

PUBLIC CONTRACTS REVIEW BOARD

Case 1162 – MEDE/MPU/022/2017 - Tender for the Supply of Stationery items for various Schools and Colleges using Environmentally Friendly Items within the Ministry of Education and Employment.

The publication date of the call for tenders was the 14th September 2017 whilst the closing date of the call for tenders was the 11th October 2017. The estimated value of the tender (exclusive of VAT) was € 134,999.

There were five (5) bidders on this tender.

This case was heard by the Public Contracts Review Board on the 8th February 2018 (Case 1129) when the Board decided that it revoked the Ministry of Education and Employment decision to cancel the tender, that it upheld Smart Office Supplies Ltd grievances and recommended that the Evaluation process be continued.

On 23rd April 2018 Smart Office Supplies Ltd issued a ‘*Rikors*’ claiming that the Contracting Authority was not following the decisions of the Board.

On the 8th May 2018 the Public Contracts Review Board composed of Dr Anthony Cassar as Chairman. Dr Charles Cassar and Mr Carmel Esposito as members convened a public hearing to discuss the objections.

The attendance for this public hearing was as follows:

Appellant – Smart Office Supplies Ltd

Dr Carlos Bugeja	Legal Representative
Mr Josef Borg	Representative

Contracting Authority – Ministry for Education and Employment

Dr Dennis Zammit	Legal Representative
Ms Karen Micallef	Chairperson Evaluation Committee
Ms Sylvana Trickett	Secretary Evaluation Board
Ms Joelle Mifsud Bonnici	Member Evaluation Board
Ms Sandra Ronayne	Member Evaluation Board
Mr Karl Tabone	Member Evaluation Board
Ms Mary Anne Borg	AD Procurement MEDE

The Chairman of the Public Contracts Review Board, Dr Anthony Cassar, welcomed the parties and by way of introduction said that the PCRB had already made a decision in this case and the Contracting Authority has to follow the decision. The Board cannot accept a '*Rikors*' on a matter that has already been decided.

Dr Carlos Bugeja, Legal Representative of the Appellant, said that the sole reason they were there was to ensure that the Contracting Authority followed the PCRB decision.

Dr Dennis Zammit, Legal Representative of the Contracting Authority, said that the Authority was seeking clarification from Appellant and they were waiting for their reply.

The Chairman re-iterated that the Board confirms its decision and insists that the Contracting Authority follows it.

The Chairman declared the hearing closed.

This Board,

Having noted this Application filed by Smart Office Supplies Limited, (hereinafter referred to as the Appellant), on 23 April 2018, refers to the contentions made by the same Appellant with regards to the Evaluation Process of Tender of reference MEDE/MPU/022/2017 listed as Case No 1162 in the records of the Public Contracts Review Board.

Appearing for the Appellant: Dr Carlos Bugeja

Appearing for the Contracting Authority: Dr Dennis Zammit.

Whereby, the Appellants contend that:

- a) Their main concern is that the Contracting Authority is not abiding by the instructions given by the Public Contracts Review Board in their decision dated 13 February 2018.**

This Board also noted the Contracting Authority's "*Letter of Reply*" to this recourse, dated 3 May 2018 and its verbal submissions during the Public Hearing held on 8 May 2018, in that:

- a) The Ministry for Education and Employment insist that it is abiding by the decision taken by doing so, it is continuing the Evaluation Procedure of the Offers.**

This Board, after having examined the contents of the Application filed by Smart Office Supplies Limited and having heard brief submissions from the interested parties, would first of all acknowledge the fact that it has already issued a decision on this particular Appeal and it has also instructed the Contracting Authority to take the necessary action through the interaction of the Appellants' offer.

At the same instance, this Board would point out that the decision previously taken by the same does not preclude the Contracting Authority from carrying out its duties in the Evaluation Process and to obtain the necessary information from the Appellants, to arrive at a fair, just and transparent selection process.

In this regard, this Board would expect that both parties would co-operate so as to enable the Ministry for Education and Employment to reach the award stage of this Tender without any undue delay.

Dr Anthony Cassar
Chairman

Dr Charles Cassar
Member

Mr Carmel Esposito
Member

17th May 2018