

PUBLIC CONTRACTS REVIEW BOARD

Case 1543 – MGOZ/MPU T 91/2020 – Framework Agreement for the Provision of Refrigerated Transport and Other Equipment for Emergency Slaughter of Animals on Farms in Gozo

The tender was published on the 29th October 2020 and the closing date was the 19th November 2020. The estimated value of the tender (exclusive of VAT) was € 19,000.

On the 11th December 2020 Mr Peter Paul Said filed an appeal against the Ministry for Gozo as the Contracting Authority on the grounds that for various reasons he felt he should have been awarded the tender.

A deposit of € 400 was paid.

There were two (2) bidders.

On 4th March 2021 the Public Contracts Review Board composed of Dr Charles Cassar as Chairman (in the unavoidable absence of Dr Ian Spiteri Bailey) Mr Lawrence Ancilleri and Mr Carmel Esposito as members convened a public virtual hearing to discuss the objections.

The attendance for this public hearing was as follows:

Appellant – Mr Peter Paul Said

Dr Chris Said	Legal Representative
Mr Peter Paul Said	Representative

Contracting Authority – Ministry for Gozo

Dr Francelle Saliba	Legal Representative
Mr Juan Giacomo	Member Evaluation Committee
Ms Lorraine Attard	Member Evaluation Committee
Ms Ariana Galea	Member Evaluation Committee
Mr Joseph Mifsud	Secretary Evaluation Board
Mr Marnol Sultana	Representative

Recommended Bidder – Ms Maria Magro

Dr Ryan Pace	Legal Representative
Ms Maria Magro	Representative

Dr Charles Cassar welcomed the parties. He noted that since this was a virtual meeting all the parties agreed to treat it as a normal hearing of the Board and invited submissions.

Dr Chris Said Legal Representative for Mr Peter Paul Said said that Appellant had all the necessary equipment available to enable him to fulfil the tender requirements plus replacement equipment if necessary. He also had the necessary employees' licence.

Dr Francelle Saliba Legal Representative for the Ministry for Gozo said that there were two offers on this tender. Ms Maria Magro had submitted all the requested literature on the refrigerated vehicles and was fully compliant and the cheaper bid.

Dr Ryan Pace Legal Representative for Ms Magro said that once the tender procedure was followed and awarded any objections must be based on the evaluation and there was no indication that there was anything wrong in that process. Grievances raised by Appellant confirm that his objections are not based on any shortcomings in the evaluation, or indeed on the price since Ms Magro's bid was cheaper. There is a suggestion of a fishing expedition on the part of the grievances raised by Appellant, which, of course is an abuse of regulations. References made by appellant relating to refrigerated vehicles are more in the realm of pre-award objections and no proof has been submitted on the grievances raised and thus there is no possibility of a revocation of the award.

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

End of Minutes

The Board,

Having seen the appeal filed by Peter Paul Said (hereinafter referred to as the appellant) on the 11th December 2020.

Having noted the contents of the Contracting Authority's letter of reply filed by Dr Francelle Saliba and received by the Board on the 18th December 2020.

Having heard the verbal submissions made by Dr Chris Said on behalf of the appellant; by Dr Saliba on behalf of the contracting authority; and the submissions made by Dr Ryan Pace on behalf of the preferred bidder Ms Magro during the virtual meeting held on the 4th March 2021.

Having considered that the letter of objection did not raise any specific grievances but just pointed out that appellant had his doubts about the preferred bidder's offer and that appellant's financial offer was just six euro higher than that of the preferred bidder.

Having considered that appellant did not produce any evidence to sustain his doubts.

Having considered that the contracting authority's representative stated that the preferred bidder's tender was fully compliant and the cheaper.

Having taken cognizance of and evaluated the minutes of the virtual hearing held on the 4th March 2021.

Hereby resolves that the objection does not merit to be acceded to and thus this Board decides to dismiss the appeal and directs that the deposit paid by appellant should not be refunded.

Dr Charles Cassar
Chairman
18th March 2021

Mr Lawrence Ancilleri
Member

Mr Carmel Esposito
Member