

Case 1090 – RFP 009/2016 – Request for Proposals for the Design, Supply, Installation and Maintenance of Bus Shelters in Malta and Gozo and Maintenance of Existing Bus Shelters Canopies

The Publication Date of the Call for Tenders was 28 October 2016 whilst the Closing Date for Call of Tenders was 23 January 2017.

Five (5) Bidders have submitted offers for this Tender.

On 15 September 2017, Mediterranean Research and Solutions Limited filed an Objection against the decision of Transport Malta to award the Tender to 356 Holdings Limited against a deposit of € 1,200.

On 5 October 2017, the Public Contracts Review Board composed by Dr Anthony Cassar as Chairman, Dr Charles Cassar and Mr Carmel Esposito as members convened a Public Hearing to discuss the Objection.

The Attendance for this Public Hearing was as follows:

Appellant – Mediterranean Research and Holdings Limited

Mr Daniel Orsini	Representative
Dr Alessandro Lia	Legal Representative

Recommended Bidder – 356 Holdings Limited

Dr Steve Decesare	Legal Representative
-------------------	----------------------

Contracting Authority – Transport Malta

Mr Charles Axisa	Chairperson, Evaluation Board
Mr Rodrick Abdilla	Member, Evaluation Board
Ms Elizabeth Fenech	Secretary, Evaluation Board
Perit Elaine Farrugia	Member, Evaluation Board
Mr Konrad Muscat	Member, Evaluation Board
Mr Ray Stafrace	Representative
Dr Joseph Camilleri	Legal Representative

Following an introduction by The Public Contracts' Review Board Chairman, Dr Anthony Cassar, the Appellants were invited to make their submissions.

Dr Alessandro Lia, the Legal Representative for Mediterranean Research and Solutions Limited opened by saying that despite the fact that the Reasoned Letter of Reply issued by Transport Malta on 20 September 2017 indicated that they were attaching the scores given to his clients by the Evaluation Board, these were only forwarded to them a few moments prior to the commencement of this Public Hearing and it was impossible for the Appellants to prepare their case properly and thus they were requesting for the same Hearing to be adjourned so that they can examine the points together with their technical team.

Dr Lia also added that he had to draw the attention of the Public Contracts Review Board that on July 2017, the Hon Court of Appeal has issued a decision where indicated that this same Board had to delve into technical matters when Appeals are filed on technical grounds.

Dr Anthony Cassar, the Chairman of the Public Contracts Review Board remarked that the Public Procurement Regulations have changed in the meantime.

Dr Alessandro Lia, the Legal Representative for Mediterranean Research and Solutions Limited said that he had his personal opinion regarding the matter but he was reserving the right to make a similar request after seeing the scores given to his clients by the Evaluation Board.

Dr Joseph Camilleri, the Legal Representative for Transport Malta admitted that he himself has forwarded the Evaluation Grid to the Appellants a few moments prior to the commencement of the Public Hearing. Together with the Grid, Dr Camilleri also forwarded a detailed explanation prepared by the Evaluation Board on how they decided to give the scores which they awarded.

Dr Camilleri also said that as one can see in the Evaluation Grid submitted, it was the price that penalised the Appellant despite that from a technical point of view; the Appellants had a very good result.

Transport Malta's Legal Representative added that both he and his clients were aware of the sentence issued by the Hon Court of Appeal which was mentioned by Dr Alessandro Lia but even if one had to accept the opinion of the said Hon Court, the Public Contracts Review Board could not order the Contracting Authority to make a fresh Technical Evaluation unless there is really something which could justify this new situation.

Dr Anthony Cassar, the Chairman of the Public Contracts Review Board said that this Board was willing to accede to the request made by Mediterranean Research and Solutions Limited and decided to adjourn the Public Hearing to Thursday 19 October 2017 at 12:00.

Second Hearing

On 19 October 2017, the Public Contracts Review Board composed by Dr Anthony Cassar as Chairman, Dr Charles Cassar and Mr Carmel Esposito as members convened a second Public Hearing to discuss the Objection.

The Attendance for this Public Hearing was as follows:

Appellant – Mediterranean Research and Holdings Limited

Mr Daniel Orsini	Representative
Dr Alessandro Lia	Legal Representative

Recommended Bidder – 356 Holdings Limited

Dr Steve Decesare	Legal Representative
-------------------	----------------------

Contracting Authority – Transport Malta

Mr Charles Axisa	Chairperson, Evaluation Board
Mr Rodnick Abdilla	Member, Evaluation Board
Perit Elaine Farrugia	Member, Evaluation Board
Mr Konrad Muscat	Member, Evaluation Board
Ms Liz Markham	Representative
Mr Ray Stafrace	Representative
Dr Joseph Camilleri	Legal Representative

Following an introduction made by the Chairman of the Public Contracts' Review Board, Dr Anthony Cassar, the Appellants were invited to make their submissions.

Dr Alessandro Lia, Legal Representative for Mediterranean Research and Holdings Limited sought to cross examine some Witnesses.

Dr Joseph Camilleri, Legal Representative for Transport Malta added that the witnesses were members of the Evaluation Board and member from Transport Malta.

Dr Anthony Cassar, the Chairman of the Public Contracts Review Board, found no Objection for these witnesses to be cross-examined.

Dr Alessandro Lia, the Legal Representative for Mediterranean Research and Holdings Limited requested the Evaluation Board members to leave the 'awla', in view of the fact, that he required to ask, how the latter evaluated the offer of his clients, individually.

Dr Joseph Camilleri, the Legal Representative for Transport Malta found no Objection for the request made by the Appellants. At this point, the Evaluation Board members were asked to leave the room.

Dr Alessandro Lia, Legal Representative for Mediterranean Research and Holdings Limited required soliciting the witness from Transport Malta with reference to statistics.

Dr Joseph Camilleri, Legal Representative for Transport Malta felt that, it was not relevant to solicit for the witness in respect of this case.

Dr Alessandro Lia, the Legal Representative for Mediterranean Research and Holdings Limited countered that, the witness requested, was relevant. Notwithstanding that the Appellant and five other bidders, were not given points due to the fact that they did not know, how many bus shelters were to be changed in a year.

With regards to the Financial Offers, Dr Lia, continued that there were Bidders who offered the service requested in Tender Document free of charge, while his clients offered only, the service of 20 bus shelters for free. The Appellants wanted to know how many bus shelters were changed, since they were only given half the points for this matter.

Dr Joseph Camilleri, the Legal Representative for Transport Malta remarked that what happened in the past was not a guarantee of what would happen in the future.

Dr Anthony Cassar, the Chairman of the Public Contracts Review Board asked the parties concerned not to refer to the past. He added that the requested witness could be brought in but the Public Contracts Review Board would not refer to his evidence.

Dr Alessandro Lia the Legal Representative for Mediterranean Research and Holdings Limited said that this was a crucial point, since he wanted to know why his clients' offer deserved half the points, therefore he wanted to know the facts and statistics that Transport Malta had available, on how many bus shelters were changed in a calendar year.

Dr Anthony Cassar, the Chairman of the Public Contracts Review Board, said that this would be known through the testimony given by the members of the Evaluation Board.

Dr Alessandro Lia, the Legal Representative for Mediterranean Research and Holdings Limited was uncertain whether the Evaluation Board saw this statistic. He added, that the Public Contracts Review Board had to see that the Evaluation Board did its considerations in a fair and just manner.

Dr Anthony Cassar, the Chairman of the Public Contracts Review Board said that this Board will not consider previous Tenders.

Dr Alessandro Lia, the Legal Representative for Mediterranean Research and Holdings Limited said that the Appellants wanted to know how many bus shelters were to be changed following orders from Transport Malta.

Dr Anthony Cassar, the Chairman of the Public Contracts Review Board pointed out that the subject at this point, had to be on what basis, the Mediterranean Research and Holdings Limited were given the points awarded.

Dr Alessandro Lia, the Legal Representative for Mediterranean Research and Holdings Limited added that he wanted to know the facts from the Transport Malta representative.

Dr Joseph Camilleri, the Legal Representative for Transport Malta asked why the Appellants submitted such offer, when they knew that no more than 20 bus shelters were changed per year. Dr Alessandro Lia the Legal Representative for Mediterranean Research and Holdings Limited replied that, the reason was known by all parties concerned.

Dr Anthony Cassar, the Chairman of the Public Contracts Review Board decided to bring in the witness, and questions had to be made on normal standard.

At this point, Mr Ivan Pierre Vella, a Senior Manager on Public Transport, holding ID Card Number 443662 M was summoned by Mediterranean Research and Holdings Limited to testify under oath before the Public Contracts Review Board.

Following Mr Vella's submission, Dr Alessandro Lia the Legal Representative for Mediterranean Research and Holdings Limited requested to commence the cross-examination to the entire Evaluation Board.

At this point, Ms Elaine Farrugia, an Architect within Transport Malta, holding ID Card Number 114085M, was summoned by Mediterranean Research and Holdings Limited to testify under oath before the Public Contracts Review Board.

Following Ms Farrugia's testimony, Mr Konrad Muscat, a Commercial Manager within Transport Malta, holding ID Card Number 443371 M was summoned by Mediterranean Research and Holdings Limited to testify under oath before the Public Contracts Review Board.

At the end of Mr Muscat's testimony, Mr Rodnick Abdilla, an Executive within Transport Malta holding ID Card Number 564178 M was summoned by Mediterranean Research and Holdings Limited to testify under oath before the Public Contracts Review Board.

At the end of Mr Abdilla's testimony, the Public Hearing was adjourned to Tuesday 31 October 2017 at 12:00 where the Testimony regarding Bus Shelter changes per year by Transport Malta will be testified.

Third Hearing

On 31 October 2017, the Public Contracts Review Board composed by Dr Anthony Cassar as Chairman, Dr Charles Cassar and Mr Carmel Esposito as members convened a third Public Hearing to discuss the Objection.

The Attendance for this Public Hearing was as follows:

Appellant – Mediterranean Research and Holdings Limited

Mr Daniel Orsini	Representative
Dr Alessandro Lia	Legal Representative

Recommended Bidder – 356 Holdings Limited

Mr Antoine Portelli	Representative
Dr Steve Decesare	Legal Representative

Contracting Authority – Transport Malta

Mr Charles Axisa	Chairperson, Evaluation Board
Perit Elaine Farrugia	Member, Evaluation Board
Ms Liz Markham	Representative
Mr Ray Stafrace	Representative
Dr Joseph Camilleri	Legal Representative

Dr Alessandro Lia, the Legal Representative for Mediterranean Research and Solutions Limited opened by saying that he wanted to ask questions to a Witness from Transport Malta who was present.

At this point, Mr Ivan Pierre Vella, a Senior Manager on Public Transport within Transport Malta, holding ID Card Number 443662 M, was summoned to testify under oath before the Public Contracts Review Board.

At the end of Mr Vella's testimony, Dr Alessandro Lia, the Legal Representative for Mediterranean Research and Solutions Limited said that in this Request for Proposals, his clients were given 87.5 out of 100 and that they were deducted points in two Adjudication elements only, namely Paragraph C of Table 1 of the Bus Shelter design score and the cost of removal of the Bus Shelter where their maximum scores were respectively 10 and 15.

With regards to the design, the Appellants were awarded 6 out of 10 according to the document named Annex V where there was an explanation of how the points were divided and awarded. The Appellants' Legal Representative added that Paragraph 3 in Page 2 of the said document explains clearly why his clients were deducted these points and when he asked the Evaluation Board members specifically at their respective testimonies, they replied clearly that,

“Lowest points were given to Mediterranean Research and Solutions Limited since the offered Bus Shelter offered a very enclosed design which would limit ventilation and promote heat gain”

Dr Alessandro Lia, continued to elaborate on this and added that on the basis of how the points were divided, this element carried three and not four points. According to two of the three Evaluation Board members, the points were deducted because of the heat gain protection question. If this was the only reason, the Evaluation Board should have deducted only three points.

The Public Contracts Review Board, continued Dr Alessandro Lia, was obliged to delve into the technical aspects of the Tender as per the OK Limited vs Department of Contracts sentence issued by the Hon Court of Appeal (Superior) on 18 July 2017. These aspects were to be understood by lay people too if applied with rigor. With regards to the climatic control, the Appellants gave a holistic approach which goes beyond what the Request for Proposal required.

With regards the enclosed design, of which four points were deducted, Dr Lia added that the Public Contracts Review Board can see from the proposal itself that in the plants presented for each Bus Shelter there was a space from which the air can circulate. From what was understood, a gap was left at the rear panel. The enclosed design which, according to Transport Malta, was limiting the ventilation does not exist according to the Appellants who requested the Public Contracts Review Board to look into this matter in detail.

With regards heat gain, rain protection and shade protection, Dr Alessandro Lia invited the Public Contracts Review Board to also look into this part of the client's proposal since in the questions asked under oath to the Evaluation Board, he asked them whether they took into consideration the fact that a cooling fan was going to be installed. According to the technical references made in the Appellant's offer, the glass was going to intercept 100% of the UV rays.

With regards the price, Dr Alessandro Lia saw a big discrepancy since the proposal was to give the first 20 Bus Shelters free of charge and then charge a nominal fee of € 100 from the 21st Bus Shelter onwards. From the testimony made under oath by Mr Ivan Pierre Vella, it

was impossible to change 20 Bus Shelters per year. When asked, the Evaluation Board confirmed that they considered only the price. On the other hand, Transport Malta has requested a proposal. In five years there were only fourteen Bus Shelters which were changed, an average of almost three per year.

Dr Lia continued by saying that the Evaluation Board has made a mistake when not considering this condition. If there was this capping and historically Transport Malta did not exceed it, the latter had to therefore deem that the Appellant's price was € 0.

Dr Joseph Camilleri, the Legal Representative for Transport Malta, submitted that this was a Request for Proposal which was awarded under the Most Economic Advantageous Tender criteria in the same rules and principles for normal Tenders were applied for this Request for Proposals but the method for awarding points was a different one.

Dr Camilleri reminded everyone that this was the second time that this case was being presented before the Public Contracts Review Board. In the first instance, the latter has requested more competence and objectivity when awarding the marks and this was respected since the current Evaluation Board consisted of technical and highly competent people.

With regards the objectivity, not only did each and every member of the Evaluation Board was asked to testify under oath before the Public Contracts Review Board, but Transport Malta also exhibited the necessary documentation on how these offers were evaluated up to the last detail.

With regards the marks awarded, Dr Camilleri said that he believes that the Public Contracts Review Board understood that each member of the Evaluation Board had his specific marks but the fact that the three Board members gave the same marks showed absolute objectivity. At this point, Transport Malta did not understand the request made by Mediterranean Research and Holdings Limited for the Technical Evaluation to be reopened.

With regards the price, Transport Malta explained that the reasoning behind the 7.5 marks given to the Appellants was that the Contracting Authority had two offers with Bus Shelters to be changed free of Charge, which was given the full points, 15. Another Bidder who charged a price for each Bus Shelter changed, which was given no points. Then there was the Appellant who gave the first twenty Bus Shelters free of Charge and the Evaluation Board decided to go half way and award the Appellants 7.5.

Dr Joseph Camilleri continued by saying that with regards the historical issues raised by Dr Alessandro Lia; the past was not a guarantee for the future, which was where Transport Malta was looking at. Since the Evaluation Board had a new Request for Proposals, the latter wanted to adjudicate on their own terms and matters.

With regards the road works, Transport Malta was looking to increase the amount of Bus Shelters and thus the Evaluation Board was correct to look at the future in this aspect. Dr Joseph Camilleri added that if the Appellants were so sure that there were going to be less than twenty changes, they should have taken the risk and offered their Bus Shelters free of charge. It was convenient for the Appellant to mention certain aspects of their offer but at the end of the day, the Testimonies of the Evaluation Board show that the latter made their job correctly and that there was no need to reopen the Request for Proposal.

Dr Anthony Cassar, the Chairman of the Public Contracts Review Board, remarked that this Board would like to summon a member of the Evaluation Board for further questioning.

At this point, Perit Elaine Farrugia, an Architect within Transport Malta who was also a member of the Evaluation Board, holding ID Card Number 114085 M, was summoned by the Public Contracts Review Board to testify under oath before the same.

Following Perit Farrugia's testimony, Dr Alessandro Lia, the Legal Representative for Mediterranean Research and Holdings Limited said that he did not agree with what Dr Joseph Camilleri said regarding the method used by the Evaluation Board to award this Request for Proposals.

Procedurally there were many mistakes. The past showed that the average of removal of Bus Shelters per year was three each during the last five years and that the Evaluation Board saw only the price when making their considerations. It was curious to know, according to the Appellants, how many Bus Shelters were removed or changed from 2003 onwards, when the Bus Shelters were originally introduced.

Dr Joseph Camilleri, the Legal Representative for Transport Malta said that the Evaluation Board was bound to give maximum price to the cheapest Bidder and the testimony of Perit Farrugia showed that they went half way through with the Appellant's Bid. One cannot compare what will happen in the past if a Bus Shelter is vandalised, the Contracting Authority needs to replace it without incurring in extra charges. If the Appellant was sure that there won't be further than twenty changes per year, then he should have offered them free of charge.

Dr Steve Decesare, the Legal Representative for 356 Limited, said that the Public Procurement Regulations authorise the Public Contracts Review Board to discard decisions taken illegally. In this case, there was a Technical Expert who made her technical witness under oath and if the Appellants wanted to counter her, they should have summoned a Technical Expert on the manner.

Dr Decesare continued that nobody knew how many Bus Shelters will be changed in view of the fact that the Government has made an electoral promise that all roads are to be changed within these seven years. If the Appellant had no doubt that the Bus Shelters changed were below 20 per year, he should have offered them free of charge and if he had any doubts, he should have sought a clarification.

At this stage, the Public Hearing was adjourned to Tuesday 14 November 2017 at 09:00 wherein the Public Contracts Review Board will transmit the decision taken for this Objection verbally and then distribute a hard copy of the same to all parties concerned.

This Board,

Having noted this Objection filed by Mediterranean Research and Solutions Limited (herein after referred to as the Appellant) on 15 September 2017, refers to the Contentions made by the latter with regards to the award of Tender of Reference RFP 009/2016 listed as Case No 1090

in the records of the Public Contracts Review Board, awarded by Transport Malta (herein after referred to as the Contracting Authority).

Appearing for the Appellant: Dr Alessandro Lia

Appearing for the Contracting Authority: Dr Joseph Camilleri

Whereby, the Appellant contends that:

- a) **His main contention is that the points awarded on his offer were not objectively and properly allocated. In this regard, Mediterranean Research and Holdings Limited raised various issues on items in his offer, wherein it was alleged that the Evaluation Board, in their adjudication, did not take all factors into account when allocating marks and as such, the Evaluation Process was not carried out in a proper and fair manner.**

This Board also noted the Contracting Authority's "*Letter of Reply*" dated 20 September 2017 and its verbal submissions during the Public Hearings held on 5, 19 and 31 October 2017, in that:

- a) **The Contracting Authority maintains that the Evaluation Board which was composed of competent members, as per recommendations in the decision of the Public Contracts Review**

Board dated 23 May 2017 and same abided by the evaluation criteria as dictated in the Tender Dossier

This same Board also noted and considered in depth, the testimonies of the witnesses namely:

- a) Perit Elaine Farrugia duly summoned by Mediterranean Research and Holdings Limited on 19 October 2017;**
- b) Mr Konrad Muscat duly summoned by Mediterranean Research and Holdings Limited on 19 October 2017;**
- c) Mr Rodnick Abdilla duly summoned by Mediterranean Research and Holdings Limited on 19 October 2017;**
- d) Mr Ivan Pierre Vella duly summoned by Mediterranean Research and Holdings Limited on 19 October 2017 and 31 October 2017;**
- e) Perit Elaine Farrugia duly summoned by the Public Contracts Review Board on 31 October 2017**

This Board has also taken note of the documents submitted during the Public Hearings which consisted of a copy of the score sheet duly allocated to the offer of Mediterranean Research and Holding Limited.

1. This Board, after having considered the relative documentation and heard lengthy submissions, including testimonies of Technical Witnesses duly summoned during the three sittings of this Appeal, would respectfully opine that there are two main issues to the Appeal namely, “*Composition of the Evaluation Board*” and the “*Procedure of Allocation of Points*”. In this regard, consideration thereof is being taken as follows:

i) Composition of the Evaluation Board

The decision taken by this Board on 23 May 2017, regarding this same case, had instructed Transport Malta to re assess the offer submitted by Mediterranean Research and Holdings Limited through a re-evaluation process carried out by an Evaluation Board composed of new members and having at least one of them being a technical person, preferably an Architect duly experienced in similar Tenders.

In this regard, this Board noted that such an action has been taken and in fact, one of the Evaluation Board’s members is an Architect, well versed in such Tenders, while the other members are all qualified in their expertise which augurs well, in that the Evaluation Process was carried out in a professional and fair manner.

The competence of any Evaluation Board is reflected in the reporting and methodology of how and why points are allocated. From the Evaluation Report and the logical reasoning adopted by the members of this Evaluation Board, this Board is justifiably convinced that the members of the Committee were qualified enough to arrive at a fair assessment of all the offers.

ii) Procedure of Allocation of Points

With regards to the allocation of marks, this Board would refer to Article 11.6 of the Tender Document wherein the points to be allotted on each item of the Technical Specifications are established and made known to all prospective Bidders. For ease of reference, this schedule is being shown hereunder.

Bus Shelter Design Score	Maximum Points
<p>Design and aesthetics of the Structure. Most advantageous:</p> <p>a. Uniformity and Modularity of Designs across the Different Types of Bus Shelters to be used;</p>	<p>10</p>

<p>b. Harmony with the surrounding environment;</p> <p>c. Overall Climatic Control;</p> <p>d. Performance, Serviceability, Durability</p>	<p>5</p> <p>10</p> <p>10</p>
<p>a. Monthly Bus Shelter Installation Capacity:</p> <ul style="list-style-type: none"> • 5 Units Monthly – 5 Points; • 4 Units Monthly – 4 Points; • 3 Units Monthly – 3 Points • 2 Units Monthly – 2 Points • 1 Unit Monthly – 1 Point <p>b. Installation Time:</p> <ul style="list-style-type: none"> • Within 2 Months – 5 Points; • Within 2 and a Half Months – 4 Points; • Within 3 Months – 3 Points • Within 3 and a Half Months – 2 Points <p>c. Response Time from request by the Contracting Authority to install a new Bus Shelter to the Actual Installation. For clarity by installation it is understood the completion time.</p> <ul style="list-style-type: none"> • Within 15 Days – 5 Points; • Within 1 Month – 4 Points; • Within 1 and a Half Months – 2 Points 	<p>15</p>

<p>Level of Shelter (UV, Wind, Rain) and comfort within the structure</p> <ul style="list-style-type: none"> a. Solar Heat Gain Coefficient ≤ 0.4 (10 points) b. UVA/UVB Protection Higher than 99% (5 points) c. Glare mitigation of 11% (2 points), of 10% (3 points) of less than 10% (5 points) 	<p>20</p>
<p>Green Initiatives & Other Features (See Forms 1 and 4 this RFP)</p> <p>Green Initiatives</p> <ul style="list-style-type: none"> a. Bus Shelter Illumination is powered using renewable energy (8 points); b. Free WiFi on at least 5% of Bus Shelters installed (2 points); c. In conjunction with the Scheduled Public Transport Operator put up Electronic Timetables displays on at least 5% of bus shelters (2 points); d. In conjunction with the Scheduled Public Transport Operator put up Real Time Information panels on at least 5% of Bus Shelters (3 points); 	<p>15</p>
<p>Cost of Removing/Reinstalling Bus Shelter. Cheapest Price will be given maximum points whilst highest price</p>	<p>15</p>

will be given no points.	
Total	100

One has to appreciate that apart from the fact that such allocation was performed by each member of the Evaluation Board individually, it was credibly proven that, in allotting marks, overall consideration of the offers was taken into account so that an appropriate medium yardstick was established on solid and logical basis.

Through the testimonies of the witnesses, namely the Evaluation Board members, it was also evidenced that the allocation of marks was performed by gauging each offer into the appropriate scale of percentage marks and the allotted points reflected the scale of performance, quality of product and benefits offered by the Bidder, so that an offer better than the other in a particular section of the Bills of Quantity obtained more points.

Mediterranean Research and Holdings Limited raised issues as to earned marks regarding the item “*Overall Climate Control*” and “*Number of Bus Shelters Replacements*”. With regards to Climate Control, the points earned by the Appellant on this item were credibly explained and justified by the Technical Witness and in this regard, this Board is comfortably convinced that the marks allotted

to the Appellant's offer were fair and just when compared to the allocation of other offers.

With regards to the Appellant's concern regarding the number of Bus Shelters' replacements per annum, this Board does not consider this particular concern to be an issue, as the Evaluation Board had to compare the benefits, in the same regard, being offered by other Bidders and in this respect, this Board justifiably notes that there was a more advantageous Bid than that of the Appellant. At the same instance, this Board does not agree with Mediterranean Research and Holdings Limited's contention in that, the Evaluation Board should have taken into consideration the number of annual replacements of bus shelters and since these, according to past statistics, do not exceed 20 in number per annum, the Appellant's offer should have been considered as at "*no cost per annum*" in so far as replacements of bus shelters. In this regard, the Evaluation Board, quite appropriately, compared the Appellant's offer with other Bids without changing the selection criteria. This Board would like to respectfully point out that once a limitation in an offer is imposed by the Bidder, the latter has to be taken into consideration in the offer's assessment.

2. On a general note, this Board would point out that the "*MEAT*" system, now referred to as "*Best Price Quality Ratio*", is a fair and

objective method of assessing an offer in that, the Evaluation process is spread over the number of members who individually measure and grade an offer's compliance, after which a weighted average, in the form of points, is arrived at. Although there is a slight element of "subjectivity" in the individual assessment, the resultant weighted average suppresses drastically this occurrence.

In this regard, this Board, justifiably opines that the Evaluation Board was composed of competent members who carried out their Evaluation process in accordance with the dictated evaluation procedure in a fair, just and transparent manner and in this regard, this Board also credibly confirms that the allocation of points on Mediterranean Research and Holdings Limited's offer was objectively carried out.

In view of the above, this Board finds against Mediterranean Research and Holdings Limited and recommends that the deposit paid by the latter should not be refunded.

Dr Anthony Cassar
Chairman

Dr Charles Cassar
Member

Mr Carmel Esposito
Member

21 November 2017