

PUBLIC CONTRACTS REVIEW BOARD

Case 1144 – MEAE/FPD/067/2017 – Tender for the Provision of Translation Services for the Funds and Programmes Division within the Ministry for European Affairs and Equality

Remedies before Closing Date of a Call for Competition

The publication date of the call for tenders was the 30th January 2018 whilst the closing date of the call for tenders was the 12th March 2018. The estimated value of the tender (exclusive of VAT) was € 30,000.

Global Translations Solutions Ltd filed an appeal on 16 February 2018 for a pre-contractual remedy requesting the Contracting Authority to amend the technical specifications of the tender.

On 15th March 2018 the Public Contracts Review Board composed of Dr Anthony Cassar as Chairman, Mr Lawrence Ancilleri and Mr. Richard Matrenza as members convened a public hearing to discuss the objections.

The attendance for this public hearing was as follows:

Appellant – Global Translations Solutions Ltd

Dr Clement Mifsud Bonnici	Legal Representative
Ms Dorothy Scerri	Representative

Contracting Authority – Ministry for European Affairs and Equality

Ms Carmen Dalli	Director
Mr Ian Borg	Projects Manager

Dr Anthony Cassar, Chairman of the Public Contracts Revue Board, welcomed both parties and invited them to make their submissions.

Dr Clement Mifsud Bonnici, Legal Representative of Global Translations Solutions Ltd said that the Appellant was seeking clarification as it was not clear if a Masters qualification in Italian was essential in respect of this tender.

The Chairman said that it appeared to him as if the clarification issued by the Ministry to clarify point 3 in the tender document simply reinforced the previous statement. This made it discriminatory.

Ms Carmen Dalli, Director at the Ministry for European Affairs and Equality stated that it was necessary to have a Masters qualification in Italian as the programme under consideration was based solely on English and Italian and a high proficiency was necessary.

A discussion ensued and it was agreed that an individual with a degree in Italian would be well qualified to do translations from Italian without the need of a Masters qualification. The expertise should be in translating not in Italian.

Ms Dalli pointed out that this could be achieved by taking the Chairman's suggestion that the words 'including the Italian language' be omitted from the specification.

Mr Ian Borg, Project Manager at the Ministry for European Affairs and Equality pointed out that a Masters qualification was essential as the Ministry required top class translations but it was not their intention to exclude anybody from tendering.

Dr Mifsud Bonnici said that criteria should be subjective not objective and one should stick to basic definitions. He suggested that the clarification proposed by the Chairman should cover the specifications in Section 1 clause 7c.1 and Section 4 clause 6.1.1. by excluding the reference to Italian language in both sections. This would remove the Appellant's objections.

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

This Board,

Having noted this Call for Remedies filed prior the closing date of a call for competitions by Global Translations Solutions Limited, (hereinafter referred to as the Appellant) on 16 February 2018, refers to the contentions made by the same Appellant with regards to Tender of Reference MEAE/FPD/067/2017 listed as Case No 1144 in the records of the Public Contracts Review Board.

Appearing for the Appellant: Dr Clement Mifsud Bonnici

Appearing for the Contracting Authority: Ms Carmen Dalli.

Whereas, the Appellant contends that:

- a) Their main concern is that, the Tender Document requests a Masters degree in Italian, which, in their opinion, will limit the scope of participation. In this regard, Global Translation Solutions Limited maintains that a first degree in Italian is sufficient, whilst the Masters degree should be in translation and not specialised in Italian.**

This Board also noted the Contracting Authority’s “*Letter of Reply*” dated 26 February 2018 and its verbal submissions during the Public Hearing held on 15 March 2018, in that:

- a) The Ministry for Affairs and Equality maintains that the reason why a Masters Degree in Italian was requested was so that the Contracting Authority is guaranteed that the successful applicant would carry out his duties at a high level of efficacy.**

This Board, after having examined the relevant documentation related to this “*Call for Remedies*” and heard submissions made by the interested parties, noted that a form of compromise was agreed by the parties to amend conditions stipulated in Section 1 Clause 1 and Section 4 Clause 6.1.1 to exclude the reference to the Italian language in both sections.

During the Public Hearing, both parties agreed that the fact that the key expert should have a first degree in Italian is sufficient to guarantee knowledge of the Italian language and to carry out the duties as stipulated in the tender dossier.

In view of the above, this Board recommends that:

i) Clause 7 (c) (i) a of Section 1 of the Tender Document should read as follows:

“a. Be in possession of a First Degree (Bachelors) at MQF Level 6 in Italian, and a Masters at MQF Level 7 in Translation”

ii) Clause 6.1.1 a of Section 4 of the Tender Document should read as follows:

“a. Key Expert 1, who will be the main contact point with the Contracting Authority and will be responsible for the execution of this Tender. The key expert will be in possession of a First Degree (Bachelors) at MQF Level 6 in Italian, and a Masters at MQF Level 7 in Translation”

Dr Anthony J Cassar
Chairman

Mr Lawrence Ancilleri
Member

Mr Richard A Matrenza
Member

22nd March 2018