

PUBLIC CONTRACTS REVIEW BOARD

Case No. 576

RP 67/04/13

Tender for Maintenance of Roads – Patching, Zurrieq.

The tender was published on the 8th March 2013. The closing date was the 15th April 2013.

The estimated value of the Tender was: €50,000 (Exclusive of VAT).

Four (4) bidders submitted their offers for this tender.

On the 27th April 2013 Elle's Urban Services Limited filed an objection against the award of the tender to Polidano Bros Ltd. This was followed by another letter dated 30th July 2013.

The Public Contracts Review Board composed of Dr Anthony Cassar (Chairman), Dr Charles Cassar and Mr Richard A. Matrenza as members convened a hearing on Thursday 1st August 2013 to discuss the appeal.

Present for the hearing were:

Elle's Urban Services Limited

Mr John Fenech
Architect Etienne Magri
Dr Joseph Zammit

Appellants

Director
Representative
Legal Representative

Polidano Bros. Ltd.

Dr Franco Galea
Architect Emanuel Zammit

Preferred Bidder

Legal Representative
Representative

Kunsill Lokali Zurrieq – Contracting Authority

Ms Ignatius Farrugia
Ms Josianne Cilia Mumford

Mayor Zurrieq Local Council
Executive Secretary

The Chairman, before inviting the appellants to explain the reasons for the objection, stated that the objection filed on the 27th April 2013 did not give any reasons for the objection. This rendered the said objection null and void because the law stated clearly that any objection should give the reasons for raising the objection. The Board could not continue to hear the appeal.

Dr Joseph Zammit on behalf of the appellant stated that his client was asked by the Local Council, on a request made by the PCRB clerk, to submit by yesterday the reasons for his objection. He contended that this request had restored any deficiency on his client's part when submitting his appeal.

Dr Franco Galea appearing for the preferred bidder asked to be shown the original letter of objection because his client was only informed of the appeal yesterday, when he received the second letter by appellant.

The hearing was brought to a close.

This Board,

Having noted the Appellant's Letter of Objection without reason dated 27th April 2013, had objected to the decision taken by the pertinent Authority.

- a) **The Board noted that the letter of objection by the Appellant did not state the reasons;**
- b) **The Board also noted that the 'Reasoned letter of Objection' should have been filed within five working days from the date of notification of refusal from the Contracting Authority,**

Reached the following conclusions:

- 1. Regulation 21 of the Public Procurement Regulations, states that any bidder who is aggrieved by the award of tender may within five working days from date of notification, file a letter of objection with a deposit, clearly stating the reasons for the objection;**
- 2. The Appellant did not abide by the Regulations;**
- 3. The Appellant's reasons for the objection were filed with this Board three months later.**

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. A. Cassar
Chairman

Dr. C. Cassar
Member

Mr. R. A. Matrenza
Member

22 August 2013