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8 October, 2019

Public Contracts Review Board
Notre Dame Ditch
Floriana FRN 1601.



Dear Sir,

RE: MGOZ/MPU T 37/2019 -Framework Agreement for the provision of general road works including the laying of asphalt to the Ministry for Gozo - Letter of Objection filed by P & A Construction Ltd on 9 October 2019

I write on behalf of Road Construction Company Limited, C15677, of Tarmac Plant, Zebbug Road, Victoria to reply to the letter of objection filed by P&A Construction Limited (hereinafter the "Objector") on the 9th October 2019, as clarified by a subsequent letter of the 15th October.

My clients feel that the objection is totally unjustified and unfounded and this for the following reasons:

1. The documentation submitted by the Objector indicates that the Objector itself submitted conflicting replies to the same questions in different parts of the tender document; when according to the tender documents only one reply should have been submitted at one place/instance.
2. To compound matters, on the 26th August 2019, the Evaluation Committee sent a request for clarification to the Objector, in order to allow it to clarify and eliminate any confusion, misunderstanding or contradiction. It does not result, from the documents submitted by the Objector itself, that the Objector deigned to reply to this request.
3. The request for clarification states clearly that tenderers who fail to rectify the shortcomings identified in this communication shall be considered as non-compliant.
4. **Therefore, if indeed the Objector failed to reply, the Evaluation Committee had no alternative but to disqualify its offer.**
5. If it results that the Objector did reply to the request for clarification, the contents of that reply need to be ascertained.
6. **If these replies do not conform strictly to the required parameters, then again, the bid had to be disqualified by the Evaluation Committee. This applies even if the replies were contradictory to each other, as well as if the replies were contradictory with the required reply.**
7. **It should be emphasized that the Evaluation Committee was not entitled nor was it bound to verify whether in fact the bidder concerned had in fact been blacklisted or found guilty. It had perforce to limit itself to the contents of the reply.**

8. The authenticity of Doc A and Doc A2 submitted by the Objector together with its letter of objection needs to be confirmed by the contracting authority

9. The Exclusion (including Blacklisting) criteria are to be completed by the Economic Operator in the ESPD (**Tender response format**) under Part III titled 'Exclusion Grounds' and the answers thereto should be submitted online. It is unclear why the Objector submitted the ESPD form rather than online, and this raises further doubts about the authenticity of the documentation submitted with the letter of objection.

For all these reasons, the objection should be rejected with costs against the Objector.

Thanking you for your attention and cooperation, I remain, Sir,

Yours Truly,



Av. Carmelo Galea