

Est. 1981

2 August 2023

The Secretary

Public Contracts Review Board

Notre Dame Ditch

Floriana



Reasoned Letter of Objection

TID: 193690 Raymond Vella & Co Ltd

Tender Reference: SPD1/2023/051

Subject: Tender for Supply and Installation of Charging Units for Electric Vehicles together with Electrical Infrastructure to be used at MCST Car Park

Dear Sir, Madam

1. Introduction

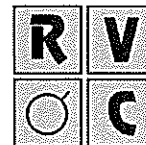
- 1.1. We, Raymond Vella & Company Limited (hereinafter referred to as the "Appellant"), are writing this Reasoned Letter of Objection in connection with the tender in subject.
- 1.2. Reference is made to letter dated 28 July 2023 (DOC. 1) sent by the Sectoral Procurement Directorate of the Department of Contracts (the "SPD") to the Appellant *inter alia* informing it that the proposal submitted by the Appellant was technically non-compliant.
- 1.3. The Appellant considers the decision to be wrong. The Appellant hereby submits its appeal by means of this objection which shall set out hereunder the reasons therefor (this "Objection"). Enclosed please find a copy of the remittance advice for the deposit of €400.



RVC LTD. BUILDING SERVICES CONTRACTORS

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VAT No: MT 1015 7904. Co. REG: C5423



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2. Facts

2.1. The letter dated 28 July 2023 informed the Appellant that the tender was deemed as Technically non-compliant as a clarification request was sent to the Appellant requesting as follows:

“As per Article 6.3 of the General Rules Governing Tenders, all literature, unless provided in English Language, needs to be accompanied by an accurate translation in English. Kindly provide.”

Furthermore, the letter informed the Appellant that “the documentation was still submitted in another language without any supporting translations.” The said letter even specified the document which was not submitted in English: “Document which was attached not in English was file 3_ct_energy_msx_it_compressed and was not accompanied by an accurate translation in English.”

2.2. The Appellant would like to clarify as follows:

2.2.1. The letter of clarification sent to the Appellant on 3 July 2023 (DOC. 2) only referred to Technical Literature against Item 1 of the Literature List. The exact wording was as follows (emphasis added):

“1. The below relate to the Technical Literature submitted against Item 1 of the Literature List

i. As per Article 6.3 of the General Rules Governing Tenders, all literature, unless provided in English Language, needs to be accompanied by an accurate translation in English. Kindly provide.

ii. Please indicate where in the Technical Literature it is being stated that Units offered include MID compliant meter.”

2.2.2. The Literature List (DOC. 3) forming part of the tender document contained two items:
Item 1 – Charging Units; and
Item 2 – Distribution Board.

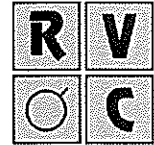
2.2.3. The literature submitted by the Appellant as part of the original offer was placed in a zip file entitled Literature.zip and the file contained two zip files: ChargingUnit.zip and DB.zip pertaining to Item 1 and Item 2 of the Literature List respectively.

2.2.4. The file ‘3_ct_energy_msx_it_compressed’ referred to in DOC.1, refers to literature on Moulded Case Circuit Breakers which are part of the Distribution Board and was therefore part of the zip file DB.zip which is Item 2 of the Literature List, and which file was submitted as part of the 6 files within DB.zip in our original offer.



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2.2.5. Our response to the clarification dated 9 July 2023 was with respect to Item 1 of the Literature List, that is, the Charging Units, as this is what the clarification letter requested, apart from other information related to the Key Expert Form. In fact, the Literature submitted through this clarification process for Item 1 together with the information submitted on the Key Expert Form was accepted and was considered by the Evaluation Committee to be technically compliant. The Appellant did not make any changes to the literature that was submitted with respect to Item 2 of the Literature List as this was not requested in the Request for Clarification (DOC. 2).

2.2.6. As per tender document, Instructions to Tenderers, Clause 5(C)(2), Literature is under Note 2 and Note 2 states:

“2. Tenderers will be requested to either clarify/rectify any incorrect and/or incomplete documentation, and/or submit any missing documents within five (5) working days from notification.”

2.2.7. In this respect, the Appellant was never given an opportunity by the Contracting Authority to clarify or rectify any shortcomings with respect to Item 2 of the Literature List, which was the reason for technical non-compliance referred to in DOC. 1, as the clarification request was specific to Item 1 of the Literature List.

3. Conclusion

3.1. In view of the above, the Appellant respectfully requests the Public Contracts Review Board to:

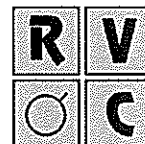
- i. cancel the award of the Tender as the Appellant was not given the opportunity to clarify on Item 2 of the Literature List, as allowed by the tender conditions, which was the reason for which the Appellant’s procurement proposal was deemed technically non-compliant.
- ii. order the Contracting Authority to resume with the technical evaluation of the tender and to make any necessary clarifications with the Appellant so that the Appellant is given the opportunity, as per tender conditions, to rectify any shortcomings in the submitted procurement documents related to Item 2 of the Literature List.

3.2. Without prejudice to any further submissions that the Appellant may be allowed to make during the proceedings relating to the appeal forming the subject-matter of this Objection.



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Yours faithfully

Edward Grech
General Manager

Annexes:

DOC. 1 – Letter from Contracting Authority dated 28 July 2023 informing Appellant that procurement proposal was technically non-compliant.

DOC. 2 – Request for Clarification from Contracting Authority received on 3 July 2023.

DOC. 3 – Literature List forming part of the Tender Documents provided by the Contracting Authority.



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DIPARTIMENT TAL-KUNTRATTI
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Floriana FRN 1600 – MALTA
Direttorat għall-Akkwist Settorali



DEPARTMENT OF CONTRACTS
Notre Dame Ravelin
Floriana FRN 1600 – MALTA
Sectoral Procurement Directorate

28th July 2023

TID: 193690 Raymond Vella & Co Ltd

Reference: SPD1/2023/051

Subject: TENDER FOR THE SUPPLY AND INSTALLATION OF CHARGING UNITS FOR ELECTRIC VEHICLES TOGETHER WITH ELECTRICAL INFRASTRUCTURE TO BE USED AT MCST CAR PARK

Dear Sir/Madam,

Thank you for participating in the above-mentioned procurement procedure. However, this Department regrets to inform you that the procurement proposal submitted by your company was technically not compliant as per the below:

A clarification request was issued to your company 'As per Article 6.3 of the General Rules Governing Tenders, all literature, unless provided in English Language, needs to be accompanied by an accurate translation in English. Kindly provide.' However, the documentation was still submitted in another language without any supporting translations. Document which was attached not in English was file 3_ct_energy_msx_it_compressed and was not accompanied by an accurate translation in English. Therefore, the offer was deemed Technically non-complaint.

If you intend to object to this decision, the Public Procurement Regulations allow for an official objection which has to be lodged electronically with the Public Contracts Review Board by sending an email on: info.pcrb@gov.mt by noon (12.00 hrs) of Monday 7th August 2023, against a deposit of €400.00.

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 official 'recommendation for award' schedule can be accessed on the website: www.etenders.gov.mt.

Although this Department has not been able to make use of your services on this occasion, we trust that you will continue to take an active interest in its procurement opportunities.

Yours sincerely,
Procurement Manager II
SPD1



TID: 000193690

Tenderer Name: Raymond Vella & Co Ltd

Reference Number: SPD1/2023/051

Title: TENDER FOR THE SUPPLY AND INSTALLATION OF CHARGING UNITS FOR ELECTRIC VEHICLES TOGETHER WITH ELECTRICAL INFRASTRUCTURE TO BE USED AT MCST CAR PARK

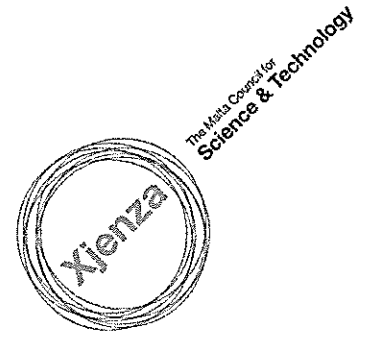
Reference is made to the tender in caption, and to your offer submission to same.

The Evaluation Committee noted the following shortcoming with regards to your submission:

1. The below relate to the Technical Literature submitted against Item 1 of the Literature List

- i. As per Article 6.3 of the General Rules Governing Tenders, all literature, unless provided in English Language, needs to be accompanied by an accurate translation in English. Kindly provide.
- ii. Please indicate where in the Technical Literature it is being stated that Units offered include MID compliant meter.

Kindly note that you can provide a new/additional set of the Technical Literature in reply to the above.



2. *The below relates to the Key Expert Form*

- i. In line with Regulation 194(b) of the Public Procurement Regulations, a change in the Key Expert is hereby being requested due to a clear existing conflict of interest. Thus, you are being asked to rectify your position by changing the proposed Key Expert including updated Key expert forms, CV and copy of the relevant qualifications and warrant.

In terms of Article 5 of the Instructions to Tenderers, you are hereby given the opportunity to clarify/rectify this shortcoming by **the stipulated deadline as stated in the Electronic Public Procurement (ePPS).**

Tenderers who fail to clarify/rectify the shortcoming identified in this communication shall be excluded from this procurement process.

The requested clarification/rectification is to be submitted through the appropriate Electronic Public Procurement (ePPS) module.

This clarification/rectification request is being sent without any commitment whatsoever on the part of the Contracting Authority and does not imply that your offer will be accepted as it may still be deemed administratively, technically or financially non-compliant during the evaluation process.

Yours faithfully,
Contracting Authority

LITERATURE LIST (NOTE 2)

SPD1/2023/051

TENDER FOR THE SUPPLY AND INSTALLATION OF CHARGING UNITS FOR ELECTRIC VEHICLES TOGETHER WITH ELECTRICAL INFRASTRUCTURE TO BE USED AT MCST CAR PARK

Supporting documents and printed manufacturer's technical literature furnished by the tenderer may be in another language, provided they are accompanied by an accurate translation into English. For the purposes of interpretation of the tender, the English language will prevail.

ALL BIDDERS ARE TO NOTE THAT PHOTOS SUBMITTED AS MANUFACTURER'S TECHNICAL LITERATURE SHALL NOT SUFFICE AND ACCORDINGLY THESE MUST BE DULY ACCOMPANIED BY THE RESPECTIVE DETAILED MANUFACTURER'S TECHNICAL LITERATURE.

The submission shall be in a structured form and is to be in the same sequence as listed hereunder for ease of reference and evaluation and with the offer.

Item No.	Description	Reference in Technical Specifications
1	Charging Units	Section 3 - 3.1 System Requirements
2	Distribution Board	Section 3 - 3.2 Other Requirements



Bank of Valletta p.l.c
Registration Number: C 2833
Registered Office: 58 Zachary Street, Valletta VLT 1130 - Malta

Pay third party

Printed by: Ms. Stefania Grech
Printed on: 03/08/2023 - 11:30
Document ID: 16981634

Transaction details

Payer's name: RAYMOND VELLA & CO. LTD
Beneficiary name: CASHIER MALTA GOVERNMENT
Relation: Technical Services
Reason: Other
Payment details: OBJECTION FEE RE TENDER SPD1 2023 051
Currency: EUR - Euro
Beneficiary IBAN/Account: MT55MALT011000040001EURCMG5001H
Beneficiary IBAN/Account type: Valid IBAN of country - Malta
Bank name: Other bank
Bank address / Bank's BIC: Let the bank apply the beneficiary bank BIC
Beneficiary address: No
From account: Payroll 63100 (EUR) 4001659732 1
Charges should be paid by: Shared - I pay BOV charges; CASHIER MALTA GOVERNMENT pays the beneficiary bank charges
Amount: EUR 400.00
BOV to transfer the money: as soon as possible
Receiving bank to get the money as: normal priority payment
Saved template: no

Additional information

Credit amount: EUR 400.00
Debited amount (excluding charges): EUR 400.00
Estimated amount to be withdrawn from account: EUR 401.00
Transaction charge: EUR 1.00

Transaction result

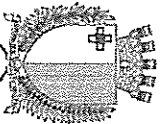
Status: Your instructions have been processed successfully.
Transaction ID: 130345299

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Direttorat għall-Akkwist Settorali



DEPARTMENT OF CONTRACTS

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Sectoral Procurement Directorate

Telephone: 25980000

e-Mail: spd1.mt@gov.mt

Schedule of Award

In terms of Regulation 270, Part IX of Legal Notice 352 of 2016 of the Public Procurement Regulations 2016, you are hereby being notified that the Departmental Contracts Committee has agreed with the below recommendation.

Reference	Subject	Decision	Recommended Tenderer	Price (excl VAT)	Deposit
SPD1/2023/051	TENDER FOR THE SUPPLY AND INSTALLATION OF CHARGING UNITS FOR ELECTRIC VEHICLES TOGETHER WITH ELECTRICAL INFRASTRUCTURE TO BE USED AT MCST CAR PARK	Awarded	Group Alpha Enterprise Ltd	€16,767.50	€400.00

Tenderers are informed that any appeals by means of an objection to the decision listed above must be lodged electronically with the Public Contracts Review Board by sending an email on info.pcrb@gov.mt by 12:00hrs (noon) of Monday 7th August 2023. Objections shall contain in a very clear manner the reasons for the complaint. Payments are to be made to the amount indicated in the table above, calculated in terms of Regulation 273 of Legal Notice 352 of 2016; otherwise they will not be considered.

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

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.

IBAN Code	MT55MALT011000040001EURCMG5001H
Bank Code	01100

SPD1 Assistant Director

28/07/2023

Date

Notre Dame Ravelin Floriana FRN 1600 Malta
email: spd.mfe@gov.mt | telephone: 2598 0000