

Public Contracts Review Board
Notre Dame Ditch,
Floriana, FRN 1601

20th September 2023

Dear Board Members,

Re: CT2030/2023



I write to you on behalf of PKF Malta Limited (the "Complainant"). I have been instructed to file an objection and appeal the decision of the Department of Contracts with respect to the Outsourcing by the Internal Audit and Investigations Department ("IAID") of Audits of (i) EU funds, (ii) funds received under bi-lateral programmes, and (iii) EU funds received under other EU initiatives bearing reference number CT2030/2023 (the "Tender").

On September 12, 2023, the Complainant received a letter from the Department of Contracts notifying it that its bids for Lots 1, 2, and 4 of the Tender were unsuccessful. The Complainant is filing an appeal to this decision, to the Public Contracts Review Board (the "Board"), with respect to Lot 4, in accordance with Article 270 of the Public Procurement Regulations, Subsidiary legislation 601.03 (the "Regulations"). The reason for the objection is outlined below.

Article 3.1 of the Tender document states that "Tenderers may submit a tender for several lots (one or more lots up to a total of 2 lots in all between Lot 1, Lot 2 and Lot 3). Hence, bidders may bid for a total of 3 Lots in all."

KSI Malta tendered for Lots 1, 2, 3, and 4 of the Tender, in breach of the above condition. This breach should have therefore disqualified KSI Malta from the bidding process *in toto* thereby nullifying its bids for all the 4 Lots of the Tender. KSI Malta was however awarded Lot 4 of the tender since it submitted the cheapest bid price and this to the detriment of the Complainant, which submitted the second cheapest bid price. The Complainant has therefore been prejudiced by this decision since it would have been awarded Lot 4 of the tender had KSI Malta been rightly disqualified.

The department of Contracts should have instead decided, as it did for Lots 1, 2 and 3, where even though KSI Malta submitted the cheapest bid price, the second cheapest bidder for each lot was awarded the relative lot. Inversely, if the Department of Contracts did not deem KSI Malta's action to be a breach of the Tender conditions, then the Department of Contracts has prejudiced KSI Malta by not also awarding it Lots 1, 2 and 3 of the Tender.

We are providing herewith a table, showing the bids made as well as how the lots were awarded:

Analysis of rates		
Lot 1 - 2,000hrs - 12th September 2023 to 1st December 2023;		
	Amount	Rate/ Hr
RSM Malta	-	-
GCS assurance Malta Limited	-	-
KSI Malta	102,000.00	51.00 <i>Cheapest</i>
Nouv Audit LTD	108,900.00	54.45
ZD Assurance Limited	-	-
Grant Thornton	105,000.00	52.50 <i>Awarded</i>
PKF Malta Limited	126,000.00	63.00
Lot 2 - 2,000hrs - 2nd October 2023 to 20th December 2023;		
	Amount	Rate/ Hr
RSM Malta	-	-
GCS assurance Malta Limited	-	-
KSI Malta	102,000.00	51.00 <i>Cheapest</i>
Nouv Audit LTD	108,900.00	54.45
ZD Assurance Limited	-	-
Grant Thornton	105,000.00	52.50 <i>Awarded</i>
PKF Malta Limited	118,000.00	59.00
Lot 3 - 2,000hrs - 2nd October 2023 to 20th December 2023;		
	Amount	Rate/ Hr
RSM Malta	110,000.00	55.00 <i>Awarded</i>
GCS assurance Malta Limited	116,000.00	58.00
KSI Malta	102,000.00	51.00 <i>Cheapest</i>
Nouv Audit LTD	-	-
ZD Assurance Limited	-	-
Grant Thornton	-	-
PKF Malta Limited	-	-
Lot 4 - 2,500hrs - 13th November 2023 to 31st July 2024;		
	Amount	Rate/ Hr
RSM	-	-
GCS assurance Malta Limited	-	-
KSI Malta	127,500.00	51.00 <i>Cheapest and awarded</i>
Nouv Audit LTD	131,250.00	52.50
ZD Assurance Limited	175,000.00	70.00
Grant Thornton	131,250.00	52.50
PKF Malta Limited	130,000.00	52.00

The Complainant is therefore objecting to the decision taken by the Department of Contracts and appealing to the Board to overturn the decision to award Lot 4 to KSI Malta and to decide that the award of such lot should be awarded to the Complainant in its stead, as the second cheapest bidder.



PKF Malta Limited

On the basis of the above, we respectfully request that the Board reviews this objection and calls for a hearing as per the procedure outlined in the Regulations.

Thank you for your time and consideration.

Sincerely,

A handwritten signature in black ink, appearing to be 'R. Spiteri', written over a horizontal line.

Dr Robert Spiteri LL.D.
On behalf of
PKF Malta Limited
Head of Legal



Bank of Valletta

Bank of Valletta p.l.c
 Registration Number: C 2833
 Registered Office: 58 Zachary Street, Valletta VLT 1130 - Malta

Pay third party

Printed by: Mr. Pierre Mangion
 Printed on: 20/09/2023 - 14:03
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Transaction details

Payer's name:	PKF (MALTA) & CO
Beneficiary name:	Cashier Malta Government
Relation:	Utilities
Reason:	Other
Payment details:	Appeal ref CT2030 2023
Currency:	EUR - Euro
Beneficiary IBAN/Account:	MT55MALT011000040001EURCMG5001H
Beneficiary IBAN/Account type:	Valid IBAN of country - Malta
Bank name:	Other bank
Bank address / Bank's BIC:	Let the bank apply the beneficiary bank BIC
Beneficiary address:	No
From account:	4002387243 7 (EUR)
Charges should be paid by:	Shared - I pay BOV charges; Cashier Malta Government pays the beneficiary bank charges
Amount:	EUR 937.50
BOV to transfer the money:	as soon as possible
Receiving bank to get the money as:	normal priority payment
Saved template:	no

Additional information

Credit amount:	EUR 937.50
Debited amount (excluding charges):	EUR 937.50
Estimated amount to be withdrawn from account:	EUR 938.50
Transaction charge:	EUR 1.00

Transaction result

Status:	Your instructions have been processed successfully.
Transaction ID:	132298852