

PUBLIC CONTRACTS REVIEW BOARD

Case No. 833

CT 2003/2013/5087

Tender for Road Resurfacing Works Level 2 (Central Region).

The tender was published on the 21st April 2015. The closing date was the 28th April 2015. The estimated value of tender is €114,402.25 (Exclusive of VAT).

Two (2) offers had been received for this tender.

On the 26th June 2015 Mr Raymond Calleja filed an objection against the decision of the contracting authority to award the tender to Dimbros Limited.

The Public Contracts Review Board composed of Dr Anthony Cassar (Chairman), Dr Charles Cassar and Mr Lawrence Ancilleri as members convened a hearing on Tuesday 28th July 2015 to discuss the objection.

Present for the hearing were:

Mr Raymond Calleja:

Mr Raymond Calleja
Dr Gavin Gulia

Representative
Legal Representative

Dimbros Limited:

Ms Josephine Dimech
Dr Franco Galea

Representative
Legal Representative

Transport Malta:

Mr George Attard
Mr Antoine Garnisi
Mr Alex Azzopardi
Ms Ethel Demicoli
Mr Ray Stafrace
Dr Franco Vassallo

Chairperson Evaluation Board
Member Evaluation Board
Member Evaluation Board
Representative
Representative
Legal Representative

The Chairman made a brief introduction and asked the Appellants' representative to make his submissions.

Dr Gavin Gulia on behalf of the Appellant asked for an explanation on what the "amount on summary BOQ not declared" in the opening schedule meant.

Mr George Attard, the Chairman of the Evaluation Board under oath explained that in the Preferred Bidder's tender all the rates were put down and given. However the latter omitted copying the total into the summary sheet. The Evaluation Board had all the information necessary to evaluate the said tender.

Dr Gavin Gulia on behalf of the Appellant remarked that his client could not have known this fact as explained by the witness before. He said that in view of this explanation provided by the Contracting Authority his client was withdrawing the objection.

Dr Franco Galea on behalf of the Preferred Bidder pointed out that the notice of objection was dated the 15th June 2015 while the award was made on the 25th June 2015.

Dr Franco Vassallo for the Contracting Authority explained that although the Letter of Objection was dated 15th June 2015, the date of the relative deposit receipt shows that the objection was filed on the 26th June 2015. It was probably due to a cut and paste mistake by the appellant since he had filed several objections within a few days.

At this point the hearing was closed.

This Board,

Having noted the Appellant's objection in terms of the "Reasoned Letter of Objection" dated 26th June 2015 and also through the Appellant's verbal submissions during the Public Hearing held on the 28th July 2015, had objected to the decision taken by the pertinent Authority, in that:

- a) The Appellant's sole contention is that the other bidders were not disqualified by the Contracting Authority, despite the fact that they did not submit a copy of the Tender Document as requested.**

- b) The Appellant also requested as explanation as to what does "Amount on**

Summary BOQ not declared” meant.

Having considered the Contracting Authority’s verbal submissions in that:

- a) The Contracting Authority contends that although the Preferred Bidder did not submit a copy of the Tender Document, his offer was the cheapest and the Evaluation Board adopted the “Principle of Proportionality”;**

- b) The Contracting Authority explained to the Appellant that with regards to his second query, the Preferred Bidder tendered for all the rates. However, the same has omitted copying the total into the summary sheet.**

Having seen Dr Gavin Gulia’s declaration on behalf of the Appellant whering he explained that in view of the explanation provided during the hearing by the Contracting Authority, his client was withdrawing the objection.

Decides not to take any further cognizance of the objection since it has been withdrawn;

In view of the above, this Board recommends that the deposit paid by the Appellant should be reimbursed.

**Dr Anthony Cassar
Chairman**

**Dr Charles Cassar
Member**

**Mr Lawrence Ancilleri
Member**

31 July 2015