

Gasoline
22/Jan/09**To :** Fuel Supplier**From:** Enemalta Corporation
Church Wharf
Marsa
Malta**Date :** 5th January 2009

Enemalta Corporation, a state owned utility is on the market to purchase the following product as per following details and specifications:

Product:

Premium Unleaded Gasoline (EN 228) conforming to the specifications attached to this offer (Attachment A).

Quantity:

Six (6) parcels each of 7,300 metric tonnes +/- 10% at Buyer's option.

Duration of Contract:

Due to developments in the commercialisation process of the Petroleum Division (the entity responsible for the storage and distribution of gasoline in Malta), buyer reserves the right to terminate the contract at any time by giving one month's notice, without any obligation to take up any undelivered cargoes and without any penalty.

Delivery:

The oil purchased and sold under this contract shall be delivered in full or part-cargo lots on CIF basis to one safe port/berth at Birzebbuga Shell Pier, Malta. Berth limitations: Draft 9m; LOA 120m.

Any nominated vessel is to be acceptable to Buyer. Such acceptance shall not be unreasonably withheld.

Origin

Seller is to supply EU qualified gasoline only. In the case that gasoline is not EU qualified any importation duties or other charges arising directly from this condition will be for sellers account.

Before each delivery seller is to nominate refinery of origin, for buyer's approval.

Laydays:

The gasoline will be delivered to Malta on or about the following **TENTATIVE** dates:

1 st parcel	2nd week March 2009
2 nd parcel	4 th week April 2009
3 rd parcel	1 st week June 2009
4 th parcel	3 rd week July 2009
5 th parcel	4 th week August 2009
6 th parcel	2 nd week October 2009

The delivery dates given above are only indicative for tendering purposes only. The exact dates of delivery will be given according to the "Scheduling Clause" hereunder.

Scheduling Clause:

By not later than 3 weeks prior to the delivery of each parcel in Malta, Buyer will indicate a 5-day layday period. By not later than 2 weeks prior to the first day of layday, Seller will confirm the 5-day layday period or advise changes, which should be mutually agreed upon.

Price:

The offered price for CIF one safe berth at Birzebbuga Shell Pier, Malta, is to be in US\$ / MT in air.

The quantity to be invoiced will be the metric ton quantity reported on the Bills of Lading measured in air.

In the case of part cargoes and where a separate Bill of Lading does not exist, the quantity invoiced will be that quantity declared as being landed in the inspectors' out-turn report at discharge port.

Security Stocks:

The successful supplier would be required to enter into a delegated security stock agreement with Enemalta to make available as security stocks a quantity of 10,000 MT of EN228 unleaded gasoline in favour of Enemalta located in Malta or in other countries within the European Community so as to enable Enemalta to meet its security stocks obligations under L.N. 237 of 2002 and to the Security Stock Directive 2006/67/EC.

Suppliers are required to indicate the quantity of stocks that would be held in Malta and those held in other countries within the European Community together with an indication of fees payable (if any).

N.B. Clauses in the above document are indicative of our requirements and are subject to negotiation and change at the adjudication stage. Bidders are required to indicate in their offers any divergences from the above. Unless such are indicated, it will be assumed that bidder accepts what is stated in this document and this will form part of an eventual tender award and contract.

You are invited to submit your offers by fax no 00356 21 242962 or e-mail chairman.emc@enemalta.com.mt by the 22nd January 2009 at 14:00 hrs CET indicating clearly where your offer differs from the above. Otherwise, it will be assumed that your offer complies in all respects to the specifications and requirements as stated above and which will form an integral part of any agreement / contract concluded.

The Corporation may also consider OUTTURN basis offers.

STRICT ADHERENCE TO THE ABOVE MENTIONED PROCEDURE OF SUBMISSION MUST BE MAINTAINED AT ALL TIMES. NON-COMPLIANCE WITH THIS PROCEDURE MAY LEAD TO NON-QUALIFICATION OF TENDER.

The right is reserved to refuse even the most advantageous offer without any reason being given.

Any queries re above invitations are to be made on fax no 00356 22208222 or on phone numbers 00356 22208200 or 00356 21224079.

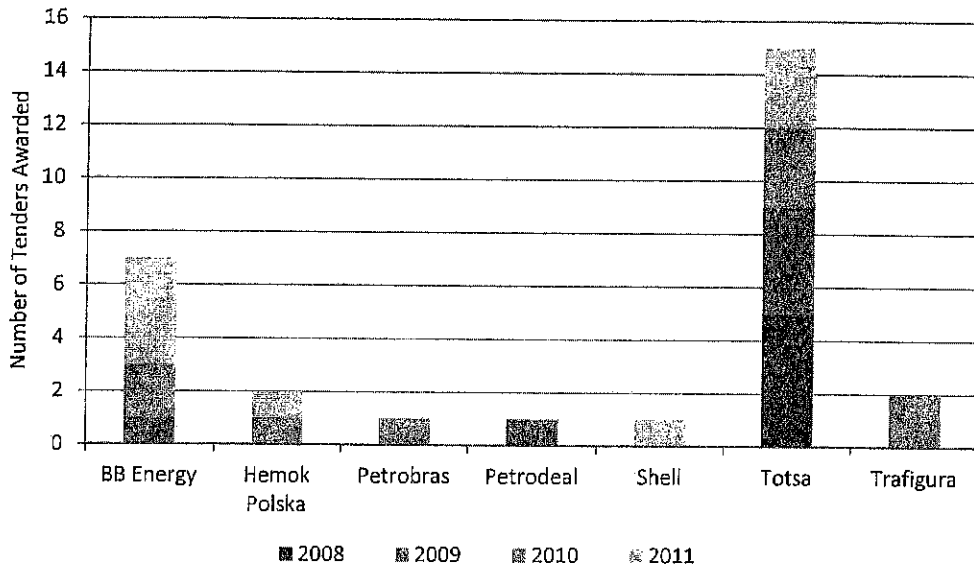
Ing Alex Tranter
Chairman
Enemalta Corporation

Table 6: Bids Received and Negotiated by the FPC in 2009

FPC Meeting [Fuel Type]	Bidders	Bidder Price	Negotiated Contract Price
22 January 2009 [Gasoline]	Kolmar Group AG	+43.00 USD/MT	
	BB Energy	+35.75 USD/MT (Option 1) & +25.15 USD/MT (Option 2)	
	Fairdeal S.A.	+19.30 USD/MT (Cargoes 1 & 6) & +22.10 USD/MT (Cargoes 2-5)	
	BP Oil International Ltd.	+32.00 USD/MT	
	Totsa	+22.50 USD/MT	+21.90 USD/MT
05 May 2009 [Fuel Oil]	Jackson Oil (Vilma Oil SL)	+16.50 USD/MT (0.7%) & +9.50 USD/MT (1%)	
	Petrobras	-1.021 USD/MT (0.7%) or 340.70 USD/MT (0.7%) / +7.08 USD/MT (1%) or 348.70 USD/MT (1%)	
	Totsa	+2.50 USD/MT (0.7%) or 370.50 USD/MT (0.7%) / -5.25 USD/MT (1%) or 362.25 USD/MT (Note below table refers)	-6.00 USD/MT
	BP Oil International Ltd	+43.50 USD/MT (0.7%) (Option 1) or +58.90 USD/MT (Option 2) / +7.63 USD/MT (1%)	
	AOT	+9.50 USD/MT (0.7%) / -1.50 USD/MT (1%) (Note below table refers)	
	Vitol	+22.15 USD/MT (0.7%) / +8.15 USD/MT (1%)	
	Lia Oil S.A.	No offer submitted	
	BB Energy	No offer submitted	
	Trafigura	+6.50 USD/MT (0.7%) (Option 1) or +11.50 USD/MT (0.7%) (Option 2) / -0.50 USD/MT (1%)	
18 May 2009 [Jet A1]	BB Energy	+10.70 USD/MT (Option 1) or +9.40 USD/MT (Option 2)	+9.40 USD/MT
	BP Oil International Ltd	No offer submitted	
	Vitol	+27.35 USD/MT	
	Baraca International Corporation	No offer submitted	
	RBS Sempra Energy Europe	No offer submitted	
	FAL Oil Co Ltd	+17.98 USD/MT (Option 1) or +9.98 USD/MT (Option 2)	
	Totsa	+21.25 USD/MT	
18 May 2009 [Gasoil]	BB Energy	+4.50 USD/MT	
	RBS Sempra Energy Europe	No offer submitted	
	Baraca International Corporation	-20.00 USD/MT	
	FAL Oil Co Ltd	+3.98 USD/MT	

respect to 25 out of the 30 tenders reviewed. Once again, NAO reiterates that this assertion is heavily conditioned by the aforementioned severe limitations in terms of information relating to the decision-making process employed by the Committee with respect to tenders adjudicated in the pre-May 2011 audit period.

Figure 3: Overview of Selected Bidders



Note: The total number of selected bidders presented in Figure 3 is that of 29, which is one short of the 30 tenders reviewed in total. This is attributable to the light heating oil tender awarded on 6 May 2008, the contract of which was not available for review.

2.1.19 Figure 3 presents an overview of the selected bids by the FPC with respect to the audit period 2008 to 2011. Immediately apparent is the fact that Totsa and BB Energy were awarded tenders the highest number of times, with the latter being awarded a total of seven tenders over this four year audit period, and Totsa awarded a total of 15 tenders over the same period.

2.1.20 As stated above, 25 out of the 30 tenders reviewed exhibited congruence in terms of negotiations being undertaken by the FPC with what appeared (given the absence of any information or record available to aid the audit team to understand the Committee's decision-making process) to be the

ask !!!

most favourable bid. Nonetheless, NAO noted one instance, relating to the FPC meeting dated 22 January 2009, where the original bid submitted by Totsa with respect to the supply of gasoline was extremely close, in terms of premium, to the bid submitted by Fairdeal S.A. (Table 6 refers). Although the bid submitted by Fairdeal appears to have initially been more favourable, the FPC chose to negotiate with Totsa, eventually closing at a rate close to Fairdeal's original submission. No record detailing or explaining this course of action was made available to NAO, barring a brief explanation submitted by Enemalta regarding credit terms. Enemalta stated that Totsa offered an additional 30-day credit period, that is 60 days in total, albeit against an interest rate charge, whereas Fairdeal quoted payment terms of 30 days.

NAO did not ask

2.1.21 The first instance when the selected tender bid was, prima facie, and based on the premium variable only, not the most favourable, relates to the FPC meeting held on 25 June 2008. Here the Jet A1 fuel tender was again awarded to Totsa, despite the fact that BP Oil and MOCH S.A. had submitted what appear to have been more favourable bids. Once again, NAO was not able to determine the basis of the Committee's selection, given that no record of the Committee's discussions or workings were retained on file.

Wrong Sec Stocks

2.1.22 When queries were raised with the Corporation in respect to the above, Enemalta stated that the offers submitted by BP Oil and MOCH S.A. quoted a pricing basis on the average of the Cost Insurance Freight Northwest Europe (CIF NWE) Jet A1 quotations, whereas Totsa offered pricing based on the average of the Free On Board Mediterranean (FOB MED) Jet A1 quotations. According to statements made by Enemalta, at the time, the price differential between the FOB MED and CIF NWE quotations stood at \$38/MT (the FOB MED quotation being cheaper than the CIF NWE). This, was in Enemalta's view, a possible explanation as to why the FPC considered the Totsa offer as more attractive than the other received bids. However, NAO's review of