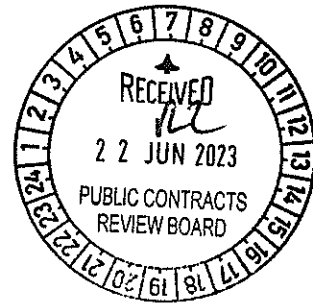


21<sup>ST</sup> June 2023

Public Contracts Review Board  
Notre Dame Ravelin,  
Floriana,  
Malta



**ACJ Cleaning & Hospitality Services**

**vs**

**[i] Social Care Standards Authority**

**[ii] Melchior Dimech**

**SCSA 23\_0031**

**Name:** Quotation for the provision of cleaning services to SCSA

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**REASONED REPLY**

*Whereas*, by means of an objection dated 13<sup>th</sup> June 2023, ACJ Cleaning & Hospitality Services [hereinafter **ACJ**] submitted its concern in relation to the recommendation of Melchior Dimech [hereinafter **MD**] icw Quotation for the provision of cleaning services to SCSA;

*Whereas*, by means of reply dated 21<sup>st</sup> June 2023, the Social Care Standards Authority [hereinafter **SCSA**] filed its reply, whereby it inter alia requested the Public Contracts Review Board [hereinafter **PCRB**] to reject the appeal submitted by ACJ;

*Whereas*, MD holds that the objection by ACJ, based on one grievance, is frivolous and vexatious and is thus submitted its reply, within the timeframes allowed by the Public Procurement Regulations [hereinafter **PPR**];

1. **Grievance by ACJ: ‘Les than the minimum rate of €7.61 as per Contracts Circular 05/2023’**

1.1 ACJ, conveniently refers to call for quotations dated 22<sup>nd</sup> February 2023, whilst failing to make reference to the clarification issued on the 3<sup>rd</sup> March 2023;

1.2 It is the submission of MD that in the clarification issued by SCSA, it was made clear that,

*“Rates under the amounts stated in said circular will be disqualified. Not less than €7.61 per hour excluding VAT for Cleaners [Offices] for the year 2023”*

1.3 Thus and thereby, the assertions made and the basis of the appeal by ACJ are not only erroneous, but frivolous, in that it failed to consider [both at submission stage, but also at appeal stage], the changes to the call for quotation administered through the clarification;

1.4 In this regard, reference is hereby being made to article 38 of the PPR, which clearly states that:

*“(4) The contracting authority or the central government authority may issue clarification notes to explain certain matters, to give additional information, to remove or amend certain inconsistencies or errors and to fill in missing information contained in the procurement document.*

***(5) When issued in the clarification notes, the additional information and the supporting document shall form integral part of the procurement document”***

2. **Doctrine of self-limitation**

2.1 The doctrine of self-limitation is an important public procurement principle which has been referred to by this honourable Board on various occasions, which seeks to ensure that tenderers are adjudged only on the basis of conditions stipulated within the tender document, this will ensure predictability and transparency;

- 2.2 In the recent PCRB decision with number Case 1665 of 2021 [27<sup>th</sup> December 2021], this Honourable Board held that:

*'This Board opines that the Evaluation Committee did not observe the principle of Self-Limitation when it deemed the Appellant's offer as technically non-compliant when it adjudged the equipment of the Appellant company on issues not included within the Tender Dossier'*

- 2.3 It is the submission of MD that if the appeal by ACJ is upheld, than the doctrine of self-limitation will be breached;

**NOWTHEREFORE**, whilst reserving the right to put forward further submissions, MD requests the PCRB to reject in its entirety the appeal by ACJ.



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