

## **PUBLIC CONTRACTS REVIEW BOARD**

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### **Case 1133 – A4U – Assistance for You and Be Active 2018 Schemes**

This case concerned a hearing in connection with an objection filed by the Scout Association of Malta on the 1st February 2018 on the grounds of their being disqualified from financial support from Agenzija Zghazagh under the A4Y Assistance for You and Be Active Schemes 2018, against a deposit of € 400.

On 15<sup>th</sup> February 2018 the Public Contracts Review Board composed of Dr Anthony Cassar as Chairman, Mr Carmel Esposito and Mr Lawrence Ancilleri as members convened a public hearing to discuss the objections.

The attendance for this public hearing was as follows:

#### **The Scout Association of Malta**

Mr Josmar Azzopardi	Representative
Mr Leslie Bonnici	Representative
Mr Marco Cassar	Representative

#### **Agenzija Zghazagh**

Ms Miriam Teuma	Representative
Ms Maria Carmela Borg	Representative

Dr Anthony Cassar, Chairman of the Public Contracts Review Board, welcomed the parties and said that this was an unusual appeal as it did not deal with a tender and both parties seemed to be in agreement in seeking a solution.

Mr Marco Cassar, Scouts Group Scout Leader, outlined the scheme for financial assistance to voluntary organisations. The Scouts Association of Malta had applied for funding but was informed that it was not eligible as it was not registered with the Office of the Commissioner for Voluntary Organisations.

Mr Josmar Azzopardi, Officer of the Scouts Association, tabled a document confirming that the Association was compliant with the Office of Voluntary Organisation at the time that they submitted their application for funds.

Ms Miriam Teuma, Chief Executive Officer of Agenzija Zghazagh said that the Agency had one criteria when allocating funds; i.e. that the applicants complied with the regulations covering voluntary organisations. In this case the Agency was advised that the Scouts Association did not qualify. They were subsequently advised by the Office for Voluntary Organisations that applicant did in fact qualify, by which time it was too late for them to benefit from funding as all funds had been distributed.

Prof Kenneth Wain (528243M), Commissioner for Voluntary Organisations confirmed on oath that the Scouts Association had been given two extensions to submit audited accounts and they were compliant by the date of their application.

The Chairman asked Prof Wain and Ms Teuma whether there was any way of redeeming this situation bearing in mind that through wrong information being given the Scouts Association had been disadvantaged. He suggested a joint approach between the Commissioner and the Agency to the Ministry for Finance for extra funding to remedy this situation. Both parties concurred with this suggestion and agreed to co-operate on a joint approach.

The Chairman thanked both parties for their submissions and declared the hearing closed.

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**This Board,**

**Having noted this Objection filed by The Scout Association of Malta, (herein after referred to as the Appellant) on 1<sup>st</sup> February 2018, refers to the contentions made by the same appellant with regards to the award of Funds A4U listed as Case No 1133 in the records of the Public Contracts Review Board.**

**Appearing for the Appellant: Mr Josmar Azzopardi**

**Mr Leslie Bonnici**

**Mr Marco Cassar**

**Appearing for the Contracting Authority: Ms Miriam Teuma**

**Ms Maria Carmela Borg**

**Whereas:**

- a) The Appellants contend that they were considered as ineligible for the allocation of funds under the “*Assistance for You and Be Active 2018 Schemes*”. In this regard, the Appellants maintain that they should**

**have been included in the scheme for the allocation of funds as they did qualify as a voluntary organisation at the time that they submitted their application.**

**This Board also noted the Contracting Authority's "*Letter of Reply*" dated 9 February 2018 and its verbal submissions during the Public Hearing held on 15 February 2018, in that:**

- a) Aġenzija Żgħażaġħ insist that at the time of the allocation of funds, it was informed by the Commissioner for Voluntary Organisations, that the Appellants were not compliant so that they were ineligible to be included in the scheme for the allocation of funds**

**This Board also noted the testimony of the witness namely, Prof Kenneth Wain, Commissioner for Voluntary Organisation duly summoned by the Public Contracts Review Board.**

**This Board, after having examined the relevant documentation to this Appeal and heard submissions made by the parties concerned including the**

**Testimony of the witness, opines that the issue relates to the omission of the Appellants from the list of beneficiaries of funds.**

**From the documentation and submissions, this Board was made aware of the sequence of events which led to the non qualification of the Appellants to participate in such a scheme.**

**This Board also noted that the Contracting Authority followed the procedure in accordance with the information given to it by the Commission of Voluntary Organisations. However, although the Authority now, is informed that the appellants do qualify to be included in such a scheme, Aġenzija Żgħażaġħ informed this Board that the funds have already been allocated. In this regard, this Board noted the positive attitude shown by the Contracting Authority to co-ordinate with the Commissioner for Voluntary Organisations to endeavour to obtain the necessary funds to accommodate the Appellants.**

**On a general note, this Board would recommend that, once the funds are received by the Contracting Authority and allocated, the payment thereof should be subject to a “*waiting period*” of at least 20 days, so as to allow**

**enough period of time for any of the qualifying beneficiaries to appeal or contest such allocations.**

**In view of the above, this Board recommends that:**

- i) Every co-ordinated effort should be made by both the Contracting Authority and the Commissioner for Voluntary Organisation to apply for additional funds so that the Appellants will benefit from the scheme;**
  
- ii) The deposit paid by Appellants' amounting to € 400, should be fully refunded.**

Dr Anthony J Cassar  
Chairman

Mr Lawrence Ancilleri  
Member

Mr Carmel Esposito  
Member

*20<sup>th</sup> February 2018*