

Dr. Amadeus Cachia

Advocate

13th June 2023

Public Contracts Review Board,
Notre Dame Ditch,
Floriana,
Malta



I am writing in the name and on behalf of Anthony Fenech, as Director of the Company ACJ Cleaning & Hospitality Services, having its registered offices in 38, Qawsalla, Triq il-Mandolina, B'Bugia, with reference to the letter sent by the Department of Contracts whereby the appellant was informed that his submitted tender offer **SCSA 23_0031 Quotation for the Provision of Cleaning Services to SCSA** was unsuccessful.

The appellant humbly submits that notwithstanding that his financial offer was the best offer, he still was not awarded the tender since the procurement proposal submitted by the company was not financially compliant. The main reason given was that:

Less than the minimum rate of €7.61 as per Contracts Circular 05/2023.

1. Less than the minimum rate of €7.61 as per Contracts Circular 05/2023.

That with all due respect the appellant humbly submits that the reason given was with regards the fact that the rate submitted by the Company was not financially compliant and was less than €7.61 as per **Contracts Circular 05/2023** which reason is both legally and factually unfounded.

The appellant humbly submits that when the tender was published, Circular 05/2023 was still not published and in fact such Circular only entered into force during evaluation stage. In fact, in the financial offer itself there is reference to Circular 04/2023 and not to

Circular 05/2023. Moreover, in the financial offer submitted by the Authority itself there is ample reference that the rate should not be less than €7.54 quoting Circular 04/2023 as can be seen from the document hereunder:

The Contracting Authority is bound to procure 80% of the awarded Contract Value.

Rate quoted: € 7.54 per Hour

(Amount in Words): seven euro and fifty-four cents per hour

Rate per hour (in Euro) including all taxes but excluding VAT.

The Minimum Predicted Quantity to be procured is for a period of six months from 1st May to 31st October 2023 which amount to 126 (one hundred and twenty-six) working days at 8 (eight) hours per day, which are equivalent to 1,008 (one thousand and eight) hours.

CARRIED FORWARD TO THE FINANCIAL SECTION OF THE ONLINE TENDER RESPONSE FORMAT

N.B: Contractors are to take note of Contracts Circular no 04_2023 regarding "pegging of rates". Rates under the amounts stated in said circular will be disqualified. Not less than €7.54 per hour excluding VAT for Cleaners (Offices) for the year 2023.

Tenderers are reminded that the Contracting Authority is entitled to reject any offer which is considered to be abnormally low according to Regulation 243 of LN 352/2016.

Thus, the appellant reiterates that when submitting the financial offer, he rested on the financial offer as provided in the tender document and complied with it. Consequently, the appellant's company is not at fault with regards to this criterion and consequently his tender offer is financially complaint according to the Contracts Circulars.

Finally, the appellant humbly submits that since his financial offer was the best one and financially complaint with the Contract Circular, it means that the tender submitted by the appellant would place in the first place and thus such tender should be awarded to the appellant.

In view of the above the Appellant humbly requests the Public Contracts Appeals Board:

- (i) to declare null and revoke the decision of the General Contracts Committee to award the relative contract to Melchiorè Dimech; and

- (ii) to reconvene the General Contracts Committee in order for it to recommend the award to the tenderer who submitted the lowest priced bid that was compliant with all the technical requirements.

The Appellant reserves the right to make further submissions and to produce any relevant evidence and witnesses during the relative public hearing.

Yours sincerely,



Dr. Amadeus Cachia
3, Triq Patri Nikol Magro
Qrendi

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Public Contracts Review Board

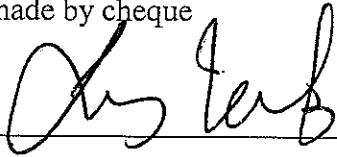
Temporary Receipt

Date: 13/6/23

Received from ACJ cleaning & Hospitality services the sum of £400. —
in respect of Tender SCSA 23-0031

~~Cheque~~ No: cash

Validity of receipt is subject to bank clearance, when payment is made by cheque



Signature