

The Secretary
Public Contracts Review Board
Notre Dame Ravelin
Floriana



10th December 2021

Dear Sir/Madam,

Re Objection KLH/TDR/05/2021 – Tender for the Collection of Household Waste from the Locality of IL-Hamrun, in an Environmentally Friendly Manner

We write on behalf of the Hamrun Local Council and herewith make reference to the objection with reference KLH/TDR/05/2021 filed by the appellant party Galea Cleaning Solutions JV on the 29th of November, 2021 in relation to the Tender for the Collection of Household Waste from the Locality of IL-Hamrun, in an Environmentally Friendly Manner.

The Justified Cancellation

1. That the cancellation of the Tender is justified in the terms of article 18.3 (a) of the Public Procurement regulations, which as stated in the 'Letter to Unsuccessful Bidder' sent to the appellant and dated 19th November, 2021, provides that *Cancellation may occur where: a) The tender procedure has been unsuccessful, namely where no qualitatively or financially worthwhile tender has been received or there has been no response at all.* [Dok A]
2. Whereas the appellant claimed that the cancellation of the tender is prejudicial to bidders, the awarding of the Tender, solely due to a limited choice of contractors who can provide the requested service would result in a highly prejudicial situation to the Contracting Authority whereby it would be forced to accept bids above its budget.

Founded by Farrugia Sacco Advocates and Gauci Maistre & Gauci Maistre Advocates

Partners Dr. David Farrugia Sacco B.A., M.A.(Fin.Serv.), LL.D. Dr. Austin Gauci Maistre LL.B, M.A.(Fin. Serv.), LL.D.
Dr. Robert Gauci Maistre LL.B, M.A.(Fin. Serv.), LL.D. Dr. Steven Farrugia Sacco B.A., LL.D.

Associates Dr. Rebecca Mercieca LL.B. (Hons) M.Adv (Melit.) Dr. Jean-Carl Abela LL.B. (Hons) M.Adv (Melit.)

The Bid of the Appellant

3. That in regard to the Evaluation of the Financial Offer, the Hamrun Local Council asserts that the budget for the tender was of €107,399.24 per annum. The bid of €252,720.00 per annum submitted by the appellant was well above the afore mentioned budget, namely 2.35 times higher.

4. That in conjunction with such a high bid, the justified cancellation in terms of article 18.3(a) of the Public Procurement regulations is further strengthened.

The Appellant's requests

5. That the request to null and void the Local Council's decision and to have the evaluation of tenders resumed in the Tender Process would be of prejudice to such Contracting authority, in that it will be forced to accept unreasonable bids, causing it financial distress.

The Hamrun Local Council humbly opines that resuming the Tender Process would bypass article 18.3 of the Public Procurement Regulations.

Yours Sincerely,



Dr. David Farrugia Sacco