

# RAUSI ADVOCATES



28th June 2023

Attn: Public Contracts Review Board

REFERENCE: IMT001/2023

SUBJECT: Transport and Install Street Furniture and Energy Efficient Lighting Equipment, Cabling and other accessories, including Commissioning of same, at Misrah il-Parrocca, Mellicha and Triq il-Marfa, Ghadira Bay, Seaside Promenade, Mellicha. – Lot 3

Dear Sir / Madam,

Reference is made to letter dated 26th June 2023 from Christine Friggieri, Head of Procurement, Infrastructure Malta, wherein my client, Rausi Co. Ltd. has been informed that the tender submitted was found to be technically non-compliant for the reasons attached and that the tender is being recommended for award to Gokker Ltd. – which company has placed third (whilst my client has placed second).

**By this present, this decision is being appealed from.**

In this decision, it is being upheld that the Evaluation Committee was seeking clarification with regards to where in my client's offer the mentioned Indicative Programme and Method Statement of how the Supply and Installation will be carried out could be found.

The Evaluation Committee goes on to state that instead of clarifying, my client "*submitted a new document which cannot be accepted at this stage, as per applicable Note 3 requirement. Hence, the Committee agreed that Rausi Company Limited was deemed to be technically non-compliant and cannot be considered further.*"

**This consideration is incorrect** and, in this respect, reference is made to the Tender Document, namely: (C) Specifications Pages 6 and 7. The relevant parts of this section state as follows (replicated):

**FOR ALL THE LOTS:**

- *Questionnaire and Signing of the Declaration by the bidder (Note 3) as included in the Tenderer Technical Offer Form attached.*

- *An indicative Programme and Method Statement of how the Supply and Installation will be carried out for each particular Lot being tendered for.*

# RAUSI ADVOCATES

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As is clear, whilst Note 3 was referred to when required (highlighted for emphasis purposes) i.e. for the Questionnaire and Signing of the Declaration by the bidder -which had been submitted by Rausi Co. Ltd., there is no such mention of this Note requirement 3 for: 'An indicative Programme and Method Statement of how the Supply and Installation will be carried out for each particular Lot being tendered for'.

Therefore, the Evaluation Committee was incorrect to state that the document submitted by Rausi Co. Ltd. detailing the Programme and Method Statement could not be accepted "*as per applicable Note 3 requirement*" because, in fact, there is no such Note 3 requirement.

**At page 8 of the Tender Document, Note 3 has the following meaning behind it:**

*3. No rectifications shall be allowed. Only clarifications on the submitted information may be requested. Tenderers will be requested to clarify the submitted information within five (5) working days from notification.*

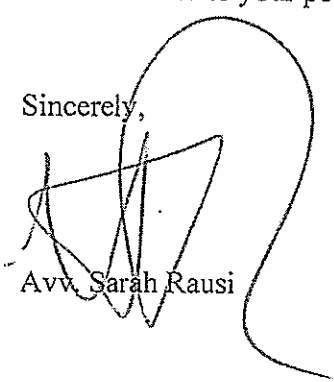
**BUT it is only for those parts where the tender document specifies that this Note 3 would apply, of course.** No Note 3 requirement was tied to the indicative Programme and Method Statement requirement and therefore the "No rectifications shall be allowed (...)" rule would not apply in this case.

Furthermore, it has been confirmed by the Evaluation Committee that a reply from Rausi Co. Ltd. was received within the stipulated timeframe as indicated on the clarification request letter and this Indicative Programme and Method Statement of how the Supply and Installation will be carried out was, in fact, submitted when requested.

In view of the above, it is clear that Rausi Co. Ltd. is technically compliant with all tender requirements. As a result, the decision communicated on the 26th June 2023 should be revoked in its entirety.

I look forward to your positive reply.

Sincerely,



Avv. Sarah Rausi



## Eurozone-SEPA payment

You have submitted this payment for authorisation  
The status for payment 15166MT00FAI is: Pending authorisation

### Debit account

Pay from RAUSI CO LTD  
MT MTHBMTCA043-012244-001 EUR  
Debit currency EUR

### Payment details

Expected value date Fri 30 Jun 2023  
This is the date we expect to debit your account.  
Please ensure that the debit account has enough funds, otherwise the payment will be rejected.  
Payment service SEPA Credit Transfer  
Your payment reference Cashier Malta

### Transactions

Entry	Beneficiary	Payment details	Amount (EUR)
1	Beneficiary name: Cashier Malta Government IBAN: MT55MALT011000040001EURCMG5001H SWIFT-BIC: MALTMTMT Reference: Rausi Co Ltd IMT002/23	Remittance information: Rausi Co Ltd IMT002/23	400.00

### Batch Summary

Total entries 1  
Batch amount EUR 400.00

Time of report: 28 Jun 2023 13:38:57 GMT

IM 002/23

26 June 2023

Rausi Company Ltd. (TID 191128)

REFERENCE: IMT001/2023

SUBJECT: Transport and Install Street Furniture and Energy Efficient Lighting Equipment, Cabling and other accessories, including Commissioning of same, at Misrah il-Parrocca, Mellieha and Triq il-Marfa, Ghadira Bay, Seaside Promenade, Mellieha. – Lot 3

Dear Sir/ Madam,

Thank you for participating in the above-mentioned tender procedure. However, I regret to inform you that the tender submitted by your company was found to be technically non-compliant for the reasons attached to this letter. This tender is being recommended for award to Gokker Ltd. at the price of Euro 62,218.80 excluding VAT.

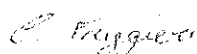
If you intend to object to this decision, the Public Procurement Regulations allow for an official objection which in this case has to be lodged electronically with the Public Contracts Review Board by sending an email on: [info.pcrb@gov.mt](mailto:info.pcrb@gov.mt) by noon of 6 July 2023 against the deposit of Euro.

Payments are to be made through bank transfer in terms of the following details:

Name of Account Holder	Cashier Malta Government
Name of Bank	Central Bank of Malta
Address of Bank	Castille Place, Valletta
Account Number	40001EUR-CMG5-001-H
BIC	MALT MT MT
IBAN Code	MT55MALT011000040001EURCMG5001H
Bank Code	01100

The decision has been published and is subject to any official objection to the recommended award being submitted at the Public Contracts Review Board.

Yours sincerely,



Christine Friggieri  
Head of Procurement



*Extract from evaluation report*

**Bidder 2  
Limited**

**Tender Id no 191128**

**Rausi Company**

The Evaluation Committee checked the submission by **Rausi Company Limited** and it was noted that the bidder's Technical Offer needed the following clarification:

- i) Bidder did not include an indicative programme of works in his submission as requested in the tender document Section 1 - Instructions to Tenderers, Article 5(C) (i) – An indicative Programme and Method Statement of how the Supply and Installation will be carried out for each particular Lot being tendered.

***The board is seeking a clarification with regards to where in your offer the above-mentioned Indicative Programme and Method Statement can be found. To note that no further rectifications can be made at this stage.***

Reply from **Rausi Company Limited** was received within the stipulated timeframe as indicated on the clarification request letter. The Evaluation Committee checked the documentation submitted by bidder and noted the following:

- *Bidder submitted documentation referring to an Indicative Programme and Method Statement .....*

Instead of clarifying where the Indicative Programme of works and method statement could be found in his offer (as requested in the clarification letter), bidder submitted a new document which cannot be accepted at this stage, as per applicable Note 3 requirement. Hence, the Committee agreed that **Rausi Company Limited** was deemed to be **technically non-compliant** and cannot be considered further.

The public is hereby notified that during the session held on Thursday, 22 June 2023, the Tendering Committee made the recommendations indicated below.

IMReference	Subject	Decision		Recommended Tenderer	Price Excluding VAT	Deposit
		Award	Fresh Call/ Cancellation			
IMT002/23	Supply, Transport and Install Street Furniture and Energy Efficient Lighting Equipment, Cabling and other accessories, including Commissioning of same, at Misrah il-Parrocca, Mellieha and Triq il-Marfa, Ghadira Bay, Seaside Promenade Mellieha Lot 3	Yes		Gokker Ltd.	€ 62,218.80	€ 400
IMT002/23	As above - Lot 1, 2 and 4		Yes	No offers received	N/A	N/A

Tenderers are informed that any objection to the decisions listed above must reach the Public Contracts Review Board by not later than noon of Thursday, 06 July 2023, or ten days from the date of notification to the respective bidder. Objections must be accompanied by a deposit to the amount indicated against each respective advert, otherwise will not be considered. Tenderers are to note that this information does not imply any obligation on the part of Government to actually implement any of the decisions indicated.

As approved by the Tendering Committee