

23rd July 2013

Mr. Anthony Mifsud
Auditor General,
National Audit Office,
Notre Dame Ravelin,
Floriana

Dear Auditor General,

Reference is made to the National Audit Office Report titled "An Analysis of the Effectiveness of Enemalta Corporation's Fuel Procurement" and dated July 2013.

Please find below my comments and some observations to add to the recent report published by your Office. I am limiting my comments to the period where I served as the Non Executive Chairman of the Enemalta Corporation between 1st July 2005 to 31st May 2010.

It is unfortunate that the National Audit Office did not consider it appropriate to conduct an interview with me on the topics covered by this report as certain concerns raised by the NAO in this report would have been further clarified to any doubts raised.

The persons forming part of the Fuel Procurement Committee were appointed by the Enemalta Board of Directors, and consisted of the non exec Enemalta Chairman, CEO, CFO and external party appointed by the Ministry. The Head of the Petroleum Division or the Head of the Gas Division, also attended these meetings depending of the type of fuel procured, to assist the Committee on technical issues.

With regards to the Risk Management Committee appointed by the Enemalta Board of Directors, this consisted of the non exec Enemalta Chairman, the non exec. Deputy Chairman, CEO, CFO, Financial Risk Manager, Central Bank representative and the Financial Controller of the Petroleum Division, who also acted as the Secretary of the Committee. I also remember the presence of a foreign Expert in attendance to these Risk Management meetings, either in person or via a conference call.

Fuel Procurement Committee meetings were designed to analyze all bid offers received, to negotiate the best possible price and, to ensure continued security of supply to Enemalta and Malta. As regards to the Fuel Procurement Committee, I am listing from memory the procedure I inherited upon my appointment as non Exec. Chairman of Enemalta.

- 1) All the members of the Fuel Procurement Committee would meet in the Chairman's Office.
- 2) Members were not allowed to leave the office or conduct personal calls at any time, during meeting proceedings.
- 3) All bid offers were received by fax or email to a separate email Enemalta address to which the Chairman's PA only had access to.
- 4) These bid offers were handed over directly to the Fuel Procurement Committee by the Chairman's PA in a file.
- 5) No persons were allowed to review any bid offers submitted, except for the Fuel Procurement Committee. The file with the bid offers would be opened in front of all the Committee to start the bid reviews simultaneously.
- 6) All bids were individually recorded, numbered and analyzed by the Committee.
- 7) Bid offers were reviewed for Product Quality, Pricing Terms, Actual Margin Price, Deliveries and Supply Timing, Type of Supplier and where applicable Security Stock requirements.
- 8) The two or three most favourable offers would be analyzed in further detail by the Committee and a telephonic negotiation would follow with the shortlisted Bidders, in order to negotiate the Bidder's margin and to verify and/or clarify and negotiate when necessary, certain bid terms and conditions.
- 9) All negotiations were conducted over a conference speaker phone, hence all the committee members present would listen and witness all the negotiations in progress. In between calls to bidders, the Committee would discuss the details obtained from each call. The telephonic negotiations would be concluded once consensus was reached by the entire Committee present, as to who should be awarded the bid. Committee decisions were unanimous.
- 10) All negotiations were conducted and concluded within one meeting, irrespective of the duration of meeting to ensure the utmost confidentiality of bid offers received. It was also normal that bid offers had same day expiry dates, due to the volatile nature of international oil market prices.
- 11) Once the negotiation process was completed, the successful bidder was immediately notified over the phone in front of all the Committee. The responsible executive arm of the Corporation would later follow up the decision of the Committee through a formal exchange of emails and contracts with the selected supplier to start all relevant procurement and supply procedures.
- 12) Every bid offer received was signed by all the members of the Fuel Procurement Committee present and placed inside an envelope together with any notes taken during the meeting. Blank

bid offers submitted to the Committee were also individually signed by the Committee members present. The envelope was then sealed in front of the Committee and the same Committee members would countersign, along the folded seal of the envelope.

13) The sealed envelopes were placed in a secure cabinet in the Chairman's Office available for any possible future reference that may arise. I do not remember such sealed envelopes ever being reopened once they were sealed by the Committee during my time as non Executive Chairman.

Due to the delicate nature of pricing for these fuel supply contracts, it was not the practice for Enemalta to make public the Fuel Procurement Committee results and/or any other commercial details due to their highly commercially sensitive nature. I believe that this is still the practice adopted by Enemalta.

During my term as non Executive Chairman of Enemalta, no formal minutes were taken during the Fuel Procurement Committee meetings. The practice that was inherited and adopted was one of taking, what can be defined as notes, which were hand written during the negotiation process. These were usually taken by the CFO. The CFO would take a photocopy of the winning bid to have record of the concluded negotiation made by the Committee present, and initiate formal procurement procedures within the Corporation.

As far as I can remember, the decisions taken by the Fuel Procurement and Risk Management Committees were subsequently reported, recorded and approved at the next Enemalta Board of Directors meeting which followed each Committee meeting. I do recall also communicating via email with the Ministry, Committee decisions.

I am glad to note that the NAO found all the records of the Fuel Procurement meetings listed in pages 80 to 85 of its report. When one carefully reviews the results now published of the Fuel Procurement Committee meetings, one can easily calculate the effectiveness of this Committee. When one compares the final contract price negotiated with the cheapest bid submitted, it is apparent that the Committee managed to effectively negotiate discounts on the bidders' margin that total millions of dollars over the period under review by the NAO report.

In the particular rare instances when the cheapest bidders did not win, certain specific circumstances were evident such as:

- a) non conforming fuel specifications,
- b) security of supply issues,
- c) unattractive payment terms,
- d) prices based on different PLATTS pricing indexes,
- e) where applicable, issues related to security stocks.

I have noticed that your report does in fact bring these details to the surface with regards to the few instances where the cheapest bidder did not win the bid.

I would like to refer to the comments made in the published report stating that "procurement function was effectively operating in a policy vacuum". May I highlight that a policy framework did indeed exist. During my time as non Executive Chairman of Enemalta, the policy framework adopted were the recommendations made by the Fuel Procurement Advisory Committee (FPAC2) in March 2006.

These FPAC recommendations were tabled in Parliament in April 2006 and were also mentioned in your report. The setting up of the Risk Management Committee in line with FPAC recommendations, was in fact one of the key recommendations observed and enacted by Enemalta at the time. There was also an Enemalta Dossier made public in September 2009 that described this committee, as well as others, detailing their respective functions.

I would like to conclude by stating that I am at the complete disposal of the NAO or any other Authority, should any further clarifications be needed. I am also hereby authorizing your Office to render the contents of this letter public.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'A. Tranter', with a large, stylized initial 'A'.

Ing. Alexander Tranter