

PUBLIC CONTRACTS REVIEW BOARD

Case 1955– Request for Quote – Cottonera Pool Training and Competition Equipment

29th January 2024

The request for Quote was issued on the 18th October 2023 and the closing date was the 10th November 2023.

The estimated value of this quote, excluding VAT, was € 275,000.

On the 29th December 2023 Cave Ltd filed an appeal against the ASA of Malta objecting to their disqualification on the grounds that their bid was not technically compliant.

A deposit of € 1301.65 was paid.

There were three bids.

On the 25th January 2024 the Public Contracts Review Board composed of Dr Charles Cassar as Chairman, Mr Lawrence Ancilleri and Dr Vincent Micallef as members convened a virtual public hearing to consider the appeal.

The attendance for this public hearing was as follows:

Appellant – Cave Ltd

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| Dr Noel Camilleri | Legal Representative |
| Mr Ian Psaila | Representative |
| Mr George Angelis | Representative |

Contracting Authority – Aquatic Sports Association Malta

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| Eng David Bonello | Chairperson Evaluation Committee |
| Dr Anna Mifsud Bonnici | Evaluator |
| Mr Edwin Pisani | Evaluator |
| Mr Dermot Galea | Evaluator |

Recommended Bidder – Alternative Technologies Ltd

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| Mr Mario Cachia | Representative |
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Dr Charles Cassar Deputy Chairman of the Public Contracts Review Board welcomed the parties and invited submissions.

Dr Noel Camilleri on behalf of the Appellant requested that witnesses be heard and that proceedings be in the English language.

The Chairman asked for a short recess to consider the basis of this appeal.

On resumption of the hearing the Chairman stated that the Board noted that the decision of the Contracting Authority was dated 18th December 2023, having noted that the objection by the Appellant is dated 29th December 2023.

Having considered Article 271 of the Public Procurement Regulations S.L.601.03 this Regulation makes it amply clear and mandatory that any objection in terms of Article 270 of the said Regulations **shall** (emphasis of the Board) be filed by the Appellant within ten calendar days of the formal notification.

Having noted that this appeal was filed beyond and outside the term mandatorily stipulated in Regulation 271, declares that the appeal was presented *fuori termine*, therefore this appeal is rejected. Nonetheless, the Board directs that the deposit paid by the Appellant shall be refunded.

There being no further submissions the Chairman declared the hearing closed.

End of Minutes.

Hereby resolves:

The Board refers to the Minutes of the Board's sitting of the 25th January 2024.

Having noted the objection filed by Cave Ltd on the 29th December 2023 and the letter of rejection by the Aquatic Sports Association Malta dated 18th December 2023, the Board noted that the appeal was presented *fiori termini* in terms of the Public Procurement Regulations 271 and was therefore rejected.

The Board therefore concludes and decides that:

- a) It does not uphold the Appellant's appeal
- b) It upholds the Contracting Authority's decision in the recommendation for the award of the tender
- c) Directs that the deposit paid by the Appellant be reimbursed.

Dr Charles Cassar
Chairman

Mr Lawrence Ancilleri
Member

Dr Vincent Micallef
Member