



Reasoned Explanation by Chairperson.

The reason why the complainant's offer was rejected is clearly stated in the conclusion of the published Evaluation Report, namely that the tenderer submitted a blank Technical Offer Form (Note 3) and was therefore deemed technically non-compliant.

Since this explanation appears not to have satisfied the complainant, it is necessary to reiterate the applicable provisions governing the tender process.

The General Rules Governing Tenders (Version 4.10), page 16, Clause 16.3, state:

"Part 3: Technical Compliance. Submissions which have qualified under Part 2 shall have their technical offer evaluated to ensure compliance with Clause 5(C) of the Instructions to Tenderers. In order to be considered for this Evaluation, tenderers must submit a completed Technical Offer. Literature may also be requested with the technical offer so that the Evaluation Committee will corroborate the technical compliance of the offers."

Furthermore, the published tender document, under the heading "Instructions to Tenderers", clearly stipulates:

"5. Selection and Award Requirements

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)."

These requirements are mandatory, sufficiently clear and unambiguous and applicable equally to all tenderers. Compliance with the tender requirements is therefore not a matter of discretion for the Evaluation Committee, but a condition against which all submissions must be assessed consistently and objectively.

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It should also be noted that tender documents and all associated forms undergo a rigorous preparation and verification process prior to publication and uploading on the EPPS portal. Consequently, no document, form or requirement may be regarded as trivial or superfluous.

Moreover, any prospective tenderer requiring clarification regarding any aspect of the tender documentation had the opportunity to submit clarification requests during the clarification period, prior to the closing date for submission of tenders. No such requests were submitted in relation to this tender. However, clarifications serve as a means of supplying information or documentation that was required to accompany the tender submission but was not submitted by the closing date. The responsibility for ensuring full compliance with procurement regulations and

tender requirements rests entirely with the tenderer. The Evaluation Committee cannot assume responsibility for omissions, errors or shortcomings in a tender submission, nor may it permit one tenderer to rectify a material omission in a manner that would place that tenderer in a more favourable position than other tenderers who complied with the published requirements and submission deadline.

During the technical evaluation process, the Evaluation Committee identified additional shortcomings within the tender submission. However, once it was established that the tenderer had submitted a blank Technical Offer Form (Note 3), thereby failing to satisfy a fundamental and mandatory requirement of the tender, the offer was determined to be technically non-compliant and therefore invalid.

In view of this material deficiency, which rendered the tender ineligible for further consideration, the Committee did not proceed with requests for clarification, rectification or the submission of additional information and documentation in relation to the other shortcomings identified. Such measures would not have altered the Committee's conclusion, since the defect concerned the absence of the completed Technical Offer Form itself.

In view of the above, and in my capacity as Chairperson of the Evaluation Committee, I confirm that the evaluation process was conducted thoroughly, objectively and in full accordance with the applicable procurement regulations, procedures and tender conditions. The Evaluation Committee correctly determined that the tenderer had failed to submit a completed Technical Offer Form as expressly required by the tender conditions. This was not a minor irregularity capable of being rectified through clarification, but a material omission affecting a fundamental and mandatory element of the technical submission.

The decision declaring the offer technically non-compliant was therefore justified, proportionate and consistent with the principles of equal treatment, transparency and fairness. For these reasons, the appeal is unfounded and should be rejected.

Mr Jesmond Saliba M.Ed.

Chairperson

jesmond.saliba.2@ilearn.edu.mt