

DR. DENNIS ZAMMIT
LL.B., LL.M., B.B.A. (Hons)
ADVOCATE

29th September 2023

The Secretary
Public Contracts Review Board
Notre Dame Ravellin
Floriana



Re SPD1/2023/010 Framework Contract For the provision of Internal Audit to Jobsplus.

Reply for the appeal filed by Bernard Charles Gauci for and behalf of KSi Malta by means of a letter dated 14th September 2023.

The Contracting Authority submits that:

The appellant bases his appeal on the request in article 5B (iii) of the tender document, and later through a clarification request of the following documents;

(i) As an individual s/he shall hold a valid Warrant Certificate to act as Auditor issued under the Accountancy Profession Act (Cap. 281 of the Laws of Malta) and be registered with the Malta Accountancy Board in terms of the provisions of the same Act,

or

(ii) A firm shall be duly registered under the said Act and have a valid Company Registration Certificate and/or Warrant Certificate to operate as an Auditor.

The Malta Accountancy Board Registration Number is to be submitted online through the tender response format ^(Note 2)

Appellant states that after the clarification request, KSi contacted the Accountancy Board and were informed that the documents requested could not be provided by the Board for a firm.

The Contracting Authority points out that the request was not necessarily for a Warrant Certificate from the Accountancy Board but there was also the option to present a Company registration Certificate. However, KSi produced only the Malta Accountancy Board registration number and an extract from the online register which can be found online.

KSi could have produced a valid company registration certificate which would have satisfied the requirement.

This requirement was a mandatory one and the evaluating committee had no other option than to find the appellant as administratively non-compliant.

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In view of the above, the Contracting Authority is humbly requesting that the Public Contracts Review Board,

1. Dismisses the appeal lodged by Mr Gauci
2. Confirms the decision of the Evaluating Committee to cancel the call.

The Contracting Authority reserves the right to make further submissions and produce further evidence during the hearing of this appeal. It also requests to produce the individuals hereunder to give evidence on the tender in dispute, without prejudice to other witnesses which might be summoned.

1. Mr Felix Borg as Chairperson of the Evaluation Committee


Dr Dennis Zammit