

The Secretary  
Public Contracts Review Board  
Notre Dame Ditch  
Floriana



Date: 25<sup>th</sup> April 2024

**Reply by Identità to the Notice of Objection submitted by Simply Clean Limited on 18<sup>th</sup> April 2024**

Re: Tender for Cleaning Services using Environmentally Friendly Cleaning Products at Identità (SPD2/202/052)

In reply to the Notice of Objection filed by Simply Clean Limited dated 18<sup>th</sup> April 2024, the Contracting Authority is hereby submitting the following.

That the offer submitted by the objector was not technically compliant given that offer failed to provide a mandatory document, essentially that the objector failed to provide a copy of a written contract of employment between the bidder and an employee.

That in lieu of the requested contract of employment as clearly specified in the tender document, the objector submitted a template of a contract of employment. (**Doc. A**).

That the objector is not contesting this fact however is claiming that if any part of the contract was not clear to the evaluators, the evaluation committee had all the powers at law to request a clarification on the document provided.

That the Contracting Authority totally differs with this argument.

That this was not a matter of clarification but a matter of rectification of a technical document. The Evaluation Committee cannot request the bidder for the provision of an additional document, as this is tantamount to a rectification which is not permitted with regards to the Technical Offer - Vide Note 3 in the Notes to Clause 5 on page 5 of Tender Document (**Doc B**).

That without prejudice to the above and for the sake of the argument made by the objector, if the objector at the bidding stage had any clarifications to be made, it was his responsibility to do so.

That it was not within the responsibility of the Evaluation Committee to seek a clarification. This was held by the Public Contracts Review Board in a recent decision of the 26<sup>th</sup> of June 2023 following a letter of objection filed by Signal 8 Security Services Malta Limited (Case 1886 – SPD8/2022/120). As a matter of fact, the Board held that *“it was up to the Appellant to submit a clarification request within the timeframes stipulated in the General Rules Governing Tenders and if the reply provided was not to its satisfaction, it could contemplate further remedial mechanisms as provided in the Public Procurement Regulations S.L 601.03. Therefore, the arguments brought*

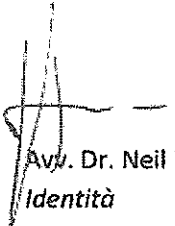
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*forward by Appellant that in this case it was the responsibility of the Evaluation Committee to seek a clarification from the appellant are not upheld".*

It is therefore evident from the above that the objector at bidding stage had failed to provide the requested mandatory document and was therefore not technically compliant, and that the tender was awarded to the cheapest and compliant bidder.

This is being submitted in support of the decision taken by the Evaluation Board and in reply to the objections raised by Simply Clean Ltd, and Identità reserves the right to present further submissions during the hearing.



Avv. Dr. Neil Harrison  
Identità