



Ocean Sparkle Limited™



(CIN : U05005TG1995PLC021217)

An ISO 9001:2008, 14001:2004 & OHSAS 18001:2007 Company

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Date: 30th July 2018

To,

Mr. Mangala Samaraweera
The Honorable Minister of Finance,
Government of Sri Lanka,
Colombo 01

Honorable Sir,

Sub: Award of SLPA Tender (CES/FP/03/PT/5747(HM), March 2018) – OSL is L1 again but discriminated against on procedural issues

By way of introduction, Ocean Sparkle Limited (OSL) is one of the largest professionally managed Indian Companies engaged in providing towage services at several ports in India and overseas. It owns and operates a fleet of 112 vessels which are deployed in 30 locations. Established in 1995, its clientele includes renowned port projects such as Reliance Jamnagar, Aditya Birla port in Dahej, Petronet LNG terminals in Dahej and Kochi and all the 12 major ports in India. OSL has successfully executed contracts for harbor towage services in Sri Lanka, Oman and Saudi Arabia. Notably, OSL has a blemish-free record of providing harbour towage services at Colombo Port between the years 2010-2016.

Given our longstanding association with SLPA, track record of operating in Colombo Port and on the assurance that international bidders will be treated on an equal footing, OSL participated in the SLPA Tender. Although OSL's price bid was determined to be the lowest, we were shocked to receive a letter dated 6th June 2018 that our bid was rejected on the ground that it was not substantially responsive. **It is our humble submission Hon'ble Sir, that OSL is the lowest, most responsive, more experienced bidder, however we are being discriminated against alleging procedural issues.**

As per the prescribed process, we duly submitted our appeal with the Hon'ble Procurement Appeal Board (PAB) as well as written submissions from *President's Counsel, Mr. Sanjeeva Jayawardena* in support of our appeal. We also made our oral submissions at the PAB Inquiry held on 4th July 2018. Through Mr. Jayawardena's submissions and the PAB hearing, OSL strived to prove that it was the lowest evaluated substantially responsive bidder and that the procedural criteria that were given as the reasons for the bid being rejected, were not even requirements to be satisfied by any bidder at the time of bid submission.

It is also pertinent to note Sir, that any insinuation that the Hon'ble PAB has erred with respect to the price bid is incorrect as the amounts were not discussed at the hearing since the Technical Evaluation Committee (TEC) and the CANC both agreed on numerous separate instances that OSL was the lowest cost bidder and the most responsive other than for the procedural issues that were then dealt with at the PAB hearing. Accordingly, the question of incorrect computation of the price bid does not arise and appears to be an afterthought.



Separately, the allegation that OSL's wholly owned subsidiary – Ocean Sparkle Ceylon (Private) Limited (**OSCPL**) is an unknown entity was duly addressed at the PAB hearing. The PAB reviewed the relationship between OSL and OSCPL in depth and only upon being completely satisfied that OSCPL is owned and controlled by OSL and is essentially the alter ego of OSL incorporated for the purpose of satisfying the Sri Lankan Flagging requirement in the Bidding Document, accepted that it is not an “unknown entity”.

We have been reliably informed that PAB has found in our favour and has recommended that the contract be awarded to OSL since **it satisfies the experience and qualification criteria in its own name and it is the “lowest evaluated substantially responsive bidder”.**

However, we are given to understand that the Ministry of Ports and Shipping has submitted a cabinet paper without attaching the original decision by the Hon'ble PAB, averring that the PAB decision was wrong and that the tender should be awarded to the highest bidder (Sri Lanka Shipping Company Limited).

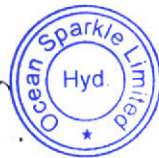
We understand Sir, that the Ministry of Finance has may not have been provided the complete background and set of facts in relation to OSL's bid submission, appeal and the decision of the Hon'ble PAB. We humbly request the Ministry of Finance to kindly reconsider the findings of the Ministry of Ports and Shipping based on the attached note.

In this connection, we would be most grateful for your urgent and kind intervention in this matter and will be happy to address any specific concerns or queries you may have.

Thanking you,

Respectfully yours,
For Ocean Sparkle Limited

P. Jairaj Kumar



P. Jairaj Kumar
Chairman & Managing Director

Encl: As above