

The Chairman made a brief introduction and the appellant company's representative was invited to explain the motives of the firm's objection.

Dr Victor Axiak said that the PCRB should know that there had already been an appeal in this Tender proceedings but the context of the present case is different because the present appellants were the preferred bidders in the first appeal.

The Chairman informed Dr Axiak that if his client did not agree with the Board's first decision, the proper channel to question this was recourse to the courts of justice according to law, and not another appeal before the same board. The present Board cannot overrule a decision taken by the same board.

Dr Axiak said that in the first case, Computer Domain Limited had appealed. The subject matter in the present case is similar, but insists that things have now changed because whereas the first evaluation board had found that the preferred bidder was abnormally low, now it is not finding it abnormally low. The discrepancy between the bids is so great and it is not possible to deliver at that price. The evaluation process should have been carried out again.

Jonathan Sciberras explained that following the decision by the PCRB, where this point of abnormally low values had been already decided, a new evaluation board had been appointed. The evaluation board waited until the time allowed for filing a case before the courts elapsed and then, after also taking legal advice, evaluated the bids again and the process was completed. The evaluation board did not question, and should not question a decision taken by the PCRB, but acted on it. Since the Computer Domain Limited's bid was administratively and technical compliant, and was also the cheapest, it was decided to award the tender to it.

Dr Axiak insisted that the new evaluation board should have gone into the question of abnormally low again.

Jonathan Sciberras stated that that question of low bid, had been decided by the PCRB, and it was not the remit of the evaluation board to go into it again. Still, the bid of Computer Domain was the cheapest. Their bid had been increased by €18000 but was still the cheapest.

Nick Callus asserted that his firm has been for a number of years providing service and assured those present that all the services required in the tender would be provided by his company.

Finally the Chairman reiterated that the subject matter should have been raised at the proper venue, the courts of justice and not before this board.

The hearing was brought to an end.

This Board,

- Having noted the “Reasoned Letter of Objection” filed by the Appellant dated 30th April 2013 and also through the verbal submissions made by the Appellant during the hearing held on 11th July 2013 had objected to the decision taken by the Department of Contracts.
- Having noted the Appellant’s claims as follows:
 - a) The tender was originally awarded for award to Allied Consultants Limited by the Evaluation Board of the Contracting Party;
 - b) Although the offer made by Computer Domain Limited was “Abnormally Low” and contained arithmetical mistakes through a decision of the Public Contracts Review Board dated 26th October 2012, Computed Domain Limited was integrated in the Evaluation process;
 - c) That it was dubious whether the preferred bidder would deliver at such low values.
- Having heard submissions made by the Contracting Authority as follows:
 - a) After the decision taken by the Public Contracts Review Board of the 26th October 2012, the Evaluation Board waited until the allowed period by law for an appeal before the Courts of Law elapsed;
 - b) After taking Legal Advice, the New Evaluation Board evaluated the bids again and the tender was awarded;
 - c) The preferred bidder’s offer was administratively and technically compliantl
 - d) The preferred bidder’s offer was the cheapest.
- Reached the following conclusions:
 - 1) The Public Contracts Review Board opines the Appellant Company could have chosen to appeal the decision taken by PCRB dated 26th October 2012 through the proper channels i.e Courts of Law;
 - 2) This Board upholds the decision taken on the 26th October 2012, (Case No. 452)

In view of the above, this Board finds against the Appellant Company and recommends that the deposit paid by the Appellant should not be reimbursed.

Dr. Anthony Cassar
Chairman

Mr. Richard A. Matrenza
Member

Mr. Lawrence Ancillieri
Member

6 August 2013