

PUBLIC CONTRACTS REVIEW BOARD

Case 1044 – BLC 002/2015 – Tender for the Collection of Household Waste in an Environmentally Friendly Manner

The Publication Date of the Call for Tenders was 8 October 2015 whilst the Closing Date for Call of Tenders was 9 November 2015. The Estimated Value of the Tender, (Exclusive of VAT) was € 762,711.

Four (4) Bidders have submitted offers for this Tender.

On 20 March 2017, Executive Tenders Joint Venture filed an Objection against the decision of Kunsill Lokali Birkirkara to award the Tender to WM Environmental Ltd for the price of € 762,711 (Exclusive of VAT) against a deposit of € 6,773.

On 20 March 2017, the Public Contracts Review Board composed by Dr Anthony Cassar as Chairman, Mr Lawrence Ancilleri and Mr Richard A Matrenza as members convened a Public Hearing to discuss the Objection.

The Attendance for this Public Hearing was as follows:

Appellant – Executive Tenders Joint Venture

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| Mr Steve R Farrugia | Representative |
| Mr Adrian Vella | Representative |
| Dr John L Gauci | Legal Representative |

Recommended Bidder – WM Environmental Ltd

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| Mr Wilson Mifsud | Representative |
| Dr Amanda Cini | Legal Representative |

Contracting Authority – Kunsill Lokali Birkirkara

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| Ms Dorianne Pullicino | Representative |
| Mr Neil Spiteri | Representative |

Dr Anthony Cassar, the Public Contracts' Review Board Chairman, opened by asking whether the Appeal was made on the current Adjudication.

Dr John Gauci, the Legal Representative for Executive Tenders Joint Venture replied that they were appearing following a previous Objection before this Board as diversely composed and another one in front of the Hon Court of Appeal (Superior) which requested a second Evaluation by the Evaluation Board.

The Appellants were surprised when on 7 March 2017 they received a notification from Kunsill Lokali Birkirkara stating that the Tender was going to be recommended to WM Environmental Ltd and with it there was enclosed an Adjudication Report dated 8 January 2015. This was identical to the one which they had previously received.

Dr John Gauci continued by saying that his clients felt that the decision taken by the Hon Court of Appeal (Superior) was not respected. From the reply given by the Local Council, it seems that there was a different Adjudication Report which has still not been received by the Appellants.

Dr Anthony Cassar, the Chairman of the Public Contracts' Review Board asked the Local Council whether the Appellants were officially notified through the usual channels.

Dr John Gauci, the Legal Representative for Executive Tenders Joint Venture suggested whether they can be notified with the new decision and if his clients feel that they have to Appeal from the new decision they can do so.

Dr Anthony Cassar, the Chairman of the Public Contracts' Review Board agreed with this decision and asked the Local Council's representatives whether they agreed with this suggestion, for which Mr Neil Spiteri, a representative for Kunsill Lokali Birkirkara replied in the affirmative.

Dr Anthony Cassar, the Chairman of the Public Contracts' Review Board ordered the Local Council to officially notify Executive Tenders Joint Venture with the new decision.

Dr John Gauci, the Legal Representative for Executive Tenders Joint Venture said that if after being notified of the new decision, his clients agree with the latter, they would not insist on their Appeal.

At this stage, the Public Hearing was closed.

This Board,

Having noted that the “*Letter of Rejection*” dated 7 March 2017 sent by Kunsill Lokali Birkirkara referred to a previous Evaluation of the same Tender and not to the present Evaluation, dismisses this Appeal and recommends that the deposit paid by the Appellant should be fully refunded.

Dr Anthony Cassar
Chairman

Mr Lawrence Ancilleri
Member

Mr Richard A Matrenza
Member

2 May 2017