

PUBLIC CONTRACTS REVIEW BOARD

Case No. 905

UM 1948

Tender for the Provision of a Cost Benefit Analysis for the University of Malta.

The Tender was published on the 6th October 2015. The closing date was on the 4th November 2015. The estimated value of the Tender is €47,000.00 (Exclusive of Vat).

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

On the 13th January 2016 Deloitte Services Limited filed an objection against the decision of the Contracting Authority to reject their offer because of technical non-compliance.

The Public Contracts Review Board composed of Dr Anthony Cassar (Chairman), Dr Charles Cassar and Mr Lawrence Ancilleri as members convened a hearing on Thursday the 25th February 2016 to discuss the objection.

Present for the hearing were:

Deloitte Services Limited:

No representatives were present.

Ernst & Young Limited:

Ms Maria Giulia Pace
Dr Robert Attard

Representative
Legal Representative

University of Malta:

Mr Tonio Mallia
Ms Claire Saliba
Mr Joseph Bugeja
Mr Mark Debono
Dr Oriella De Giovanni

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

When the case was called, the Chairman informed all those present that the Appellant had sent an email earlier in the morning whereby he informed the Public Contracts Review Board that the objection was being withdrawn. Thus, the Chairman continued by stating that the objection could not be considered any longer. However such action, leaving everyone waiting was not acceptable and the Appellant should have informed the Board at an earlier date.

Dr Robert Attard on behalf of the Recommended Bidder Ernst & Young Limited said that his clients wanted to protest against this treatment and contended that the Public Contracts Review Board to deplore the Appellant's action.

At this point the hearing was closed.

This Board,

Having noted the Appellant's Objection, in terms of the "*Reasoned Letter of Objection*" dated 13 January 2016, whereby the same objected to the decision taken by the Pertinent Authority.

This Board would credibly note that, at the same instance, the Public Hearing was scheduled for Thursday 25 February 2016. Just two hours before the Public Hearing, this Board was informed by the Appellant Company, namely Deloitte Services Ltd, that through an e-mail dated 25 February 2016, just a few hours before the Public Hearing, the Appellant Company is withdrawing its objection.

This Board also noted that on the 24 February 2016 at 18:33, the same Appellant confirmed that two representatives of their Company, namely

Mr Dimitrios Goranitis and Mr Raphael Aloisio would be attending for the same Public Hearing.

Reached the following conclusions:

1. This Board deplores the action taken by the Appellant Company, in that:

- a) The Appellant should have been prudent enough to inform his withdrawal of Appeal, well before the day of the Public Hearing. In this regard, this Board would point out that the Appellant should be aware that the process of compilation of documentation prior to the actual Hearing is time consuming and laborious and the Appellant's attitude reflect waste of public funds.**

This Board also takes into account the waste of human resources, in that; the Contracting Authority punctually attended the Hearing with a team of five professionals.

In this regard, due to the fact that the "*Public Procurement Regulations*" does not cater for the Public Contracts Review Board to take further action for damages, this Board recommends that:

- a) The merit of the Appeal cannot be treated, and in this regard this Board discards the Appeal;**
- b) The deposit paid by the Appellant should not be reimbursed;**
- c) This Board will put on record the treatment given by the Appellant towards this board and will inform the relevant authorities of such a contempt which was addressed to this Board.**

Dr Anthony Cassar
Chairman

Dr Charles Cassar
Member

Mr Lawrence Ancilleri
Member

1 March 2016