

## **PUBLIC CONTRACTS REVIEW BOARD**

**Case No. 891**

**MCAST T 24/2015**

### **Tender for the Supply and Installation of Kitchen Equipment.**

The Tender was published on the 30<sup>th</sup> August 2015. The closing date was on the 14<sup>th</sup> September 2015. The estimated value of the Tender is €60,092.37 (Exclusive of Vat).

Three (3) bidders had submitted offers for this Tender.

On the 2<sup>nd</sup> December 2015 ECB Hotel & Catering Equipment Limited filed an objection against the decision of the Contracting Authority to find their bid non compliant.

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 the 19<sup>th</sup> January 2016 to discuss the objection.

Present for the hearing were:

#### **ECB Hotel & Catering Equipment Ltd.:**

Mr John Cutajar	Representative
Mr Kevin Cutajar	Representative
Mr Mario Cutajar	Representative
Dr Richard Sladden	Legal Representative

#### **C & H Bartoli Ltd.:**

Mr Alan Bartoli	Representative
Mr John Campbell	Representative

#### **Malta College of Arts, Science and Technology:**

Ms Deborah Borg	Chairperson Evaluation Board
Ms Jane Schembri	Representative
Mr Stephen Cachia	Representative
Dr Paul Borg	Legal Representative
Dr Clint Tabone	Legal Representative

The Chairman made a brief introduction and asked the Appellant's representative to make his submissions. However Dr Richard Sladden on behalf of the Appellant said that the Contracting Authority's representative had a statement to make.

Dr Paul Borg on behalf of the Contracting Authority explained that the Tender was being funded through European Funds. However, such funds were no longer available and therefore the Tender would have to be cancelled.

Dr Richard Sladden on behalf of the Appellant said that latter was astounded that this fact had not been realized before. He said that this prejudiced his client because the Financial Offer had been divulged.

Dr Paul Borg for the Contracting Authority said that once the funding of this Tender had lapsed there was no alternative but to cancel the Tender. There were no other funds that could be used. He said that the Contracting Authority was ready to refund any deposit made by the bidder.

At this point the hearing was closed.

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**This Board,**

**Having noted the Appellant's objection in terms of the "*Reasoned Letter of Objection*" dated 2 December 2015 and also the opening submission made by the Contracting Authority, during the Public Hearing held on 19 January 2016, in that:**

- a) The Appellant was surprised to learn, during the Public Hearing, that the Tender would be cancelled.**

**Having considered the Contracting Authority's submission during the Public Hearing held on 19 January 2016, in that:**

**a) The Contracting Authority had to cancel the Tender due to the simple fact that the Tender was being financed through EU Funds; however these said funds were no longer available.**

**Reached the following conclusion:**

**1. This Board opines that since the EU Funds to cater for this Tender are no longer available the merit of this case need not be treated. However, this same Board would like to advise that the Contracting Authority should investigate why such funds were not available any more.**

**In view of the above, this Board recommends that the Tender is to be cancelled and that the deposit paid by the Appellant is to be fully reimbursed.**

Dr Anthony Cassar  
Chairperson

Dr Charles Cassar  
Member

Mr Lawrence Ancillieri  
Member

*26 January 2016*