committee was not obliged to select the cheapest price but the most favourable one. It appears that the recommended bidder simply availed itself of a Government notice requiring that the minimum tender price concerning the engagement of personnel (security and cleaning) through the tendering process should not be less than five Euro and seventy eight cents (€5.78). In this particular tender, the Contracting Authority requested fourteen thousand hours of monitoring services and the recommended bidder worked out the price as follows: 14,000 hours multiplied by €5.78 equals €80,920 add VAT (18%) and the total equals €95,485.60. The Recommended bidder submitted a price of €95,480. Considering the number of overheads that are involved in reaching a proper bid price (e.g. the minimum employee rate in terms of S.L. 452.75 and / or S.L.452.76, National Insurance, cost of living increases, statutory bonus), the Recommended Bidder could not have been in a position to bid the above described price which in our view is not a realistic commercial price but aimed at taking an unfair advantage. To our knowledge, the Recommended Bidder did not abide by the requirements of Clause 17 (Tender Prices) on page 9 of the tendering document.
3. We are also of the view that given the price offered by the Recommended Bidder, it would not be in a position to comply with the provisions of our Employment Laws as required by Clause 12 of Volume 1 Section 1 page 7 of the tendering document, especially considering the transfer of business provisions. According to the Transfer of Business (Protection of Employment) Regulations [S.L.452.85], should the contract be awarded to the Recommended Bidder, it would be obliged to retain the personnel currently engaged with the Contracting Authority.
4. To our knowledge, the Recommended Bidder did not comply with the requirement of Clause 7.8 in Volume 2, Section 3 which requires it "... to quote a rate per hour including VAT. The quoted rate is to include all costs relating to the gathering of the required information and the electronic transmission of the data, in the prescribed format. The rate per hour is applicable regardless of the day of the week."
5. The Recommended Bidder failed to present the signed declaration required by Clause 16.1 (e) (vide page 8 of the tender document).

We reserve the right to present more reasons that might arise at a later stage of this process.

In view of the foregoing, we respectfully present this Notice of Objection and look forward to hearing from you.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'C. Briffa', with a long horizontal stroke extending to the right.

Ms Claire Briffa
Director