



Public Contracts Review Board  
Department of Contracts  
Notre Dame Ravelin  
Floriana VLT2000

2 May 2024

Dear Sirs,

Re: **020-4454/2023 CPSU7536/2023—TENDER FOR THE SUPPLY OF 0.4-0.8ML SERUM WITH GEL SEPERATOR AND CLOT ACTIVATOR TUBES WITH CARRIER/EXTENSION TUBE (the “Tender”)**

1. We have been instructed by **OK Medical Limited (C-79739)** (the “**Appellant**”) to file an appeal in terms of Article 270 of the Public Procurement Regulations (the “**PPR**”) in connection with the above-captioned Tender.
2. The Appellant is aggrieved by the Contracting Authority’s decision to reject its offer as technically non-compliant.

**FACTS**

3. On 28 November 2023, the Central Procurement and Supplies Unit (the “**Contracting Authority**”) published the above-captioned Tender for the supply of 0.4-0.8ml serum with gel separator and clot activator tubes with carrier/extension tube. The estimated procurement value for this call for Tenders was €11,227.50 (excluding VAT) for an estimated quantity of 45,000 units. The Tender was to be awarded in accordance with the sole criterion of price.
4. By the closing date of 19 December 2023, the Appellant submitted its bid for this Tender along with 2 other economic operators.

Bidder	TID	Financial Offer (€)
OK Medical Ltd	203015	10,106.23
Europharma Ltd	202929	11,250.00
E.J. Busuttil Limited	202615	10,660.50
OK Medical Ltd	203015	10,106.23
Europharma Ltd	202929	11,250.00
E.J. Busuttil Limited	202615	10,660.50

5. On 22 April 2024, the Appellant received a letter of rejection (attached and marked as “**Document OK1**”) from the Central Procurement and Supplies Unit (the “**Contracting Authority**”) whereby it was informed that its bid was being rejected on the basis that such bid was not technically compliant.

In the same letter, the Contracting Authority informed the Appellant that the Tender was being recommended for award to E.J Busutil Limited (C-10135) (the “Recommended Bidder”).

6. The reason for technical non-compliance was:

*Requested samples received. Samples submitted by supplier are not technically compliant since the carrier/extension tube was not supplied (with sample tube) as requested. Specification 1.1 of the product.*

*Published specification states “Tube to be utilised for whole blood collection with gel separator and clot activator with carrier/extension tube to fit the tube and thus facilitate automated sampling and sorting.”*

*Offer not compliant.*

7. Section 3 – Specifications of the Tender required that the product offered by bidders would satisfy, amongst others, the following technical specification:

1.1	Tube to be utilised for whole blood collection with gel separator and clot activator with carrier/extension tube to fit the tube and thus facilitate automated sampling and sorting.	N/A	Mandatory
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**REASONS FOR APPEAL: THE APPELLANT’S BID IS TECHNICALLY COMPLIANT**

8. The Appellant is aggrieved by the Contracting Authority’s decision of 22 April 2024 and this for the following reasons.
9. The Appellant submits that the product proposed in its bid is compliant with the technical specifications given that the carrier/extension tube was in fact supplied.
10. Furthermore, as evidenced in the cash sale issued by the Appellant on 18 January 2024 and the receipt issued by the Contracting Authority on 19 January 2024 (both of which are attached and marked as “Document OK2”), the samples were accepted by the Contracting Authority.
11. In addition to the above, both these documents were signed by Renald Williams on behalf of CPSU whereby he confirmed that not only were the samples delivered to the Contracting Authority but, they were “received in good condition”.
12. The Appellant further submits that the carrier/extension tubes were delivered in accordance with the technical specifications, specifically, Specification 1.1, and this as evidenced in photographs taken by the Appellant prior to the delivery of the samples (these photographs are hereby being attached as “Document OK3”). These photographs clearly prove that the tubes were in fact included.

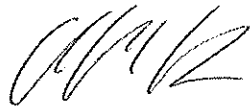
13. The Appellant further submits that the evaluation committee should have realised that the tubes were also delivered before proceeding to declare the Appellant as non-compliant, and this as shall be proven during the course of the proceedings.

THEREFORE, in view of the above and for other reasons that may be brought in due course at law, the Appellant humbly requests that this Public Contracts Review Board:

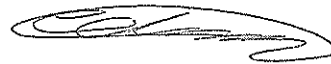
- a. declares that the Contracting Authority's decision of 22 April 2024 is wrong and/or unlawful;
- b. consequently, quashes the Contracting Authority's decision of 22 April 2024;
- c. orders the refund of the deposit paid to the Appellant;

subject to any declaration or order as it deems fit and opportune.

Yours sincerely,  
Ganado Advocates



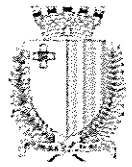
Dr. Clement Mifsud-Bonnici  
([cmifsudb@ganado.com](mailto:cmifsudb@ganado.com))



Dr. Calvin Calleja  
([ccalleja@ganado.com](mailto:ccalleja@ganado.com))



Dr. Krista Refalo  
([krefalo@ganado.com](mailto:krefalo@ganado.com))



Date: 22nd April, 2024.

CFT Reference: 020-4454/23 CPSU7536/23

Tender ID: 203015

Messrs: OK Medical Ltd

Dear Sir/Madam, reference is made to the publication with the following caption:

**Supply of 0.4 - 0.8ml Serum with gel separator and clot activator tubes with carrier / extension tube**

Thank you for participating in the above-mentioned procurement procedure. However, this Entity regrets to inform you that the procurement proposal submitted by your company was not financially compliant. The main reason/s why your procurement proposal was non-compliant is/are as follows:

Reason/s for rejection –

**Requested samples received. Samples submitted by supplier are not technically compliant since the carrier/ extension tube was not supplied (with sample tube) as requested. Specification 1.1 of the product.**

**Published specification states "Tube to be utilised for whole blood collection with gel separator and clot activator with carrier / extension tube to fit the tube and thus facilitate automated sampling and sorting."**

**Offer not compliant.**

This procurement cycle was recommended for award to Messrs **EJ Busuttil Ltd** for the amount of **€10,660.50 excluding VAT**, this being the cheapest priced offer 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 must 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 Thursday, 2nd May, 2024 against a deposit as stipulated in the published schedule.

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
Castille Place, Valletta	40001EUR-CMG5-001-H
BIC	MALT MT MT
IBAN Code	MT55MALT011000040001EURCMG5001H
Bank Code	01100

The official 'recommendation for award' schedule can be accessed on the website: [www.etenders.gov.mt](http://www.etenders.gov.mt). In addition, the said schedule can also be accessed on the CPSU website.

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

Hristo Hristov



f/Evaluation Committee CPSU

# Document OK2

OK Medical Ltd

Triq it-Torri

Swatar, Birkirkara BKR 4011

Malta

21 470 200

Vat Reg No. MT2401-7208 Exemption No. EXO 3384

E-Mail: info@okmedical.com.mt

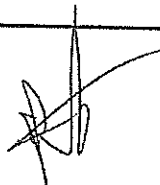
MINISTRY OF HEALTH - CENTRAL PROCURMEN  
MINISTRY OF HEALTH  
C/O HOSPITALMANAGEMENT MDH  
UB002, INDUSTRIAL ESTATE  
SAN GWANN  
SGN3000  
Vat No : MT12979127

Date 18/01/2024  
Code M464  
System Reference 00048414  
Sales Rep ROX  
External Reference SAMPLE  
Page 1 of 1

**CASH SALE : 000118**

Stock Code	Description	Quantity	Price	VAT%	Gross	Retail
5350572798245	CONS -SERUM TUBES 0.5ML-S	50.00	0.00	18.00	0.00	

VATRate	NetValue	VATAmt
18.00	0.00	0.00
<b>TOTAL</b>	<b>0.00</b>	<b>0.00</b>



Subtotal	0.00
VAT	0.00
<b>Total Items :</b>	<b>50.00</b>
<b>Total €</b>	<b>0.00</b>

SAMPLES FOR CPSU. CLIENT IS ACCEPTING THAT THIS SAMPLE IS BEING HANDED ON STRUCT NO RETURN BASIS. CLIENT IS ACCEPTING TO BE RESPONSIBLE FOR THE FINAL DISPOSITION.

*Ronald Williams*

*R. Williams*

OK Medical Ltd

Received in good condition

Central Procurement and Supplies Unit  
Shireburn Inventory Management System

**CENTRAL PROCUREMENT AND SUPPLIES UNIT  
RECEIPT OF SAMPLES**

Date: 19 JAN 24  
 C/D: 22 JAN 24  
 CPSU REF: 7536/23  
 CT. REF: \_\_\_\_\_

Sexum with gel  
 Separator and clot activator tubes  
 A 17497  
 FILE NAME: with carrier/extension tube  
 CFT/CFO/RFI No: 020-4456/23

TENDERER:

MANUFACTURER:

ITEM NO/QTY:

OK Medical	Changsha Renji, Medical Equipment	50
/	/	/
/	/	/
/	/	/
/	/	/
/	/	/

Agents are to present a copy of this receipt for any queries that may incur.

O/ic samples R Killian

SUPPLIER [Signature]

VATRate	NetValue	VATAmt	Subtotal	VAT
18.00	0.00	0.00		0.00
<b>TOTAL</b>	0.00	0.00	<b>Total Items :</b> 50.00	<b>Total €</b> 0.00

SAMPLES FOR CPSU. CLIENT IS ACCEPTING THAT THIS SAMPLE IS BEING HANDED ON STRUCT NO RETURN BASIS. CLIENT IS ACCEPTING TO BE RESPONSIBLE FOR THE FINAL DISPOSITION.

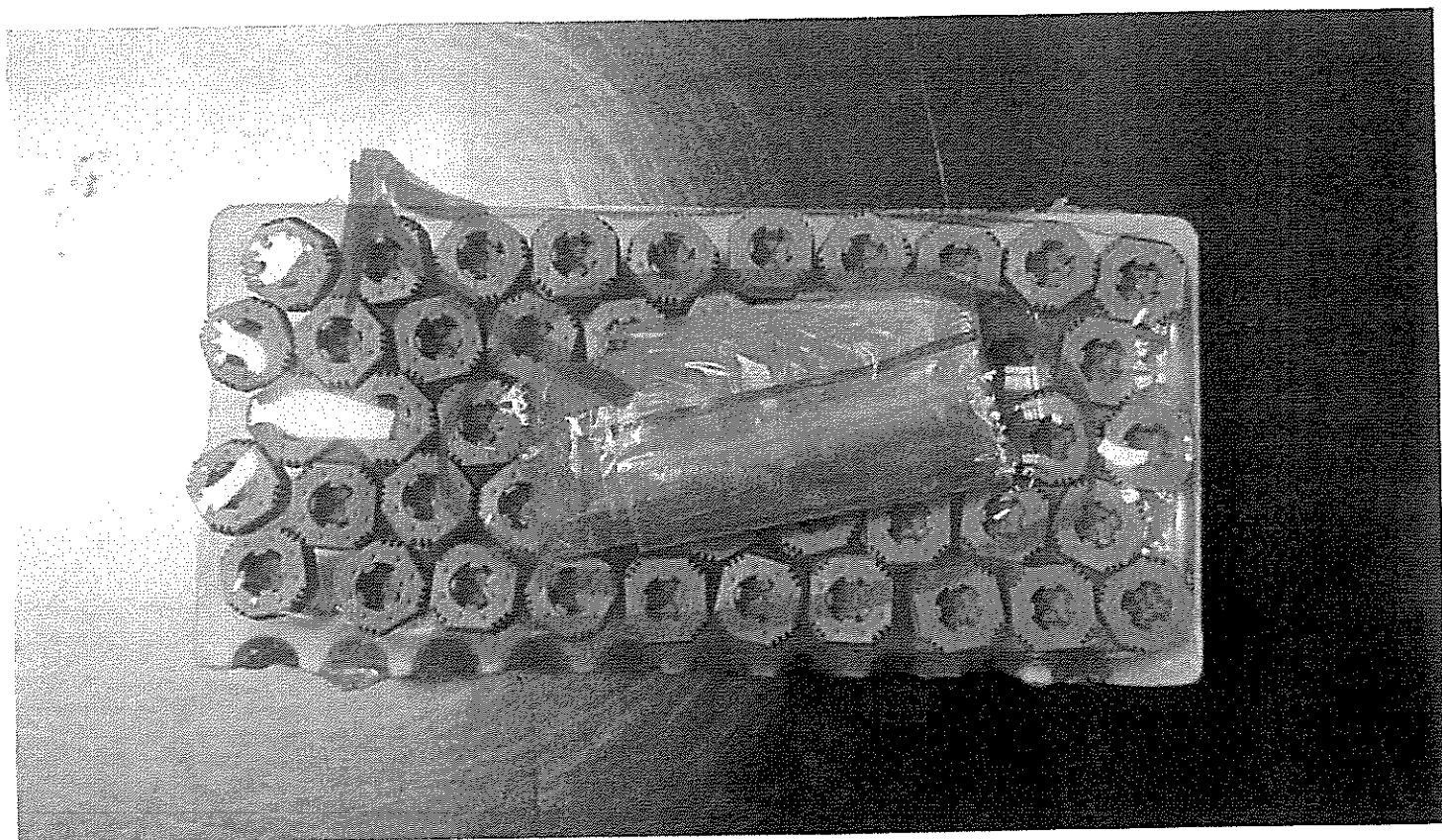
Ronald Williams

R Killian

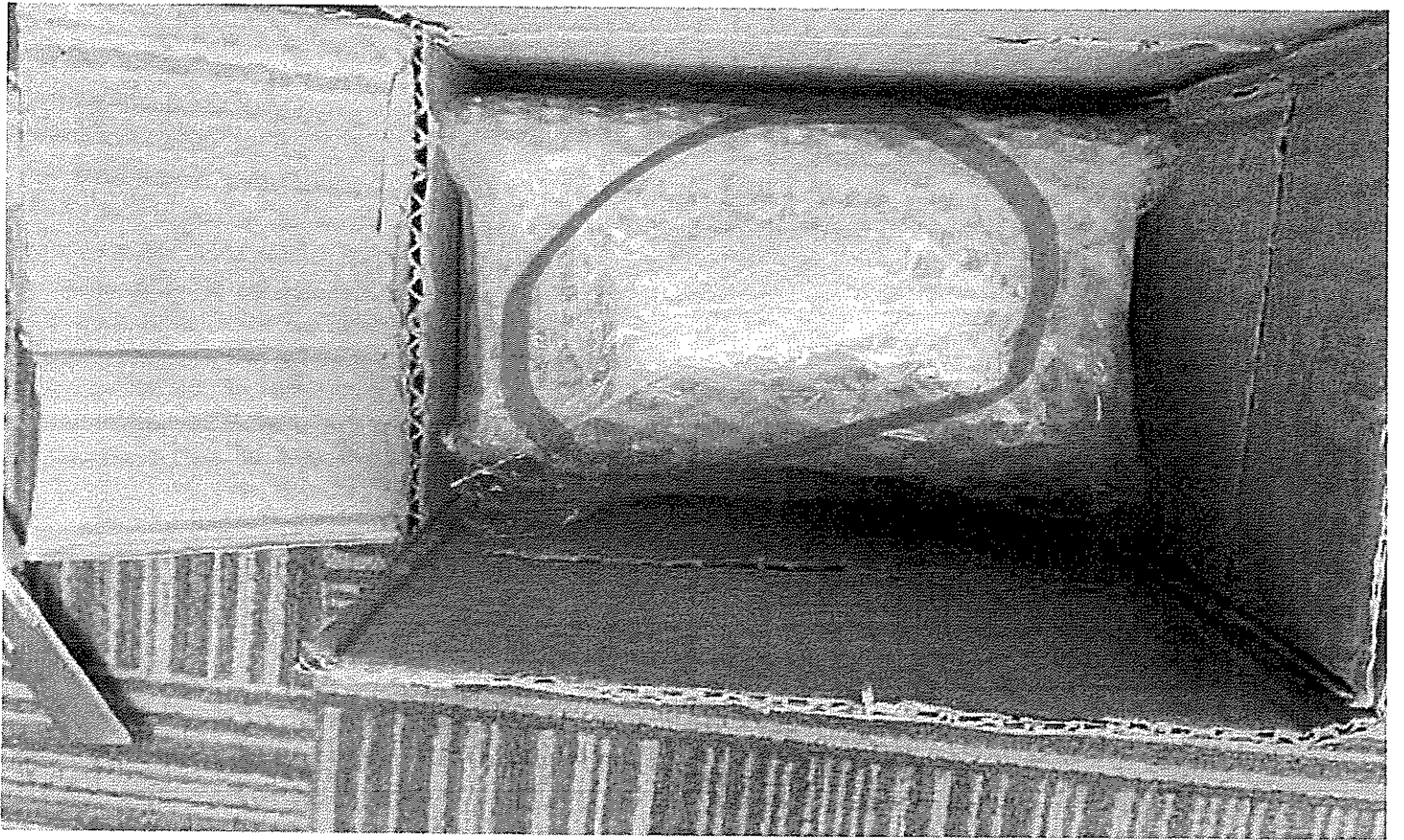
OK Medical Ltd

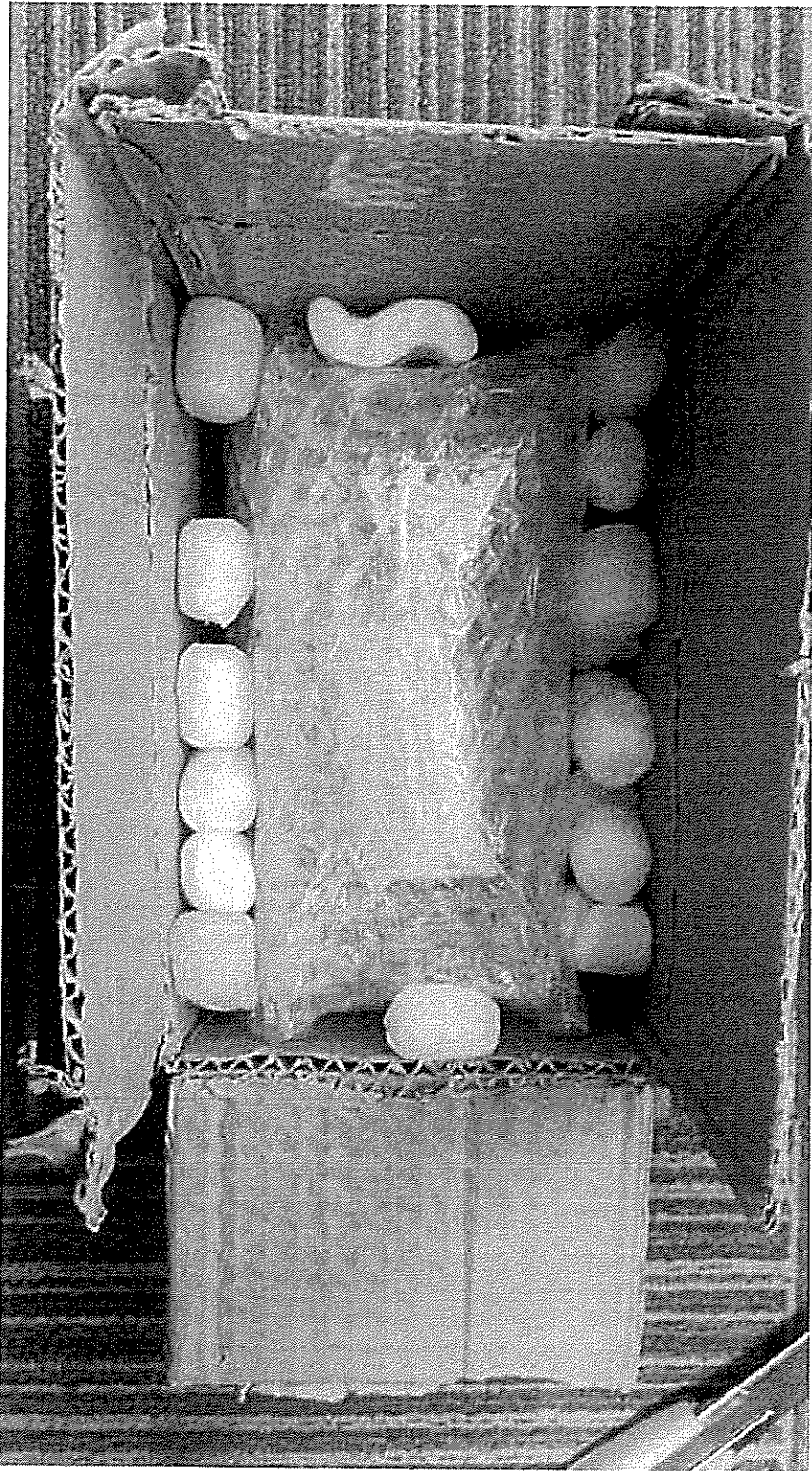
Received in good condition

Document OK3











**APS BANK  
Plc**

Registration  
Number:  
Address:

C 2192  
APS Centre, Tower Street B'Kara  
BKR 4012

Transaction  
Reference:  
Printed On:  
Printed By:

221133261  
09:2602.05.2024  
GLENN LUCAS

## Transfer to a non-APS account

From Account: **40715610011**

Status: **Authorized**

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Currency: **EUR**

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Amount: 400.00

To Account: MT55MALT011000040001EURCMG5001H

Payment Date: 02.05.2024

Payment Reference: 020-4454/23 CPSU7536/23

Fee: 0

Charges: SHA

Sort Code:

Swift Code: MALTMTMTXXX

Beneficiary Bank Name: CENTRAL BANK OF MALTA

Beneficiary Bank Address Line 1: CASTILLE PLACE

Beneficiary Bank Address Line 2: VALLETTA

Beneficiary Bank Country: MALTA

Beneficiary Name: CASHIER MALTA GOVERNMENT

Beneficiary Address Line 1: MALTA

Beneficiary Address Line 2:

Beneficiary ZIP Code:

Beneficiary City: MALTA

Beneficiary Country: MALTA

Intermediary Bank Swift Code: