

**Public Contracts Review Board  
Department of Contracts  
Notre Dame Ravelin  
Floriana VLT2000**



**17 November 2023**

Dear Sirs,

**Re: Quote for the removal, lifting on hard at temporary storage of M/Y Pathfinder with Reference Number TM Quote 039/2023 (the "Tender")**

1. We have been instructed by **Sammut Marine Limited (C-82608)** (the "**Appellant**") to file an appeal in terms of Regulation 270 of the Public Procurement Regulations (the "**PPR**") in connection with the above-captioned matter.
2. On 17 August 2023, Transport Malta ("**Contracting Authority**") published the above-captioned Tender for the removal, lifting on hard at temporary storage of the vessel M/Y Pathfinder. The estimated procurement value for this call for Tenders is €9,500 (excluding VAT).
3. The tender deadline closed on 31 August 2023 and the Contracting Authority received two offers: one from Polaris Marine Services Co. Ltd (the "**Recommended Bidder**") for €9,245 and one from the Appellant for €7,450.
4. In spite of being the cheaper offer, the Appellant received a rejection letter from the Contracting Authority on 6 November 2023 (attached and marked as "**Document SM1**") simply stating that:

*we regret to inform you that your bid in connection with the above quotation has not been accepted by Transport Malta, since it was technically non-compliant.*

5. The Appellant wrote to the Contracting Authority the following day to lament the failure to state reasons for rejection.
6. Upon receiving a reminder from the Appellant, the Contracting Authority released a second rejection letter on 9 November 2023 (attached and marked as "**Document SM2**") informing the Appellant that:

*the Bidder did not submit an assessment of the vessel pathfinder, as required in Section C, part2 of the quotation dossier, but stated how such assessment will be carried should the quotation be awarded to such bidder. Hence the method statement could not be assessed fully as it lacked the requested important information. Additionally, the bidder did not submit the certification of the lifting equipment as requested in Section C, part2 of the quotation dossier. The Evaluation Committee noted that Section C, part2 of the quotation dossier relating to the technical offer fell under Note3, stating that no rectifications are allowed but only clarifications on the submitted information may be requested. Hence the Evaluation Committee concluded that this bidder had to be deemed as technically non-compliant.*

7. The Appellant is aggrieved by the Contracting Authority's decision and this or the following reasons.
8. **Firstly**, the vessel assessment and the certification of the lifting equipment which are part of the fuller method statement to submitted by the bidder are not regulated by Note 3 but by Note 2. This is because the method statement is listed as the only document to be provided in terms of the Literature List which is clearly marked as Note 2:

Literature List <sup>(Note 2)</sup>

List of literature to be submitted with the offer.

List of literature <sup>(Note 2)</sup> that will be submitted by a bidder:

Item	Description
1.1	The tenderer shall provide a detailed method statement of works to meet the criteria specified in Section C (2) Specific Project Overview

9. Even the *nota bene* to the Tenderer's Technical Offer expressly caveats that:

**TENDERER'S TECHNICAL OFFER**

*N.B. The Literature are subject to Note 2. Any other components of the technical offer are under Note 3.*

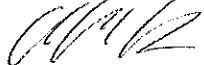
10. The matters of alleged non-compliance raised by the Contracting Authority in their rejection letter were therefore rectifiable in line with Note 2 because they relate to the method statement which is specifically included as the only item to the Literature List.

11. **Secondly**, the evaluation committee's reasons for rejecting the Appellant's offer are not in line with the general principles of public procurement.
12. For the above-mentioned reasons, and others that may be brought in due course of the case, the reasons for rejection are unfounded and ought to be quashed.

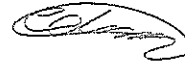
THEREFORE, in view of the above and for other reasons that may be brought in due course at law, the Appellant humbly demands that this Public Contracts Review Board:

- a. declares that the Contracting Authority's decision of 9 November 2023 to award the contract to Polaris Marine Co. Ltd and to reject the Appellant's offer was unlawful and should be revoked; and
- b. orders the refund of the deposit paid upon the filing of this appeal,  
  
subject to any declaration or order as it deems fit and opportune.

Yours Sincerely,  
Ganado Advocates

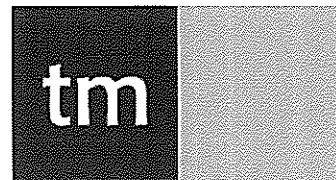


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Transport Malta

06<sup>th</sup> November 2023

Sammut Marine Ltd

TID: 0197759

## Notification Letter

### TM Quote 039/2023- Quotation for the removal, lifting on the hard at temporary storage of M/y Pathfinder.

Dear Sir/Madam,

Further to your submission of the 31<sup>st</sup> of August 2023 and the evaluation process, we regret to inform you that your bid in connection with the above quotation has not been accepted by Transport Malta, *since it was technically non-compliant.*

The appeals period for this call for tenders must follow the provisions laid down in Contract Circular No.07/2020 issued by the Department of Contracts.

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 16<sup>th</sup> November 2023 against a deposit of €400.00 exc. VAT. 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 schedule can be accessed on the website: [www.etenders.gov.mt](http://www.etenders.gov.mt).

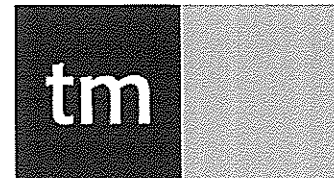
Kindly confirm receipt of this notification on [procurement.tm@transport.gov.mt](mailto:procurement.tm@transport.gov.mt) .

Yours sincerely,

Adiona Borg

Procurement

Transport Malta



Transport Malta

9<sup>th</sup> November 2023.

Sammut Marine Ltd

TID: 0197759

## Notification Letter

### TM Quote 039/2023- Quotation for the removal, lifting on the hard at temporary storage of M/y Pathfinder.

Dear Sir/Madam,

Further to your submission of the 31<sup>st</sup> of August 2023 and the evaluation process, we regret to inform you that your bid in connection with the above quotation has not been accepted by Transport Malta, *since the technical specifications submitted by the bidder are not in compliance with the quotation dossier. Hence, noting that this falls under Note3, the Evaluation Committee deems this Bidder as not technically compliant. The Bidder did not submit an assessment of the vessel pathfinder, as required in Section C, part2 of the quotation dossier, but stated how such assessment will be carried should the quotation be awarded to such bidder. Hence the method statement could not be assessed fully as it lacked the requested important information. Additionally, the bidder did not submit the certification of the lifting equipment as requested in Section C, part2 of the quotation dossier. The Evaluation Committee noted that Section C, part2 of the quotation dossier relating to the technical offer fell under Note3, stating that no rectifications are allowed but only clarifications on the submitted information may be requested. Hence the Evaluation Committee concluded that this bidder had to be deemed as technically non-compliant.*

The appeals period for this call for tenders must follow the provisions laid down in Contract Circular No.07/2020 issued by the Department of Contracts.

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 19<sup>th</sup> November 2023 against a deposit of €400.00 exc. VAT. 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 MT55MALT01100040001EURCMG5001H Bank Code 01100 The official schedule can be accessed on the website: [www.etenders.gov.mt](http://www.etenders.gov.mt).

Kindly confirm receipt of this notification on [procurement.tm@transport.gov.mt](mailto:procurement.tm@transport.gov.mt) .

Yours sincerely,

Adiona Borg

Procurement

Transport Malta



Bank of Valletta

**Bank of Valletta p.l.c**

Registration Number: C 2833

Registered Office: 58 Zachary Street, Valletta VLT 1130 - Malta

**Pay third party**

Printed by: Mr. David Sammut

Printed on: 17/11/2023 - 13:53

Document ID: 18123927

**Transaction details**

Beneficiary name: Cashier Malta Government

Relation: Retail

Reason: Purchase of Services

Payment details: Objection to TM Quote 039.2023. Quotation for the renewal, lifting ...

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: 5001351954 1 (EUR)

Charges should be paid by: Shared - I pay BOV charges; Cashier Malta Government pays the beneficiary bank charges

Amount: EUR 475.00

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 475.00

Debited amount (excluding charges): EUR 475.00

Estimated amount to be withdrawn from account: EUR 476.00

Transaction charge: EUR 1.00

**Transaction result**

Status: Your instructions have been processed successfully.

Transaction ID: 134832431