

DIPARTIMENT TAL-KUNTRATTI
Notre Dame Ravelin
Floriana FRN1600 - MALTA



DIPARTIMENT TAL-KUNTRATTI
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16th November 2018

TID 97454, TID 96780, TID 96779: Evolve Ltd

REFERENCE:CT3089/2018

SUBJECT: Tender for the Supply, Installation, Testing and Commissioning of Heritage Materials Characterisation Laboratory Equipment at the University of Malta

Lot 3 – Portable Fourier Transform Infrared Spectroscopy
Lot 11 – Helium Pycnometer

Dear Sir/Madam,

Thank you for participating in the above-mentioned tender procedure. However, I regret to inform you that the offer submitted by your company was found to be technically not compliant as follows:

Lot 3

- *Clause 4.3.3.2 (c) - The equipment offered requires a sample to be taken for analysis, and hence is invasive. Non-invasive analysis was specifically requested as per published technical specifications.*

Lot 11

TID96780

Clause 4.3.11.2 (f) - The instrument offered is fully automated. The published technical specifications specifically indicated that the instrument shall be manually operated.

TID96779

Clause 4.3.11.2 (f) - The instrument offered is fully automated. The published technical specifications specifically indicated that the instrument shall be manually operated.



Canter Business Centre, P.F. Bilooca Street, Marsa MRS 1524, Malta. Tel: (+356) 2248 9900 Fax: (+356) 2122 0186.
E mail: info@evolveltd.eu Vat No: MT18017906, Co. Reg. No: C38907

25 November 2018

**Public Contracts Review Board
Notre Dame Ditch,
Floriana
FRN 1601**

Publication Reference: CT3089/2018, Lot 3

Dear Sir/Madam,

Following the official announcement of results for the tender reference in the subject line of this letter, also attached, we intend to officially appeal the decision taken for Lot 3.

We sincerely believe there has been a misunderstanding in our case and would like to redress this as below. The grounds for disqualification as per official communication dated 16th November, 2018 reads:

Lot 3

- *Clause 4.3.3.2 (c) - The equipment offered requires a sample to be taken for analysis, and hence is invasive. Non-invasive analysis was specifically requested as per published technical specifications.*

However, the equipment offered allows for the non-invasive analysis being requested in clause 4.3.3.2 (c). This can be clarified through the literature already submitted and additionally further validated through the reference of external evidence (academic literature and official publications).

Firstly, we have confirmed our compliance in Technical Offer submitted, as excerpt of which is below:

22	Non-invasive analysis	Spec 4.3.3.2 c	Yes	Manufacturer: Bruker Model: Alpha II	Page 4-5
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Secondly, as shown in the literature on the indicated pages 4 and 5 the Bruker Alpha II clearly has modules which cater for “**External and diffuse reflection**”. Even though the exact words (non-invasive analysis) are not used by Messrs Bruker, we can confirm that the meaning is equivalent. Here overleaf, we are highlighting the exact parts from the supplied literature we are making reference to:



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Design Follows Application

The ALPHA II offers full sampling flexibility for any kind of sample (e.g. solids, liquids or gases) with always perfectly matched instrument configuration. A broad range of FTIR sampling accessories for transmission, attenuated total reflection (ATR), external and diffuse reflection allows a variety of applications.



Thirdly, the following parts of our quote, which was included in our submission and referred to multiple times in our Technical Offer, indicate that the instrument offered allows for non-invasive analysis through non-contact reflectance techniques:

- | | | |
|---|---|---|
| 2 | A241/DV
Reflection sampling module
Reflectance sampling module for non-contact measurements. Video Assisted, QuickSnap(TM)
Reflectance sampling module allows FT-IR analysis without contact in front of the ALPHA spectrometer.
The built-in camera allows you to display and document the correct measurement positions. The ALPHA QuickSnap(TM) sampling modules offer a complete flexibility of sampling. You can replace all modules in a way that simple and reproducible, | 1 |
| 7 | 1015487
Tripod For ALPHA
Tripod for ALPHA free positioning.
Its quick release mechanism makes it easy to change height
Pressing a button. The angle and height of the tripod legs
Can be adjusted individually and simultaneously. | 1 |

Furthermore, these quote line items above, which were part of our submitted offer, leave absolutely no doubt that what was indeed offered by Evolve Ltd was also intended for analysing objects “**without contact in front of the ALPHA spectrometer**”. The fact that a “**tripod for free positioning**” was offered, also signifies the non-invasive, contactless capabilities of the proposed offer. The A241/DV accessory referenced above is, in fact, the reflectance module developed and used for non-invasive and non-destructive analysis.



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The grounds for award are cheapest priced tender satisfying technical and administrative criteria. We firmly believe our offer satisfies all these criteria and are therefore asking the board to cancel the award to our respected competitors and award same tender to our company. We once more would like to assure the adjudicating committee that the offered configuration is perfectly suitable for the published intended purpose of art conservation. It would look like this when set up:



Attached please find a deposit of €400 as required.

Yours Sincerely,

A handwritten signature in blue ink that reads "K. Aquilina".

Karl Aquilina
Scientific Consultant (Evolve Ltd)

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The tender was recommended for award to TID97425 Labo Pharm Ltd for the amount of €100,165.00 excluding VAT for Lot 3 and TID97449 Reactilab Ltd for the amount of €19,410.00 excluding VAT for Lot 11, this being the cheapest priced tender satisfying the administrative and technical criteria.

If you intend to object to this decision, the Public Procurement Regulations allow for an official objection which in this case has to be lodged at the Public Contracts Review Board, Notre Dame Ditch, Floriana by noon of Monday 26th November, 2018 against the deposit of €400 for each lot. The official schedule can be accessed on the website: www.etenders.gov.mt

Although we have not been able to make use of your services on this occasion, I trust that you will continue to take an active interest in our initiatives.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Jacqueline Gili'.

Jacqueline Gili
Director General (Contracts)

BOV

Bank of Valletta

RACECOURSE STREET MARSA MRS1631

22-415

Date: 26/11/2018

Bank of Valletta p.l.c., Malta

Pay Public Contracts Review Board or order

four hundred euro only

€ 400.00

EVOLVE LTD
CC5



Please do not write or mark below this line.

⑈003230⑈ 220450 40017597579⑈

Public Contracts Review Board

Temporary Receipt

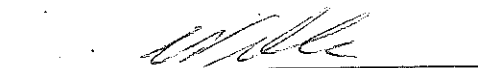
Date: 26. 11. 2018

Received from EVOLVE LTD the sum of € 400.00

in respect of Tender CT 3089 / 2018

Cheque No: BOV 3230

Validity of receipt is subject to bank clearance, when payment is made by cheque



Signature