



10<sup>th</sup> July 2023

**Public Contracts Review Board  
Notre Dame Ravelin  
Floriana VLT2000  
Malta**

**Dear Chairperson and Board Members,**

**Re: 066 – OBJECTION IMT001/2023 – 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**

**Reasoned reply of Agenzija ghal Infrastruttura Malta (the contracting authority) to the objection lodged by Rausi Co. Ltd. (the objector).**

1. That we have been instructed by the contracting authority to lodge the present reply in response to the appeal filed by Rausi Co. Ltd. (TID 191128) (The Appellant) lodged on the 30 June 2023 in connection with the above-captioned Tender and in terms of Regulation 276(c) of the Public Procurement Regulations (PPR).
2. The contracting authority submits that the grounds of the objection raised by the Appellant and the claims requested from this Board are unfounded in fact and in law and ought to be rejected by the Board for the reasons below.
3. That as could be evidenced from Article 5(c)(i) of the relative tender document entitled Tender's Technical Offer all the documentation listed under that particular article have to follow the criteria stipulated in note 3, which could be found on page 8 of said tender document. Said clause states the following:

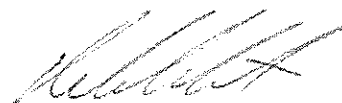
*“3. No rectifications shall be allowed. Only clarifications on the submitted information may be requested. Tenderers will be requested to clarify the submitted information within five (5) working days from notification.”*

4. That unlike what the appellant stated in the relative appeal filed, the indicative Programme and Method Statement of how the Supply and Installation will be carried out, does indeed fall under the criteria stipulated in Note 3 which has been cited above and this for the following reasons.

5. As could be evidenced from pages 6 and 7 of the tender document the particular document which rendered the appellant as being non-compliant falls under Article 5(c)(i), hereby attached and marked as **Doc A**, which Article should follow that stipulated in Note 3 above-mentioned. For this reason all the documentation listed under that particular article needs to abide by that stipulated in said Note 3. It is only if there is expressly stated that some other formality needs to be followed, that the appellant's claim could in some way be upheld. This however is not the case and therefore such necessarily gives rise to a situation where the umbrella criteria stipulated under Note 3 needs to be adhered to unless otherwise expressly stated, which in fact has been done for other documentation required under Article 5(c)(i) of the relative tender document.
6. That due to the fact that the indicative Programme and Method Statement of how the Supply and Installation will be carried out falls under Note 3 above-mentioned this consequently gives rise to a situation whereby any bidder would only be able to clarify the submitted information and not rectify any documentation submitted. It however transpires that the appellant in fact failed to submit the relative programme and method statement within the stipulated time-frame and for this reason this appeal is merely an attempt to try circumvent the criterions which were clearly stipulated in the tender document and which all the technically compliant bidders in fact adhered to.
7. The appellant cannot reasonably expect to have exceptions made in this regard when their non-compliance boils down to negligence during the relative tendering process from their end. The relative tender document was clear for everyone to follow and the fact that said appellant failed to adhere to such can in no way justify that the relative award is not followed through with.

Therefore for the above-mentioned reasons and for the other reasons which may brought during the proceedings, the Contracting Authority respectfully requests the Board to dismiss the appeal lodged by the Appellant in its entirety and to order that the deposit is not to be refunded, save for any declaration, order, or decree that it deems fit in the circumstances.

**Av Franco Galea**  
[francogalea@sagajuris.com](mailto:francogalea@sagajuris.com)



**Av Roberto Spiteri**  
[robertospiteri@sagajuris.com](mailto:robertospiteri@sagajuris.com)



**(C) Specifications**

**(i) Tenderer's Technical Offer <sup>(Note 3)</sup>**

Tenderer's Technical Offer in response to specifications to be submitted online through the prescribed Tender Response Format and by using the Tender Preparation Tool provided. <sup>(Note 3)</sup>