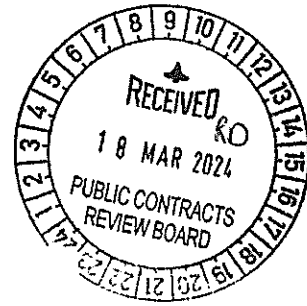


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18th March 2024

Reference: Objection 429- PCRB – 8 March 2024
CT2363/2023 – Tender for Security Guards at Malta Libraries

Malta Libraries would like to point out the following in its terms of reply:

1. The Contracting Authority accepts that there has been an error in the rejection letter with regards to the financial offer. This should have read a total financial value of €631,886.88.
2. The TEC of the above-mentioned tender has followed the BPQR criteria as published in the Tender Document when evaluating all offers submitted for this tender. Specifically, and with relevance to the objection submitted – **Criteria C2 (viii) Collective Agreement (add-on)** - below abstract from BPQR table refers:

| Bidders should submit one of the following as part of their submission: | | |
|--|----------|------|
| (i) A Conditions of Employment Description whereby the Economic Operator shall submit a Write-Up Report in the form of a Conditions of Employment Report of approximately 300 words making sure to meet the minimum requirements as per Terms of Reference Article indicated above. This shall briefly outline the principles and criteria of Employment Law Conditions as set by the Employment and Industrial Act (CAP 452) as well as any applicable Subsidiary Legislations. Specific reference shall also be made to how these Conditions of Employment relate to the Personnel employed on this Contract. 2 points | 2 points | 35% |
| OR | | |
| (ii) A signed Declaration by a Union Representative stating that negotiations have started with the Economic Operator in order to enact a Collective Agreement. 3 points | 3 points | 50% |
| OR | | |
| (iii) A Identical copy of an expired (i.e. Validity Period exceeds the demarcated 90 day period as per above definition) Collective Agreement duly signed by the involved parties and submitted by the Economic Operator to DIER. 4 points | 4 points | 65% |
| OR | | |
| (iv) An identical copy of a valid Collective Agreement duly signed by the involved parties and submitted by the Economic Operator to DIER. 5 points | 5 points | 85% |
| OR | | |
| (v) An identical copy of a valid Collective Agreement duly signed by the involved parties and submitted by the Economic Operator to DIER including the acknowledgement by DIER that the Collective Agreement has been submitted for registration at their end. 6 points | 6 points | 100% |



The TEC believes that the submission made by J.F Security & Consultancy Services Ltd falls in the 4 points option of the BPQR – **Criteria C2 (viii) Collective Agreement (add-on)**

Abstract from BPQR criteria:

(iii) An identical copy of an expired (i.e. Validity Period exceeds the demarcated 90 day period as per above definition) Collective Agreement duly signed by the involved parties and submitted by the Economic Operator to DIER. 4 points

The reason is that:

The submission included a letter by the GWU affirming the validity of the collective agreement. This letter is dated 25 May 2023. The TEC could not therefore conclude that this collective agreement is valid for this tender because the opening of the tenders was on the 19 December 2023 and therefore the letter provided is not sufficient. This was not rectifiable during evaluation stage since it falls under Note 3.

Moreover, J.F Security & Consultancy Services provided an identical copy of an expired collective agreement. This agreement expired in 2014.

Hence, the reduction of points is justified because the letter of validity provided is expired (by 6 months) and the Collective Agreement provided is also expired. In the appeal brought forward by the Appellant, the latter argues that it provided all the documentation requested and that the Contracting Authority was erroneous and incorrect when it held that "Your company has submitted an expired collective agreement".

The Contracting Authority did not make a wrong evaluation of the documentation submitted nor of the criteria established in the tender document. Indeed, the collective agreement submitted to the Contracting Authority was an expired one and hence it could not allocate full marks in terms of the above-cited criteria. This clearly qualifies the submission for 4 points according to the set BPQR criteria in the tender document.

For above reasons, the Contracting Authority humbly submits that the requests lodged by the Appellant in its appeal should not be entertained and that the rejection/award issued on the 27th February, 2023 should be confirmed.

The Tender Evaluation Committee