

16th December 2019

The Chairman
Public Contracts Review Board
c/o Ministry of Finance
Notre Dame Ditch
Floriana, FRN 1601



The Chairman, Public Contracts Review Board,

Re: Supply and Installation of PV Panels (T082/19) – Reasoned Letter of Reply

We write with reference to the Letter of Objection dated 4th December 2019 and filed by Frank Borda Limited against the decision of the Malta Information Technology Agency (MITA) to award tender T082/19 to Renergy Limited for the price of €13,398.31 excluding VAT based on Lowest Cost Compliant Tender.

Facts:

On the 24th September 2019, MITA issued a Call for Tender (Cft) for the Supply and Installation of PV Panels. The closing date for the submission of tenders was 25th October 2019 and seven (7) offers were submitted from the following tenderers:

Tenderers' Names
Wurth Limited
Frank Borda Limited - 121379
Frank Borda Limited - 121382
AQS Med Limited
Myenergy Limited
Renergy Limited
Virtue Solaris Ltd.

Clause 9.1 (Criteria for Award) of the Instructions to Tenderers provided that *"The sole award criterion will be the price. The contract will be awarded to the tenderer submitting the cheapest priced offer satisfying the administrative and technical criteria."* The administrative and technical criteria were therefore mandatory criteria and all offers were checked against these requirements.

The offers submitted by Frank Borda Limited did not satisfy the following requirement – Criterion III) Section 3 – Evidence of Technical Capacity:

"The Tenderer is requested to confirm that the PV Panels manufacturer is ISO9001 certified. The Tenderer is requested to provide a copy of the ISO9001 certification of the Manufacturer."

The original submission included a brochure of the Sharp PV Panels proposed by the Tenderer including a reference to ISO compliance but not the certificates. The Evaluation Committee subsequently requested (through a request for rectification) Frank Borda Limited to provide a valid copy of the ISO9001 certification of the Manufacturer. In response, Frank Borda Limited provided a copy of the ISO 9001 certificate of Astronergy Solarmodule GmbH with the expiry dated 2019-03-31. The Evaluation Committee took note that the certificate provided was expired as at the closing date of submission of the tender and therefore found the offer not administratively compliant. The offers submitted by Frank Borda Limited were not considered any further.

Reasoned Reply

MITA wishes the Public Contracts Review Board to note the following in respect of the claims made by the Appellant Frank Borda Limited:

- 1) The information provided by the Appellant in the Letter of Objection explaining the context of the ISO certificate and its link to the PV Panels proposed was not part of the tender offer as submitted and/or included in the clarification requested by the Evaluation Committee.
- 2) Notwithstanding the information provided, the requirement of a valid ISO certificate is still not met because the certificate provided expired on 2019-03-31.

Request

In view of the above and whilst reserving the right to make further submissions and present further evidence, MITA requests the Public Contract Review Board to reject the claims put forward Frank Borda Limited in their objection.



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