



34/5, Strait Street, Valletta VLT 1434, Malta.  
Tel: (+356) 21250100, 21255666 Fax: (+356) 21244684  
Email: info@farrugiaadvocates.com

The Secretary  
Public Contracts Review Board  
Notre Dame Ravellin  
Floriana



17<sup>th</sup> October 2023

Dear Sir,

**Re: Tender In Lots For the Provision Of Group Life and Health Insurance Policies For the Malta Enterprise And its Subsidiaries**

**Ref. No: SPD7/2022/082 – Lot 1 – Group Life Insurance**

I write in the interest of AIB Insurance Brokers Limited (hereinafter “AIB”) of 501, Triq il-Kbira San Guzepp, Santa Venera in relation to the above captioned tender in which my client participated and relative thereto I have been instructed to lodge an appeal in terms of the Public Procurement Regulations (Subsidiary Legislation 601.03).

By virtue of a letter dated 10<sup>th</sup> October 2023 my client was informed that his tender was “Not Technically Compliant” and the reason for said decision was that “EO had to give reference in Technical Offer to demonstrate where it is found in policy / literature list but failed to do so. EO did not include reference in literature where item is to be found. Hence, offer was deemed Technically Not Compliant and cannot be considered further”

AIB felt aggrieved by the said decision and is lodging this present appeal for the reasons stated hereunder.

The “Criteria for Award” of the tender under review clearly states that “The sole award criterion will be the price. The contract will be awarded to the tenderer submitting the cheapest priced offer satisfying the administrative and technical criteria”

There is no doubt that AIB submitted the cheapest priced offer and therefore what needs to be assessed is the technical and administrative compliance of AIB’s offer.

As to the administrative compliance of AIB no issue or concern has been raised by the Evaluation Committee or the Contracting Authority and there is no matter to be addressed.

The sole matter that needs addressing is the technical compliance, or otherwise of AIB’s offer.

As stated above AIB's offer was deemed technically not compliant for the following reasons:

- (a) EO had to give reference in Technical Offer to demonstrate where it is found in policy / literature list but failed to do so.
- (b) EO did not include reference in literature where item is to be found. Hence, offer was deemed Technically Not Compliant and cannot be considered further

The requirements of the technical offer and the technical literature are regulated by paragraph (C) of clause 5 of the Instructions to Tenderers (Section 1) of the tender document, which reads as follows

*“(C) Specifications*

*(i) 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. (Note 3)*

*The Technical offer shall consist of the following for both lots:*

- 1. Technical Questionnaire*
- 2. GDPR Questionnaire*
- 3. Declaration*

*(ii) Literature as per Form marked 'Literature List' to be submitted with the Technical offer at tendering stage. The scope of the literature is to corroborate a fully compliant technical offer. (Note 2)*

*Please note that there are two different Literature Lists, one for each respective Lot. The bidder is only expected to submit the Literature List/s of the Lots in which they are interested in”*

As is clearly evidenced from the above quoted clause the Technical Offer is subject to the terms of “Note 3” whilst the Literature is subject to the terms of “Note 2”;

In relation to the Technical Offer the Evaluation Committee contends that AIB failed to *“demonstrate where it is found in policy / literature list”*. As is evidenced from the attached document marked Appendix A, AIB completed all the requested parts of the Technical Questionnaire and provided all the required information. In particular at page 3 of the Technical Questionnaire AIB agreed to the Terms of Reference by indicating “YES” to each required field. The issue of contention is based upon the fact that AIB did not indicate the page number, section etc where the particular item may be found in the Technical Literature.

In appellant's opinion, the matter to be assessed is whether, in terms of applicable public procurement principles, the omission of a page number or section number in the Technical Questionnaire should be the basis of an exclusion of a financially favourable offer or whether such omission could have been clarified in terms of Note 3 to the benefit of the public coffers.



As stated, AIB provided a reply to all the required fields in the Technical Questionnaire and replied "Yes" to the fields at page 3, thus confirming that all the required specific activities will be provided.

The request to provide the page numbers / section numbers of the Technical Literature was made solely for the purposes of verifying the information submitted at page 3 and not as mandatory information, which fact is evidenced from the contents of the said page 3 itself.

If said page numbers / section numbers were required for verification purposes, it follows that said page numbers / section numbers were required solely to clarify the information already provided at page 3.

This in turn leads to the obvious conclusion, in appellant's opinion, that the Evaluation Committee had an obligation, in terms of applicable principles, to apply the terms of Note 3 and request AIB to clarify the information already submitted at page 3 and not proceed with excluding AIB's offer simply because the page numbers / section numbers of the Technical Literature for verification purposes were not submitted.

In relation to the Technical Literature the Evaluation Committee contends that AIB failed to "*include reference in literature where item is to be found*". Evidently the attached document, marked Appendix B, was missing from AIB's offer from where specific reference would result to each item requested in page 3 of the Technical Questionnaire.

The information which is listed in the attached document marked as Appendix B, would be found in a what is known as a "Policy Schedule" in insurance business, and from which schedule there results the specific terms of a particular insurance policy. Whilst the policy wordings (such as the one which formed part of AIB's submission) are standard and are freely available to insurance brokers, such Policy Schedules are issued by the insurers AFTER the policy is issued and are never issued BEFORE a policy is issued.

Whilst each insurance company has the general terms of a particular policy on the other hand each specific policy will have the specific terms stipulated in the Policy Schedule. In its offer AIB submitted the general terms of the policy but omitted the Policy Schedule.

The Evaluation Committee, being knowledgeable in insurance matters, should have realised that the Policy Schedule specifying the particulars terms of the policy requested was missing and thus had an obligation to apply the terms of Note 2 and request AIB to submit the missing document.

Any person with minimal knowledge in insurance matters is well aware that the specific terms of a particular policy are stipulated in the Policy Schedule and the requirements requested at page 3 of the Technical Questionnaire constitute specific terms such that same had to result from a Policy Schedule. The absence of a Policy Schedule in AIB's bid should have been an obvious oversight and required the application of Note 2 such that AIB be given the opportunity to submit the attached document marked as Appendix B.



Evidently, the Evaluation Committee omitted to adhere to the guiding principles of public procurement and failed to apply the terms of the tender itself, in particular the terms of Note 2 and Note 3, with the consequence that the cheapest priced offer was excluded to the detriment of the public coffers.

Having stated the above AIB cordially requests that this Review Board:

[A] annuls and revokes the decision to award the tender to Antes Insurance Brokers Limited;

[B] orders that the tender under review is to be re-evaluated;

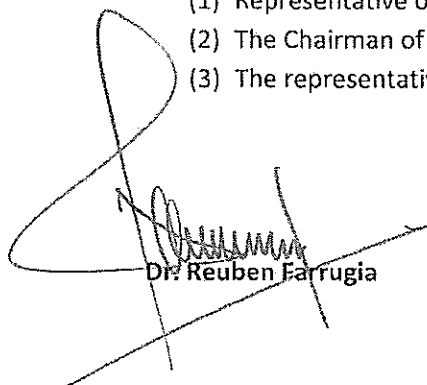
[C] orders that a new Evaluation Committee be appointed for this purpose;

[D] orders that the new Evaluation Committee submits a request to AIB for clarifications in terms of Note 3 and the submission of missing documents in terms of Note 2;

[E] orders that following the submission of the clarifications and missing documents by AIB, the tender under review be re-evaluated;

Whilst the appellant reserves the right to make further submissions and produce such evidence as may be appropriate during the hearing of this appeal, it is cordially requested that the hereunder individuals be summoned by the Board to testify during the hearing in relation to the matters indicated:

- (1) Representative of Life Star Insurance;
- (2) The Chairman of the Evaluation Committee relative to this tender;
- (3) The representative of Antes Insurance Brokers Limited;



Dr. Reuben Farrugia

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## TENDERER'S TECHNICAL OFFER

### Technical Questionnaire (Note 3)

*N.B. The Key Experts Form, the Statement of Availability Form, the Self-declaration form for Key Experts (relating to public employees) and CVs & Literature are subject to Note 2. Any other components of the technical offer are under Note 3.*

Where in this tender document a standard, brand or label is quoted, it is to be understood that the Contracting Authority will accept equivalent standards, brands or labels. However, it will be the responsibility of the respective bidders to prove that the standards they quoted are equivalent to the standards requested by the Contracting Authority.

A technical offer is to be provided by the Economic Operator in response to Terms of Reference. 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.

### Tender Ref.: SPD7/2022/082 - Lot 1 - Group Life Insurance Policy

Title: Services - Tender in lots for the Provision of Group Life and Health Insurance Policies for Malta Enterprise and its Subsidiaries

#### 1. Technical Questionnaire

Section 3: Terms of Reference	Agreement to Terms of Reference
<b>Article 2.2 - Specific Objectives</b> The contractor shall provide adequate group life insurance for the employees of Malta Enterprise and its subsidiaries including the initial insurance cover (policies), Renewals, policy updating, claims handling and resolutions, and any other insurance matter as specified, implied or of an ancillary nature and this in terms of the Contractor's obligations as established in the Contract and these Terms of Reference.	<input checked="" type="checkbox"/> I confirm <input type="checkbox"/> I do not confirm

<p>Section 3: Terms of Reference Article 2.3: Results to be Achieved by the Consultant</p>	<p>Agreement to Terms of Reference</p>
<p>The Service Provider shall provide insurance cover as per all the policies highlighted in clause 2.2 of these Terms of Reference</p>	<p><input checked="" type="checkbox"/> I confirm <input type="checkbox"/> I do not confirm</p>
<p>The Tenderer shall be registered with the local competent authority/ies as being duly authorized to offer Insurance Services/operate in the insurance sector in Malta and shall submit with its tender offer a copy of a valid Registration Certificate issued by the Malta Financial Services Authority (MFSA) as evidence. In case of a joint venture/consortium, the bidder is requested to submit a valid license for all the parties proposed for the execution of the contract (including nominated partners). A copy of each and every license has to be submitted together with the bid. The Evaluation Committee reserves the right to make all verifications necessary with the Malta Financial Services Authority during the evaluation stage.</p>	<p><input checked="" type="checkbox"/> I confirm <input type="checkbox"/> I do not confirm</p>
<p>The Contractor shall produce the Policy Wording of the respective Lot, he/she is interested in. A template shall be provided by the prospective bidders at Tendering Stage. The final details shall be agreed upon signature of Contract, with the Awarded Bidder/Contractor.</p>	<p><input checked="" type="checkbox"/> I confirm <input type="checkbox"/> I do not confirm</p>
<p>The contractor shall appoint a Contact person who will act as a liaison officer so that the latter acts as a point of reference between the Contracting Authority and the Contractor on insurance matters related to this Contract. The Economic Operator shall but not exclusively:</p> <ul style="list-style-type: none"> <li>o Act as an advisor to the Contracting Authority on insurance matters related to this Contract.</li> <li>o Provide quick and efficient response / service to the Contracting Authority's requirements on insurance matters related to this Contract and this within reasonable timeframes as established by the Contracting Authority.</li> <li>o Handle, assist the Contracting Authority and settle any claim which may arise from the policies and covers mentioned in this Contract and advise on any possible way forward in order to find the best possible solution on such matters.</li> <li>o Report in writing on specific cases involving insurance claims made by or against the Contracting Authority, as required.</li> <li>o Report in writing on insurance related matters as and when requested by the Contracting Authority.</li> <li>o Meet and assist representatives of the Contracting Authority as and when required.</li> <li>o Submit reports as requested by the Contracting Authority.</li> <li>o Provide any other service (related to insurance) as deemed necessary by the Contracting Authority.</li> </ul>	<p><input type="checkbox"/> I do not confirm <input checked="" type="checkbox"/> I confirm <input type="checkbox"/> I do not confirm</p>

<p><b>Section 3: Terms of Reference</b>  <b>Article 4.2: Specific Activities</b></p>	<p>Agreement to Terms of Reference and insert reference in technical literature where item specification may be found and verified (clearly reference where the information is to be found; e.g page number, section etc.)</p>
<p><b>The Lives Assured</b>  All employees. Any pre-existing condition risks are to be covered. Current number of employees is set at 183.</p>	<p>YES</p>
<p><b>The Benefit</b>  Equivalent to 4 years' basic annual salary of each of the employees. No underwriting shall be requested for any cover up to a maximum of €200,000 (£50,000 x 4 years)</p>	<p>YES</p>
<p><b>Territorial Limits &amp; Operative Time</b>  Worldwide on 24-hour basis</p>	<p>YES</p>
<p><b>Period</b>  The insurance period is for 36 months</p>	<p>YES</p>

**2. GDPR Questionnaire**

Regulation (EU) 2016/679 on the Protection of Natural Persons with regard to the Processing of Personal Data and on the Free Movement of such Data (better known as General Data Protection Regulation - GDPR)

GDPR Questionnaire	
GDPR Questionnaire	
1. Location of Personal Data:	
Provide the country (i.e. physical storage or cloud storage) where the personal data (being processed on behalf of the data controller) shall be stored.	<i>please refer to the GDPR Questionnaire</i>
2. Processing of Personal Data	
Describe the processes the Bidder (and/or any of its Sub-Contractors, Suppliers, Service Providers or any third parties processing such data on behalf of the Bidder) shall be carrying out in relation to the processing of personal data of the Data Controller.	<i>please refer to the GDPR Questionnaire</i>

**3. Declaration**

I declare that I have read and understood the requirements and specifications outlined in Section 2 - Special Conditions and in Section 3 - Terms of Reference of the Tender Document.

I hereby declare that the services provided shall be in conformity and fully compliant with all requirements and specifications outlined in Section 2 - Special Conditions and Section 3 - Terms of Reference of the Tender Document.

Confirm  
 I do not Confirm

\* End of Technical Questionnaire \*



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## GROUP LIFE INSURANCE TERMS

NAME OF INSURED:	Malta Enterprise Corporation
COVER	Death Any Cause
NUMBER OF MEMBERS:	All employees - 183 members
JURISDICTION:	Maltese Arbitration
TERRITORIAL LIMITS:	Worldwide
OPERATIVE TIME:	24 hour basis
DURATION:	36 Months
FREE COVER LIMIT:	EURO 200,000 Any pre-existing conditions are covered and underwriting will be required only for any sums insured beyond the limit

A handwritten signature in black ink, appearing to be 'A. M. J.', located below the terms table.

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For and on behalf of AIB Insurance Brokers Limited



10<sup>th</sup> October 2023

AIB Insurance Brokers Limited  
000194625

REFERENCE: SPD7/2022/082

SUBJECT: TENDER IN LOTS FOR THE PROVISION OF GROUP LIFE AND HEALTH  
INSURANCE POLICIES FOR THE MALTA ENTERPRISE AND ITS  
SUBSIDIARIES

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 for **Lot 1 – Group Life Insurance** was **Not Technically Compliant**.

The main reasons why your procurement proposal for **Lot 1** was not compliant, are included in the table hereunder.

Tender ID	Name of Tenderer	Reasons
000194625	AIB Insurance Brokers Limited	EO had to give reference in Technical Offer to demonstrate where it is found in policy/literature list but failed to do so. EO did not include reference in literature, where item is to be found. Hence, offer was deemed Technically Not Compliant, and cannot be considered further.

The procurement for **Lot 1** was recommended for award to **Tender ID: 000194809 – Antes Insurance Brokers Limited** for the amount of **€ 93,456.00** excluding VAT, this being the cheapest priced offer satisfying the administrative and technical criteria.

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 **Friday, 20<sup>th</sup> October 2023** against a deposit of **€ 450.00**.

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](http://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,

**Manager 1 Procurement**  
**Sectoral Procurement Directorate 7**



10<sup>th</sup> October 2023

AIB Insurance Brokers Limited  
000194625

REFERENCE: SPD7/2022/082

SUBJECT: TENDER IN LOTS FOR THE PROVISION OF GROUP LIFE AND HEALTH INSURANCE POLICIES FOR THE MALTA ENTERPRISE AND ITS SUBSIDIARIES

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 for **Lot 2 – Group Health Insurance** was **Not Technically Compliant**.

The main reasons why your procurement proposal for **Lot 2** was not compliant, are included in the table hereunder.

Tender ID	Name of Tenderer	Reasons
000194625	AIB Insurance Brokers Limited	Technical Offer – Compliant Literature List – With Reference to Section 3 – Terms of Reference for Lot 2 – Group Health Insurance Policy, the Contracting Authority requested the following: “The successful tenderer shall enrol all existent and newly engaged employees during the duration of the contract and their dependents without being medically underwritten.” The EO is making reference to pre-existing conditions as per Section 6 – Exclusions, clause 2 which states: 2. Pre-Existing Medical Conditions, however, will be covered after five years

		continuous insurance cover with us provided that during the five year period the Beneficiary has not: consulted any doctor for treatment or advice (including check-ups); or, taken any medication (including drugs, medicines, special diets and injections) for that Pre-Existing Medical Condition.” Hence, the above renders the offer technically not compliant, and cannot be considered further.
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The procurement for **Lot 2- Group Health Insurance** was recommended for cancellation since no qualitatively worthwhile tender has been received. The cancellation is in line with the General Rules Governing Tenders Article 18.3(A).

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 Friday, 20<sup>th</sup> October 2023** against a deposit of **€ 1,350.00**.

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 cancellation’ schedule can be accessed on the website: [www.etenders.gov.mt](http://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,

**Manager 1 Procurement  
Sectoral Procurement Directorate 7**



**Bank of Valletta p.l.c**  
 Registration Number: C 2833  
 Registered Office: 56 Zachary Street, Valletta VLT 1130 - Malta

## Pay third party

Reprinted by: Ms Andriana Cuschieri  
 Reprinted on: 19/10/2023 - 12:24  
 Document ID: 17790022

### Transaction details

Date:	19/10/2023
From:	Internet Banking
Transaction ID:	133546623
Status:	Registered
Transaction:	Pay third party
Beneficiary name:	Cashier Malta Government
Relation:	Financial Services
Reason:	Other
Payment details:	AIB Insurance Brokers Ltd SPD7/2022/082 Group Life, Malta Enterprise
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
Withdraw from account:	4001173583 2 (EUR)
Charges should be paid by:	Shared - I pay BOV charges; Cashier Malta Government pays the beneficiary bank charges
Amount:	EUR 450.00
Receiving bank to get the money as:	normal priority payment
To be effected on:	as soon as possible
Credited amount:	EUR 450.00
Debited amount (excluding charges):	EUR 450.00
Estimated amount to be withdrawn from account:	EUR 451.00
Transaction charge:	EUR 1.00
Creator:	Ms Andriana Cuschieri
Authorised by:	Mr. RAMON MIZZI
Result:	Your instructions have been processed successfully.