

DR JOHN L GAUCI  
& ASSOCIATES

In the Public Contracts Review Board  
Notre Dame Ditch  
Floriana



Today, the 25th March 2024

**Reasoned Objection to Tender Award Decision Ref: CT 2192/2023**

**Reference: Framework Agreement for the Disposal of Asbestos Containing Material in an Environmentally Friendly Manner from Malta for the Water Services Corporation**

Reasoned objection of M Stream Limited (TID 199735) ('Objector')  
Respectfully submits:

By means of the present, Objector is lodging a formal objection against the tender award decision dated 15th March 2024 regarding the above-referenced tender (CT 2192/2023) ('the Tender') in terms of the Public Procurement Regulations.

The Objector's grievances consist *inter alia* of the following:

**1. Technical Compliance Misinterpretation**

The decision letter states, "The EO was asked to rectify missing literature regarding the Training Certificates requested for Environmental Technicians in asbestos removal. The EO submitted a declaration instead of the requested certificates. (Specifications Clause 4.3)."

Contrary to this, the tender document clearly specifies under point (C): "Declaration that the Registered Environmental Technicians for asbestos removal shall be trained for asbestos removal and registered with the OHSa, and that the training certificates... will be submitted to the Contracting Authority at the assignment of each Job Order."

The Objector adhered precisely to these instructions by submitting the required declaration, in strict conformity with the tender's stipulated submission process.

The decision misinterpreted these guidelines, unjustifiably marking the Objector as non-compliant. Thus the appealed decision should be overturned and Objector reinstated in the Tender process.

ADVOCATE

45/11, Strait Street, Valletta, Malta, VLT 1434

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## 2. Ethical and Conflict of Interest Concerns

The award decision recommends Edile First Choice Zerafa (TID 199662), while revealing that offers were also submitted by Barbagallo First Choice Zerafa.

This raises substantial ethical issues, leading to a potential conflict of interest, as these entities appear to be related. Such instances of conflict of interest go contrary to basic principles of public procurement legislation and applicable General Rules Governing Tenders. Furthermore such a situation breaches the fundamental procurement principles of fairness and integrity.

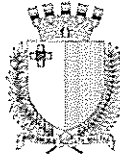
In view of the above considerations and other submissions and evidence that will be presented during the hearing of this present Objection, the Objector respectfully demands:

1. Immediate disqualification of Edile First Choice Zerafa due to ethical violations and conflict of interest concerns.
2. Immediate disqualification of Barbagallo First Choice Zerafa for the same ethical and conflict of interest reasons.
3. Reinstatement of the Objector in the tender procedure.
4. Without prejudice to the above demands and alternatively, that this Board orders a complete and unbiased reevaluation of all tenders by a newly constituted evaluation board, instructed to exclude any bidder failing to comply with ethical standards or found in a conflict of interest.
5. A full refund of the deposit paid by the Objector for lodging this formal objection.

Dr. John L. Gauci LL.D



DIPARTIMENT TAL-KUNTRATTI  
Notre Dame Ravelin  
Floriana FRN 1601 – MALTA



DEPARTMENT OF CONTRACTS  
Notre Dame Ravelin  
Floriana FRN 1601 – MALTA

Contact Number: +356 2378 1001  
e-Mail: [info.contracts@gov.mt](mailto:info.contracts@gov.mt)  
website: [www.contracts.gov.mt](http://www.contracts.gov.mt)

15<sup>th</sup> March 2024

**M-Stream Ltd**  
**TID 199735**

**REFERENCE: CT 2192/2023**

**SUBJECT: Framework Agreement for the Disposal of Asbestos Containing Material In An Environmentally Friendly Manner From Malta for the Water Services Corporation**

Dear Sir/Madam,

Thank you for participating in the above-mentioned tender procedure. However, I regret to inform you that the offer submitted by your company was found to be technically non-compliant as follows:

*“The EO was asked to rectify missing literature regarding the Training Certificates requested for Environmental Technicians in asbestos removal. The EO submitted a declaration instead of the requested certificates. (Tech Specs Clause 4.3)”*

The tender was recommended for award to TID 199662 Edile First Choice Zerafa for the amount of €1,545,525.00 excluding VAT, this being the cheapest priced tender satisfying the administrative and technical criteria.

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 electronically with the Public Contracts Review Board by sending an email on: [info.pcrb@gov.mt](mailto:info.pcrb@gov.mt) by noon of Monday 25<sup>th</sup> March 2024 against a deposit of €10,017.00.

Payments are to be made through bank transfer in terms of the following details:

Name of Account Holder	Cashier Malta Government
Name of Bank	Central Bank of Malta
Address of Bank	Castille Place, Valletta
Account Number	40001EUR-CMG5-001-H
BIC	MALT MT MT
IBAN Code	MT55MALT011000040001EURCMG5001H
Bank Code	01100

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Contact Number: +356 2378 1001  
e-Mail: [info.contracts@gov.mt](mailto:info.contracts@gov.mt)  
website: [www.contracts.gov.mt](http://www.contracts.gov.mt)

The official schedule can be accessed on the website: [www.etenders.gov.mt](http://www.etenders.gov.mt).

Although we have not been able to make use of your services on this occasion, I trust that you will continue to take an active interest in our initiatives.

Yours sincerely,

Joseph Anthony Zammit

f/ Director General (Contracts)

You have authorised this payment  
The status for payment 37806UD01VG9 is: Received by bank

**Payment summary - Priority Payment**

Pay from	Instruction reference number	37806UD01VG9
<b>M-STREAM LIMITED</b>	Transaction type	Priority Payment
MT MTHBMTCA043-022425-001 EUR		

Pay to  
**Cashier Malta Government**  
MT MT55MALT011000040001EURCMG5001H EUR

Amount **EUR 10,017.00**

Expected value date **Mon 25 Mar 2024**  
This is the date we expect to debit your account.  
Please ensure that the debit account has enough funds to cover the payment.

Your reference **MST CT 2192/2023**

Beneficiary bank location **Malta**

Beneficiary bank identifier **SWIFT-BIC MALTMTMT**

Beneficiary bank **CENTRAL BANK OF MALTA  
CASTILLE PLACE  
VALLETTA  
MALTA**

Charges **Share**