RYAN ELLUL
— ADVOCATES —




**Public Contracts Review Board**
**Notre Dame Ravelin**
**Floriana**
**Malta**

Today, the 9th of November 2026

**Re: SPD8/2026/064 – Framework Contract for the Provision of Security Services for the Opening and Closing of Public Gardens within the Remit of Ambjent Malta**

To the Secretary,

I am writing to you directly at the behest of our client, Ambjent Malta (hereinafter referred to as the "Contracting Authority"), with reference to the appeal filed by JF Security and Consultancy Services Ltd (hereinafter referred to as the "Appellant"), concerning the above-mentioned tender, and the decision to recommend the award thereof to Signal 8 Security Services Malta Ltd (hereinafter referred to as the "Recommended Bidder").

At the outset, the Contracting Authority respectfully contests the allegations raised by the Appellant and submits that the evaluation process was conducted in accordance with the published tender conditions, the applicable Public Procurement Regulations, Subsidiary Legislation 601.03, and the principles of transparency, equal treatment and proportionality governing public procurement procedures.

The Contracting Authority maintains that the Technical Evaluation Committee (hereinafter referred to as the "TEC") assessed the technical submissions in accordance with the published award criteria and their respective weightings. The fact that the Recommended Bidder obtained a higher technical score does not, in itself, establish

that the evaluation was discriminatory, that unpublished criteria were applied, or that the Appellant was treated unequally.

The Contracting Authority shall address the principal grounds of appeal as follows:

**A. Background and evaluation of the tenders**

The tender concerned the provision of security services for the opening and closing of public gardens falling within the remit of Ambjent Malta.

The tender was to be awarded on the basis of the Best Price Quality Ratio ("BPQR"), whereby a weighting of sixty per cent (60%) was allocated to the technical component and forty per cent (40%) to the financial component.

Following the evaluation of the submissions received, the TEC established the following ranking:

1. Signal 8 Security Services Malta Ltd – 96.50 marks;
2. Kerber Securities – 94.35 marks;
3. JF Security and Consultancy Services Ltd – 93.25 marks;
4. Security First – 89.43 marks;
5. Blue Border – 85.55 marks.

It is pertinent to note that the financial offers submitted by the Appellant and the Recommended Bidder were identical, amounting to €170,481.34 excluding VAT. Consequently, the difference in their overall scores arose from the technical evaluation of their respective submissions.

The Recommended Bidder obtained the highest overall score following the assessment of its technical submission against the published award criteria. Its submission contained more detailed and comprehensive supporting documentation addressing the various technical requirements of the tender.

This enabled the TEC to assess more fully the proposed operational arrangements, procedures and safeguards put forward by the Recommended Bidder.

The Contracting Authority emphasises that the evaluation was not conducted by adopting the Recommended Bidder's submission as a benchmark against which the other tenderers were measured. Rather, each submission was examined against the requirements established in the tender documentation, with the respective marks reflecting the extent to which each tenderer demonstrated compliance with, and addressed, the published technical criteria.

Accordingly, the difference in marks reflects the respective quality and level of detail demonstrated in the technical submissions and does not constitute evidence of unequal treatment.

**B. Allegation that the TEC evaluated the offers against unpublished criteria**

The Appellant alleges that the TEC introduced requirements which were not expressly stipulated in the evaluation grid or the Terms of Reference, particularly in relation to the sub-criteria concerning the security of visitors, security of personnel and timekeeping.

The Contracting Authority respectfully disagrees.

The evaluation grid must be read together with the tender documentation and the relevant Terms of Reference. The award criteria and their associated sub-criteria establish the framework within which the technical submissions are to be assessed. The purpose of examining the technical documentation is to determine how effectively each tenderer has addressed the operational requirements of the contract and demonstrated its ability to deliver the services sought by the Contracting Authority.

The fact that the TEC considered the level of detail, comprehensiveness and practical application of the proposed procedures does not mean that new award criteria were introduced. Such considerations constitute an assessment of the quality and substance of the information submitted in response to the published requirements.

In this regard, the Contracting Authority submits that the Recommended Bidder's technical submission provided more comprehensive explanations and supporting documentation in relation to its proposed operational arrangements. These included the manner in which the relevant security procedures would be implemented, monitored and supervised.

The Appellant's contention that the TEC relied on features of the Recommended Bidder's submission as an independent yardstick is therefore misplaced. The Recommended Bidder's submission was not treated as a separate standard of compliance. Rather, its contents were assessed against the same published requirements applicable to all participating tenderers.

Furthermore, the fact that the TEC identified certain aspects of a tenderer's proposed methodology as demonstrating a more comprehensive approach does not render those aspects unpublished criteria. There is an important distinction between introducing a new award criterion and assessing the quality of the information provided under an existing criterion.

The Contracting Authority therefore submits that no departure from the published evaluation methodology occurred.

**C. Marks deducted from the Appellant and marks awarded to the Recommended Bidder without adequate reasons**

The Appellant further challenges the marks allocated under various technical sub-criteria, alleging that deductions were made without proper justification, whilst the Recommended Bidder was awarded full marks without any corresponding explanation.

The Contracting Authority submits that the marks awarded must be considered in the context of the respective technical submissions and the published evaluation grid.

The TEC was required to assess each submission on its own merits, having regard to the information and supporting documentation provided by each tenderer. The fact that a tenderer addressed a particular subject matter in its submission does not automatically entitle it to full marks. The assessment necessarily takes into consideration the extent, clarity, specificity and practical application of the information provided in response to the relevant requirement.

In this regard, the Contracting Authority makes the following observations:

**C.1. Security of visitors**

The Appellant challenges the deduction of marks under the sub-criterion concerning the security of visitors, arguing that its technical submission addressed matters including public order, crowd and queue control, customer-oriented skills, suspicious objects, emergency and evacuation support, reporting and access control.

The Contracting Authority submits that the mere inclusion of general security-related procedures does not necessarily demonstrate that all aspects of the particular sub-criterion have been adequately addressed.

The TEC was entitled to examine whether the measures proposed were sufficiently directed towards the specific requirements concerning visitor security, including the practical arrangements for monitoring, identifying and responding to potential security concerns within the public gardens.

Accordingly, the assessment was not based merely on the presence of general security procedures, but on the extent to which the submission demonstrated a comprehensive and sufficiently specific approach to the relevant requirement.

**C.2. Security of personnel**

The Appellant also disputes the marks allocated under the sub-criterion concerning the security of personnel, contending that the justification provided by the TEC did not relate to the actual requirements being assessed.

The Contracting Authority submits that the evaluation was directed towards the substance of the proposed personnel security arrangements and the extent to which the Appellant demonstrated adequate measures to safeguard its personnel in the performance of their duties.

The evaluation of this sub-criterion must be distinguished from the separate assessment of contingency arrangements and temporary absence of personnel. Each sub-criterion was assessed independently in accordance with its respective purpose and weighting.

The Appellant's attempt to conflate requirements falling under different sub-criteria does not establish that the TEC applied an incorrect evaluation methodology.

**C.3. Timekeeping**

With respect to the sub-criterion concerning timekeeping, the Appellant challenges the consideration given to features such as multi-source reconciliation and GPS verification, arguing that these were not expressly required by the tender documentation.

The Contracting Authority submits that the assessment of timekeeping necessarily involves considering the effectiveness and reliability of the proposed arrangements for recording, monitoring and verifying attendance.

The consideration of the proposed mechanisms for achieving reliable timekeeping does not, in itself, amount to the introduction of additional award criteria. Rather, such mechanisms are relevant insofar as they demonstrate the effectiveness of the arrangements proposed in addressing the published requirement.

The TEC was therefore entitled to consider the quality and reliability of the proposed timekeeping methodology, provided that the assessment remained within the scope of the published sub-criterion.

**C.4. Safeguarding of assets and contingency arrangements**

The Appellant further disputes the marks awarded under the sub-criteria concerning the safeguarding of assets and contingency arrangements, particularly temporary absence of personnel.

The Contracting Authority submits that these matters are directly relevant to the effective delivery and continuity of the security services being procured.

The TEC was required to examine whether the tenderers had demonstrated adequate operational procedures for protecting the assets under the responsibility of the security personnel and ensuring that the services would continue to be delivered in the event of staff shortages or temporary absences.

The fact that the Appellant identified certain procedures in its submission does not necessarily establish that the full requirements of the relevant sub-criteria were satisfied to the highest possible standard.

The marks awarded reflected the TEC's assessment of the completeness and effectiveness of the proposed arrangements, as evidenced by the documentation submitted.

**C.5. Overall assessment**

The Contracting Authority reiterates that a distinction must be drawn between identifying a particular subject in a technical submission and demonstrating, through sufficiently detailed and comprehensive documentation, how the relevant requirement will be fulfilled in practice.

The Recommended Bidder's higher technical score reflected the greater level of detail and comprehensiveness demonstrated in its submission in relation to the published criteria. Conversely, the marks allocated to the Appellant reflected the TEC's assessment of the extent to which its own submission addressed those same requirements.

The Appellant's disagreement with the marks allocated does not, without further evidence of an actual departure from the published criteria or an objectively unequal assessment, establish that the evaluation was unlawful.

**D. Alleged unequal treatment of the tenderers**

The Appellant further alleges that the TEC treated the tenderers unequally, particularly in relation to matters concerning personnel replacement, contract-specific resources and the assessment of operational procedures.

The Contracting Authority categorically rejects this allegation.

The principle of equal treatment requires that all economic operators participating in a procurement procedure be assessed according to the same published criteria and under the same conditions. It does not, however, require that tenderers submitting technical offers of differing quality, detail and comprehensiveness receive identical marks.

The TEC was required to assess each tender individually and to determine the extent to which the information provided satisfied the relevant requirements. Accordingly, differences in the marks awarded are justified where they arise from differences in the substance and quality of the respective submissions.

The Appellant appears to suggest that, where two tenderers have addressed a similar subject matter, they ought necessarily to receive comparable marks. However, the relevant consideration is not simply whether a particular subject was mentioned, but whether the tenderer sufficiently demonstrated how the relevant requirement would be fulfilled.

The Contracting Authority therefore submits that the different marks awarded were the result of an assessment of the respective technical submissions against the same published evaluation criteria, rather than any preferential treatment towards the Recommended Bidder.

**E. Allegation concerning identical marks awarded by the three evaluators**

The Appellant raises concerns regarding the fact that all three members of the TEC allegedly awarded identical marks across the respective sub-criteria, questioning the independence and reliability of the evaluation exercise.

The Contracting Authority submits that the mere fact that evaluators arrive at identical scores does not, in itself, establish that the evaluation was conducted improperly or that the evaluators failed to exercise their respective responsibilities.

The purpose of having a Technical Evaluation Committee is to ensure that the technical submissions are assessed by the appointed evaluators in accordance with the published methodology. The existence of identical marks does not automatically demonstrate that the evaluation was predetermined or that no proper assessment took place.

In particular, the consistency of the marks awarded must be considered in the context of the evaluation process as a whole, including the nature of the criteria being assessed, the supporting documentation submitted by the tenderers and the manner in which the evaluation results were recorded.

The Contracting Authority maintains that the assessment was undertaken in accordance with the prescribed evaluation methodology and that the resulting scores reflect the assessment of the technical submissions against the published criteria.

Accordingly, the Appellant's reliance on the similarity of the marks, without establishing any actual procedural irregularity or departure from the published methodology, is insufficient to invalidate the evaluation.

**F. Alleged errors and inconsistencies in the communication of the evaluation results**

The Appellant also identifies alleged discrepancies in the communication of the evaluation results, particularly concerning the calculation of the technical scores, the overall scores and the identification of the Recommended Bidder.

The Contracting Authority acknowledges the importance of ensuring that the results communicated to tenderers accurately reflect the evaluation undertaken and that the reasons supporting the award recommendation are sufficiently clear.

Nevertheless, the alleged discrepancies must be examined against the underlying evaluation records and the actual calculations undertaken by the TEC.

In this regard, the Contracting Authority submits that the award recommendation was based on the scores obtained under the published BPQR methodology, with sixty per cent (60%) allocated to the technical component and forty per cent (40%) to the financial component.

The Appellant's interpretation of the figures appearing in the communication of the results must therefore be distinguished from the actual evaluation and calculation of the scores recorded by the TEC.

The Contracting Authority shall accordingly rely on the official evaluation records and the relevant score calculations to demonstrate the manner in which the final ranking was established.

Insofar as any clerical or transcription error may have occurred in the communication of the results, such an error must be distinguished from an error in the underlying evaluation itself. A discrepancy in the presentation of information does not automatically establish that the evaluation was improperly conducted or that the final ranking was incorrect.

The Contracting Authority therefore respectfully submits that the alleged inconsistencies must be assessed in light of the actual evaluation records and the calculations supporting the award recommendation.

**G. Request for reimbursement of the appeal deposit**

Finally, the Appellant requests reimbursement of the deposit paid in connection with the present appeal, amounting to €861.00.

The Contracting Authority submits that the reimbursement of the deposit is a matter to be determined by the Public Contracts Review Board in accordance with the applicable provisions of the Public Procurement Regulations, Subsidiary Legislation 601.03.

In view of the foregoing submissions, and in the absence of any established irregularity attributable to the Contracting Authority, the Appellant has not demonstrated any basis upon which the award recommendation should be annulled or the evaluation process set aside.

**Concluding remarks**

RYAN ELLUL
— ADVOCATES —

In light of all the foregoing, the Contracting Authority respectfully submits that the technical evaluation was conducted in accordance with the published award criteria, the applicable weightings and the relevant provisions of the Public Procurement Regulations.

The Recommended Bidder obtained the highest overall score following the .assessment of its technical submission, which demonstrated a more detailed and comprehensive approach to the requirements of the tender. The fact that the Appellant obtained a lower score does not, in itself, establish that the evaluation was discriminatory, that unpublished criteria were applied or that the Appellant was treated unequally.

Furthermore, the allegations concerning the identical marks awarded by the evaluators and the alleged inconsistencies in the communicated results do not, without evidence of an actual procedural or substantive irregularity, justify the annulment of the award recommendation.

Accordingly, the Contracting Authority respectfully requests that this Honourable Board:

1. Reject the grounds of appeal raised by JF Security and Consultancy Services Ltd as being unfounded in fact and in law;
2. Uphold the evaluation carried out by the Technical Evaluation Committee and the consequent recommendation to award the tender to Signal 8 Security Services Malta Ltd;
3. Reject the Appellant's request for a re-evaluation of the technical offers, insofar as no sufficient grounds have been established to justify such a measure;
4. Decide on the reimbursement of the appeal deposit in accordance with the applicable provisions of the Public Procurement Regulations.

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