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ADVOCATES

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17th April 2024

The Secretary
Public Contracts Review Board
Notre Dame Gate,
St Calcedonius Square,
Floriana.

Sir,

Re: SERVICE TENDER FOR STREET SWEEPING SERVICES IN VICTORIA, GOZO USING ENVIRONMENTALLY FRIENDLY PRACTICES

Reference number: [VLC/01/2023]

I write on behalf of Innovative Business Solutions of Dar il-Gnejna, Triq to file an objection against the decision of the Contracting Authority, the Kunsill Lokali Victoria, Gozo, dated the 8th of April 2024, which stated:

Reference is being made to the tender in caption, please note that this call is being cancelled, in terms of Clause 18 of the General Rules Governing Tenders, namely: The call is being recommended for cancellation in line with clause 18.3 of the General Rules Governing Tenders where Cancellation may also occur where: (a) the tender procedure has been unsuccessful, namely where no qualitatively or financially worthwhile tender has been received.

Reason why your offer was not successful:

The offer was deemed to be technically non-compliant for the following reason/s:

*C2 - Wages are Paid by Credit Transfer – Agreement with bank not provided
C2 - Detailed Payslip – Copy of Payslip not provided*

The chain of events leading to this objection are as follows:

A call for tenders was published by the Contracting Authority, the Kunsill Lokali Victoria, and after the evaluation of the tenders received by the Kunsill Lokali Victoria informed the appelland that its offer was deemed to be technically non-compliant because there was no proof of an agreement with the bank was provided re wages being Paid by Credit Transfer and no copy of detailed payslip was provided.

Additionally the call was recommended for cancellation as it deemed that the tender procedure has been unsuccessful, namely where no qualitatively or financially worthwhile tender has been received

That the grounds for this objection are clear and manifest.

1. The Appellant's was not technically compliant

That Innovative Business Solutions was deemed as being technically not compliant because there was no proof of an agreement with the bank was provided re wages being Paid by Credit Transfer and no copy of detailed payslip was provided.

i) No proof of an agreement with the bank was provided re wages being Paid by Credit Transfer

Reference is made to the tender document page 15:

Proof of Good Working conditions measures taken in favour of the employee.

These are to include:

(i) Wages are paid by credit transfer – costs are borne by the contractor (Mandatory)

For Economic Operators currently with employees:

A score of '0' shall be allotted if proof in this regard is not submitted whereas full marks will be given if proof is provided accordingly. If a score of '0' shall be allotted, the bidder shall be disqualified.

For Economic Operators currently with no employees:

A score of '0' shall be allotted if a self-declaration of compliance is not submitted whereas full marks will be given to the bidder that submits a self declaration committing oneself to have any wages paid through credit transfer, costs of which are borne by the contractor should employees be engaged during the contract duration. If a score of '0' shall be allotted, the bidder shall be disqualified.

That the appellant is currently an economic operator with no employees. That as per tender document it had to submit a self-declaration committing itself to have any wages paid through credit transfer, costs of which are borne by the contractor should employees be engaged during the contract duration. That this was duly done and thus this criterion was duly satisfied.

That proof of an agreement with the bank re wages being Paid by Credit Transfer was applicable for Economic Operators currently with employees and thus this was not applicable to the appellant. An economic operator which currently has no employees had to submit a self declaration which in this case was duly provided.

Thus this reason for deeming the appellant technically non-compliant is manifestly wrong.

ii) No copy of detailed payslip was provided

Similarly reference is made to the tender document page 16

(ii) Employees are provided with a detailed payslip

For Economic Operators currently with employees:

A score of '0' will be allotted if proof of measure is not provided whereas full marks will be given if this proof is provided accordingly. If a score of '0' shall be allotted, the bidder shall be disqualified

For Economic Operators currently with no employees:

A score of '0' shall be allotted if a self-declaration of compliance is not submitted whereas full marks will be given to the bidder that submits a self-declaration to provide a detailed payslip should employees be engaged during the contract duration. If a score of '0' shall be allotted, the bidder shall be disqualified.

That the appellant is currently an economic operator with no employees. That as per tender document it had to submit a self-declaration of compliance. That this was duly done and thus this criterion was duly satisfied.

That providing a copy of a payslip was applicable for Economic Operators currently with employees and therefore this was not applicable to the appellant. An economic operator which currently has no employees had to submit a self declaration which in this case was duly provided.


Thus this reason for deeming the appellant technically non-compliant is manifestly wrong.

That the most economically-advantageous bid was that of the appellant Innovative Business Solutions and this as it results from the Opened Tender Details and thus the tender should be awarded to Innovative Business Solutions.

Now therefore, whilst reserving the right to put forward further submissions, the Appellant company hereby requests:

To declare that


1. That Innovative Business Solutions was technically compliant and thus order the cancellation of the recommendation of Cancellation made in terms of Clause 18 of the General Rules Governing Tenders, since the tender procedure was unsuccessful, namely where no qualitatively or financially worthwhile tender has been received and order the contracting authority to reevaluate the bid received from Innovative Business Solutions
2. To do anything else which is conducive and necessary for the proper execution of the above,
3. To refund the deposit in its entirety.



Avv. Daniel Calleja

Requested Testimony by:

- (i) Representative of the Evaluation committee – To testify on this tender procedure, during all stages, including but not limited to the pre-drafting stage, drafting stage, and adjudication stage
- (ii) Representative of the Contracting Authority/Department of Contracts – To testify on this tender procedure, during all stages, including but not limited to the pre-drafting stage, drafting stage and adjudication stage
- (iii) Representative of Jobsplus – to confirm whether or not Innovative Business Solutions has employees registered



Av. Daniel Calleja

Details of the selected transaction:

Account **400 2175 5433**
BOV STUDENT
EACCOUNT

Transaction Date **18/04/2024**

Amount **EUR -400.00**

Running Balance



SCT OUTWARDS
PCRB
EUR 400.00
Relation: Administrative
Services
Reason: Purchase of
Services
REF: 2410801074461000
- 1791525253