

PUBLIC CONTRACTS REVIEW BOARD

Case 1198 – MT/54/2017 - Tender for Professional Services including Stakeholders Consultations, Launching and Monitoring the Implementation of a Pilot Model Structure within the Hotel Industry for a Green Mobility Hotel Award and Labelling Scheme as Part of the Destinations Project, Civitas, Horizon 2020

Remedies before the Closing Date of a Call for Competition

The publication date of the call for tenders was the 15th June 2018 whilst the closing date of the call for tenders was the 16th July 2018. The estimated value of the tender (exclusive of VAT) was € 85,000.

On the 12th July 2018, PKF Malta filed a Call for Remedies before the Closing Date of the Competition against Transport Malta.

On 7th August 2018 the Public Contracts Review Board composed of Dr Anthony Cassar as Chairman, Mr Carmelo Esposito and Mr Lawrence Ancilleri as members convened a public hearing to discuss the objections.

The attendance for this public hearing was as follows:

Appellant – PKF Malta

Mr Pierre Mangion	Representative
Ms Danielle Hermanson	Representative
Ms Michaela Mifsud	Representative

Contracting Authority – Ministry for Tourism

Dr Katrina Borg Cardona	Legal Representative
Ms Moira Pisani	Representative
Ms Kim Vella	Representative
Mr Andrew Cachia	Representative

The Chairman of the Public Contracts Review Board, Dr Anthony Cassar, welcomed the parties and invited submissions.

Ms Danielle Hermanson, Representative of PKF Malta, said that the reason for seeking this pre-contractual remedy was that PKF Malta had sought clarification on certain points, replies for which were not issued in time to enable them to submit their bid. They also sought clarification regarding the requirement in the tender that bidders had to be registered with the MFSA. The Contracting Authority had now agreed to extend the time for submission of bids.

Dr Katrina Borg Cardona, Legal Representative of the Ministry for Tourism confirmed that the Contracting Authority had already started the procedure to extend the closing date for submission of tenders.

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

This Board,

Having noted this Call for Remedies filed by PKF Malta, (hereinafter referred to as the Appellants), prior to the Closing Date for Competition on 12 July 2018 refers to the contentions made by the latter with regards to the Tender of Reference MT/54/2017 issued by the Ministry for Tourism listed as Case No 1198 in the records of the Public Contracts Review Board.

Appearing for the Appellants: Ms Danielle Hermanson

Mr Pierre Mangion

Appearing for the Contracting Authority: Dr Katrina Borg Cardona

Whereby, the Appellants contend that:

- a) **Their main contention is that they had sought clarification on certain points mentioned in the Tender Dossier, however, no reply was forthcoming up to the closing date of the Tender and in this regard, PKF Malta maintains that the period for submission of bids should be extended.**

This Board has also noted the Contracting Authority’s “*Reasoned Letter of Reply*” dated 13 July 2018 and also its verbal submissions during the Public Hearing held on 7 August 2018, in that:

- a) **The Ministry for Tourism recognises and accepts the Appellants’ concern and had already commenced procedures for the extension of the closing date for submissions.**

This Board, after having heard submissions made by the parties concerned, notes that the Contracting Authority will extend the period for the submission of offers, so that any clarifications requested by the prospective Bidders will be appropriately addressed. At the same instances, it was also acknowledged that PKF Malta’s concerns will be taken into consideration by the Contracting Authority.

In view of the above, this Board:

- i) Upholds the concerns made by PKF Malta;**

- ii) Orders the Ministry for Tourism to extend the period for the closing date for submission of offers;**

- iii) Instructs the Contracting Authority to take into consideration the Appellants' concerns and at the same instance ensures that the conditions laid out in the Tender Dossier will not, in any way whatsoever, impede or create obstacles for Bidders to participate;**

- iv) Instructs the Contracting Authority to effect any amendments/alterations to the present conditions by way of clarifications.**

Dr Anthony Cassar
Chairman

Mr Lawrence Ancilleri
Member

Mr Carmel Esposito
Member

7th August 2018