

PUBLIC CONTRACTS REVIEW BOARD

Case No. 871

SGLC/T 06/2015

Tender for Domestic Waste Collection: Door to Door.

The tender was published on the 30th January 2015. The closing date was on the 6th March 2015. The estimated value of the Tender was €100,000.00 (Exclusive of VAT)

Five (5) bidders had submitted an offer for this tender.

On the 25th June 2015 Alexander Fenech and Mario Borg filed an objection against the decision taken by the Contracting Authority to award the tender to Waste Collection Limited.

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 the 12th November 2015 to discuss the objection.

Present for the hearing were:

Alexander Fenech and Mario Borg:

No one was present

Waste Collection Limited:

Mr Adrian Muscat	Representative
Mr Mario Tufigno	Representative
Dr Robert Tufigno	Legal Representative

San Gwann Local Council:

Mr Kurt Guillaumier	Executive Secretary
Perit Robert Grech	Architect
Dr Claudine Pace Zarb	Legal Representative

The Chairman made a brief introduction and explained that the Appellants had just informed the Board by telephone that they would not be attending for the hearing of the case. He explained that circumstances had changed since the filing of the Letter of Objection since the Contracting Authority, notwithstanding the pending objection had revoked the original award and had awarded the tender to another Preferred Bidder.

Dr Robert Tufigno on behalf of the Preferred Bidder explained that the Contracting Authority had in the meantime revoked the award of the tender to his client Waste Collection Limited and had awarded the said tender to another bidder. His client had filed another objection against this decision by the Contracting Authority. He contended that since the present objection dealt with the award of the tender to his clients, and that this award had been revoked there were no longer any reason to continue with the hearing of the objection. He said that the merits of the present case had been exhausted and do not exist anymore.

At this point the hearing was brought to a close.

This Board,

Having noted the Appellant’s objection in terms of the “*Reasoned Letter of Objection*” dated 25 June 2015, wherein, the Appellant objected to the decision taken by the Pertinent Authority, in that:

- a) The Appellant contends that the Contracting Authority discarded their Bid due to the fact that they were considered as two separate individuals;**

- b) The Appellant maintains that he was informed by a letter dated 18 June 2015 that his offer was discarded due to the fact that the “Award Criteria” was chosen on the MEAT Concept. No other specific reasons were given by the Contracting Authority.**

At the same instance, the Contracting Authority refused to provide the Appellant with a copy of the minutes concerning the decision to discard the Appellant's bid;

- c) The Appellant contends that the Contracting Authority should, during the Evaluation stage, examine closely the quoted rates to avoid any possibility of precarious employment,**

Having considered the Contracting Authority's verbal submissions during the Public Hearing held on 12 November 2015, in that:

- a) The Contracting Authority maintains that it had chosen the most advantageous Tender on the Architect's report and the final voting of the Councillors. However, since then it had revoked its decision and awarded the Tender to another bidder.**

Reached the following conclusions:

- 1. With regards to this Appeal, this Board credibly points out that the Contracting Authority had revoked the decision to award the Tender to the Recommended Bidder and awarded the latter to another**

Bidder. In this regard, this Board opines that the merits of this case had been exhausted and do not exist anymore.

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

Dr Anthony Cassar
Chairperson

Dr Charles Cassar
Member

Mr Richard A. Matrenza
Member

18 November 2015