



19th November 2019

The Public Contracts Review Board  
Notre Dame Ditch  
Floriana FRN 1601

**Our Ref. F113 [19-02160]**

Dear Sirs,

**RE: CFT 004-0449/19(CPSU 1932/18) Tender for the preventive maintenance for HVAC system at CPSU San Gwann Stores**

We write on behalf of our clients Messrs **FM Core Limited** ("FM Core") of Valley Mansions, Floor 2, Msida Valley Road, Birkirkara, Malta in its capacity as the recommended bidder for the tender at issue.

The following are the submissions of FM Core in reply to the appeal filed by M.A. & A. Services Ltd ("M.A. & A"). FM Core contend that the decision to award the tender to them was correct and should be confirmed following the rejection of the appeal in question and this for the following reasons:

The basis of the rejection of M.A. & A's tender was that their offer was ***not the first cheapest technically compliant submission.***

First and foremost, it must be made clear from the start that M.A. & A had wrongly filled out the Bill of Quantities which it submitted together with its bid and this error has served to create a state of confusion on the method of calculating the annual rates of both M.A. & A and that of FM Core.

If one looks at the Bill of Quantities filed by M.A. & A<sup>1</sup> it emerges clearly from the start that the rate of the first item on the list was quoted wrongly. The Bill of Quantities clearly states that the bidders had to quote an hourly rate per item (excluding VAT), and not a rate for the whole year, so much so that the heading clearly states "***Rate per Hour (Excluding VAT) Euro***"

So whilst FM Core quoted as was requested of it, that is an hourly rate for each and every item on the list, M.A. & A on the other hand decided, solely in the case of Item 1, to quote an annual fee of €15,779.87. This wrongful method of quoting by M.A. & A has resulted in the creation of a confusing state of affairs, at state of affairs which M.A. & A is now trying to use to its advantage.

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<sup>1</sup> Doc 3 filed by M.A. & A.

In its letter of appeal M.A. & A now clarifies this issue and states that its hourly rate for Item 1 was in fact of €43.55, since it explains that all one had to do was divide 15,779.87 by 362. Even this calculation is in fact wrong since according to the tender the amount of days per annum to be used for the purposes of the tender should have been that of 326 and not 362, which means that in effect the hourly rate quoted by M.A. & A for Item 1 was that of €48.40 ( $€15,779.87/326$ ) and not €43.55.

Notwithstanding the above miscalculation, even if one for arguments sake had to take into consideration the hourly rate of €43.55, this rate is still by far much higher than the rate quoted by FM Core.

Notwithstanding the fact that the Bill of Quantities requests a quote for an hourly rate for the various items listed therein, it then requires the bidder to insert a Total, which is basically an addition of the various hourly rates quoted for each and every item.

In FM Core's case the Total of all the hourly rates quoted amounts to €268, whilst in the case of M.A. & A it should have amounted to a total of €679.69, if one had to take into consideration the hourly rate of €48.40 for Item 1 or €674.84 if one had to take into consideration the hourly rate of €43.55 for Item 1. Meaning that the total offer per hour made by FM Core is cheaper than the offer made by M.A. & A by €411.69.

In its Bill of Quantities filed together with its offer, M.A. & A put in a total of €15,779.87, which is wrong since in effect M.A. & A was obliged to insert the total of all the hourly rates quoted for the four items.

FM Core states with respect that the insertion of the amount of €15,779.87 in the box for the **TOTAL** was wrong not only since the said total should have represented all the quoted hourly rates added together, but also since the said amount of €15,779.87 doesn't make any sense in the context of things since M.A. & A seems have disregarded the hourly rates for Item 2, 3 and 4.


It appears that notwithstanding the above mix-up the adjudicators still managed to make sense of M.A. & A's bid and still managed to understand that in effect, M.A. & A's offer is much higher by far than that of FM Core, since while FM Core's offer is of €268 (total of all hourly rates offered) M.A. & A's is of more than double at €679.69.

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**CAMILLERI CASSAR**  
ADVOCATES

Consequently, for the above stated reasons FM Core humbly states that the appeal filed by M.A. & A should be rejected and the decision of the Evaluation Committee confirmed.

Regards,



Dr Stefan Camilleri LL.D.  
c.c. Clients  
c.c. M.A. & A. Services Ltd