



22nd June 2023

Public Contracts Review Board
Notre Dame Ditch
Floriana FRN 1601
Malta



Dear sirs,

Re: CT2319/2022 – Tender of the Supply of Rituximab Injections

I am writing to you on behalf of **Vivian Corporation Limited (TID185497)** which is presently lodging an appeal against Lot 2 of the above-captioned tender CT2319/2022.

Although our company submitted the cheapest financial offer for Lot 2, our offer was rejected on the basis of the following:

“No data providing evidence of interchangeability and switching with the currently procured biosimilar Truxima, as required in Section 3 – Specifications, Clause 1.1 Product specifications, point 2.1 of the published tender dossier, was submitted by the bidder at tendering stage.

This is not rectifiable in line with Note 3 to Clause 5 of the published tender dossier.”

The evaluation committee also rejected the second cheapest financial offer and then proceeded to award Lot 2 to Mint Health, the third cheapest.

We respectfully disagree with the evaluation committee’s reason for rejecting our offer. This is so because the matter of *“evidence of interchangeability and switching with the currently procured biosimilar Truxima®, which data is to be submitted by the bidder”* requested in Clause 1.1 (Product Specifications) of Section 3 – Specifications was specifically included in the Literature List as follows:

Item No.	Description	Reference in Technical Specifications
1.1	Further technical literature as requested in Clause 1.1 of Section 3, such as, but not limited to, user manuals, studies on product use, etc. for products being offered. <i>(applicable for Medicinal Products, Medical devices & in vitro medical diagnostic devices (including active implantable medical devices) and Personal Protective Equipment)</i>	Clause 1.1 – Section 3

Vivian Corporation Ltd., 29, Sanitas Building, Tower Street, Msida - MSD 1824, Malta

Chairman: Vivian C. Gatt Managing Director: Joanna Gatt Directors: Stephen Gatt, Lawrence Gatt, Elena Tanti Burlò, Denise Borg Manche, Yan Grima

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Therefore, we respectfully say that this was a matter which was rectifiable in line with Note 2 to Clause 5 of the tender because it relates to a document which was specifically included in the Literature List.

We submit that the evaluation committee's reason for rejecting our company's offer is incompatible with the general principles of public procurement.

In conclusion, we humbly demand that the contracting authority's decision of 13 June 2023, to award Lot 2 to Mint Health Ltd and to reject our company's offer, was unlawful and should be revoked. We also ask for the refund of the deposit paid upon filing of this appeal.

Yours sincerely,

Denise Borg Manche

Managing Director

You have authorised this payment

The status for payment 12376MN002LS is: Forward dated instruction received by bank

Payment summary - Eurozone payment

Pay from

VIVIAN CORPORATION LIMITED MITED
MT MTHBMTCA085-031482-001 EUR

Instruction reference number **12376MN002LS**

Transaction type **Eurozone-SEPA
payment**

Total amount

EUR 14,505.00

Expected value date

Fri 23 Jun 2023

This is the date we expect to debit your account.

Please ensure that the debit account has enough funds, otherwise the payment will be rejected.

Your payment reference

CASHIER MALTA

Total entries

1

Transactions

Entry	Beneficiary	Payment details	Amount (EUR)
1	Beneficiary name: CASHIER MALTA GOVERNMENT IBAN: MT55MALT011000040001EURCMG5001H SWIFT-BIC: MALTMTMT	Remittance information: REFERENCE: CT 2319/2022 SUBJECT: TENDER FOR THE SUPPLY OF RITUXIMAB INJECTIONS Lot 2 objection	14,505.00