

**Public Contract Review Board
Notre Dame Ditch
Floriana, FRN 1061
Malta**



26th February 2024

Tender Reference HMP2023/13 entitled Tender for the supply, delivery and installation of a hydro-therapy bath produced with environmentally friendly material and processes at the Adelaide Cini Institute at Santa Venera as part of the St Michael Hospice Project

1. I write on behalf of HospitaMalta, a partnership *en nom collectif* for which I am a partner and legal representative and in order to object to the cancellation of tender reference HMP2023/13.
2. By means of the letter dated 12th February 2024, attached and marked as (Doc. 'A'), we were informed that our offer has been disqualified due to the following reason:

“This procurement procedure is being cancelled in line with Article 18.3 (d) of the General Rules Governing Tenders”
3. This tender was issued for the second time since none of the two submitted offers were administratively compliant and this due to the fact that no ESPD was submitted. This form was not included with the tender document archive. We lodged an informal objection stating that this document should have been included, to which Hospice Malta replied on the 28th August 2023, saying that this ESPD form can be found online.
4. The tender was re-issued on the 20th October 2023. On the closing date, the 9th November 2023, we received the schedule and noticed that out of the two offers, ours was the cheapest. Attached and marked (Doc. 'B').
5. The schedule was followed by three evaluation clarification requests dated 17th November 2023, 30th November 2023 and 11th December 2023. The first two were of an administrative nature and the third being of a technical nature.
6. On the 12th February 2024, we received a notice saying that the tender is being cancelled as per (2) above, reference being made to Article 18.3(d) which General Rules Governing Tenders v4.9 explains as “where there is a discrepancy in the tender document”, whereas General Rules Governing Tenders for NGOs v1.2 explains as “all technically compliant tenders exceed the financial resources available”.
7. Having contacted Ms Roslynn Vella, Chairperson of the Evaluation Committee on the 20th February 2024, in order to request further details about the cancellation, we were informed that our offer was not technically compliant. We therefore followed up this phone call with an official email, attached and marked (Doc. 'C'), to which no reply was forthcoming from Hospice Malta.

8. This cancellation contained no findings or reasoning that led to the decision. We were led to believe that since the third evaluation clarification was of a technical nature, then the cancellation had to do with our technical offer, hence with reference to the General Conditions Governing Tender v4.9. As a matter of fact we were forced to lodge this appeal since no justification for non-compliance was provided as requested and within the required time-frame.
9. THEREFORE, in view of the above, as well as further arguments and/or proofs that may be brought forward at a sitting appointed by the Public Contracts Review Board, HospiMalta respectfully requests that the Board:
- (i) declares this cancellation as null and void in view of the fact that no justification for non-compliance was provided;
 - (ii) orders the re-evaluation of the tender offers and to provide for adequate justifications in case of any cancellations;
 - (iii) refunds the deposit paid by HospiMalta. Especially since no information was forthcoming from Hospice Malta.
10. HospiMalta reserves the right to contest further non-compliance decisions, whether of administrative or technical nature.

Sincerely,



Dr. Adriano Spiteri
Partner and Legal Representative
HospiMalta
2, Datax, Imradd Street,
Ta' Xbiex XBX1150
Malta
p: +35699494574
e: adriano@spiteri.legal

Doc. A – Notice of cancellation

Doc. B - Schedule

Doc. C – Email sent by HospiMalta on the 20.02.2024 requesting further information – no reply was forthcoming

BOV

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. Adriano Spiteri

Printed on: 26/02/2024 - 08:09

Document ID: 19207272

Transaction details

Beneficiary name:	Public Contracts Review Board
Relation:	Professional Service
Reason:	Other
Payment details:	Objection. Tender HMP2023/13
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:	HospMalta (EUR) 4002449668 9
Charges should be paid by:	Shared - I pay BOV charges; Public Contracts Review Board pays the beneficiary bank charges
Amount:	EUR 400.00
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 400.00
Debited amount (excluding charges):	EUR 400.00
Estimated amount to be withdrawn from account:	EUR 401.00
Transaction charge:	EUR 1.00

Transaction result

Status:	Your instructions have been processed successfully.
Transaction ID:	139285579

12th February 2024

TENDER FOR THE SUPPLY, DELIVERY AND INSTALLATION OF A HYDRO-THERAPY BATH PRODUCED WITH ENVIRONMENTALLY FRIENDLY MATERIALS AND PROCESSES AT THE ADELAIDE CINI INSTITUTE AT SANTA VENERA AS PART OF THE ST MICHAEL HOSPICE PROJECT

REFERENCE: HMP2023/13

SUBJECT: Notice to all Bidders – Cancellation of Tender Process

Thank you for participating in this procurement procedure. Hospice Malta regrets to inform you that your offer was non-compliant. This procurement procedure is being cancelled in line with Article 18.3 (d) of the General Rules Governing Tenders

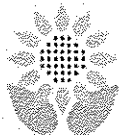
If you intend to object to this decision, the Public Procurement Regulations allow for an official objection which in this case has to be lodged at the Public Contracts Review Board, Notre Dame Ditch, Floriana by **26th February 2024 at 12:00pm** and formally inform Hospice Malta, against a deposit of €400.

Hospice Malta trusts that you will continue to take an active interest in its procurement opportunities.

Yours sincerely,



Roslynn Vella
Chairperson – Evaluation Committee



BUY AND INSTALLATION OF A HYDRO-THERAPY BATH PRODUCED WITH MATERIALS AND PROCESSES AT THE ADELAIDE CINI INSTITUTE AT SANTA AEL HOSPICE PROJECT

Closing date

9th November 2023 at 9:30AM

Page: _____

Total - € (excl. VAT, Eco-Contribution, and any other charges / taxes)	Total - € (incl. VAT, Eco-Contribution, and any other charges / taxes)	EU / Non-EU
€21,950		
€24,540		

Number of boxes Hmp 2023/13 and have found 2 tender offers indicated above.

~~_____~~
JEANDRE MALLIA

Agatha Dalli

Representative 2:	Representative 3:
Representative 5:	Representative 6:

Subject: Re: HMP2023/13 - Cancellation of tender process

From: HospimMalta <info@hospimalta.com>

Date: 20/02/2024, 10:52

To: roslynn.vella@hospicemalta.org

CC: Hospice Project <smhproject@hospicemalta.org>

Dear Ms. Vella,

Further to our phone conversation I kindly refer to the second cancellation of this tender, based on Guideline 18.3(d) of the General Rules which states that cancellation may occur "where there is a discrepancy in the tender document".

I write in order to ask two questions about the decision to cancel the tender:

- i) the reason that led to our offer being declared non-compliant (this shall be specified by the Contracting Authority)
- ii) further details about the discrepancy stated in Guideline 18.3(d)

This tender was cancelled for a second time.

The first cancellation was due to lack of bidder compliance: due to forms that were not included with the tender document.

Hospice Malta was well aware of the technical specifications in the market, as well as the average prices for these products.

I notice that our offered price is within 10% of the listed budget price. Hence I am disregarding the possibility of financial discrepancies.

I also notice that Hospice Malta required us to further clarify certain information by means of an evaluation clarification. This information was submitted within the specified time-period. According to our conversation, our offer was not deemed to be technically compliant. The second clarification, which clarifies what seems to have been deemed as 'technically not compliant', was sent to smhproject@hospicemalta.org on the 14th of December at 14:58. The authority felt no need to issue a third evaluation clarification.

In its rejection letter, the contracting authority failed to list the reason for technical non-compliance. Yet as explained, the authority was well aware of the specifications in the market and was however supplied with information that confirms compliance to the request.

We therefore await your official reply to our two questions.

Sincerely,

Adriano Spiteri
Partner