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Public Contracts Review Board
Notre Dame Ravelin
Floriana

4th April 2019

Ref: MESDC 342/2018

Tender for the Provision of Service to Maintain Current Database, GIS and Game Reporting Systems to WBRU, to Implement Enhancements and to Develop New Modules and Software within the said System

Attn: Members of the Public Contracts Review Board

By means of an email communication dated the 26th of December 2018, issued by the Director Finance and Administration, Procurement Section, within the Ministry for the Environment, Sustainable Development and Climate Change, we were notified that the tender bid by **Seasus Ltd** (Tender Bid ID 104785) for the above referenced tender was recommended for award and accepted for the price of €128,000.00 excluding VAT.

This decision was objected to by the incumbent supplier of the existing systems, **IPRO Solutions**, following which, the Public Contracts Review Board instructed the Contracting Authority to re-initiate the evaluation process.

By means of an email communication dated the 29th of March 2019, issued by the Director Finance and Administration, Procurement Section, within the Ministry for the Environment, Sustainable Development and Climate Change, we have been notified that the original recommendation for award is being overturned and that the bid by **Seasus Ltd** (Tender Bid ID 104785) for the above referenced tender is now deemed as technically non-compliant, with the tender being awarded to **IPRO Solutions Ltd** for the price of €178,000.00 excluding VAT.

By means of this notification, Seasus Limited, in its capacity as tenderer, is hereby filing its objection to this reversal of the original recommendation before the Public Contracts Review Board, on the basis of the following rationale.

The notification dated 29th March 2019 describes the reasons for which the bid by Seasus Ltd was now being considered as technically non-compliant as follows:

"The timeline presented by your company highlights the first and second month as Stage 1 of the service. This also included the 'Go Live' stage. However, when one looks at the Project Activities in Section 3.2, which explains the timeline Gantt Chart in more detail, the 'Go Live' component is listed under month 2. As stated in section 5.2 of the Tender Dossier, the bidder should 'Go Live' as soon as the tender is awarded and not during the second month of the contract."

This reasoning is being contested considering that:

- (1) Under no circumstance, for any sort of project, can a supplier be expected to provide services upon the award of a tender, for a variety of obvious practical and administrative reasons. In the most stringent of schedules, a supplier can at best be expected to provide services upon the confirmation of the tender award and signing of a formal contract.
- (2) If the Tender Dossier had in fact required the bidder to 'Go Live' as soon as the tender is awarded, such requirement would have automatically precluded any bidder from being technically compliant, other than the incumbent supplier **I PRO Solutions Ltd**. Such a condition would invalidate the legitimacy of this call, especially for a project of this nature which would inevitably require a handover period during which the incumbent supplier would pass on the necessary software source code, documentation and other requirements to the incoming supplier.
- (3) Unlike what is stated in the reasons for non-compliance, the Tender Dossier does not require the bidder to 'Go Live' upon tender award, but rather by a specific date. Section 5.2 of the Tender Dossier states that:

"On 9th January 2019 the system as-is is to be continued from its current state. Enhancements and development of modules as specified in this tender document are to be executed within the first forty (40) weeks of commencement of contract. Hosting, support and maintenance are to be provided between 9th January 2019 until 8th January 2024."

Considering that the deadline for submission of tender bids was the 3rd of December 2018, the Contracting Authority allocated just 5 calendar weeks between the submission deadline and the 'Go Live' date. In practical terms, this put the incumbent supplier **IPRO Solutions Ltd** at a considerable advantage over any other potential bidder, particularly considering the necessity of a handover period for a project of this nature, as described earlier.

Notwithstanding, Seasus Ltd felt confident of its capabilities to deliver according to this schedule, considering its extensive expertise and experience in the development and management of similar systems.

- (4) The schedule of works presented by **Seasus Ltd** in its bid is consistent with the time frame requested by the Contracting Authority, with a commitment to deliver the initial phase of the project by week 5 (which falls under Month 2 of the overall 10 month schedule proposed). It remains however the responsibility of the Contracting Authority to award the tender, sign contractual agreements and make available the necessary resources in a timely fashion in order to ensure that any bidder would be in a position to adhere to the requested stringent schedule.

Thank you for your kind consideration.

Regards,



Kenneth Bone
Managing Director
Seasus Ltd.

BOV

Bank of Valletta ST ANNE STREET FLORIANA FRN9011

22-862

Date: 05/04/19

Bank of Valletta p.l.c., Malta

Pay Public Contracts Review Board or order

One Thousand Euros

€ 1,000.⁰⁰

SEASUS LTD



Please do not write or mark below this line.

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Public Contracts Review Board

Temporary Receipt

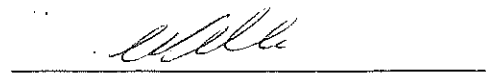
Date: 08 / 04 / 2019

Received from SeaSus Limited the sum of € 1,000

in respect of Tender MESDC 342/2018

Cheque No: BOV 1609

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



Signature