PUBLIC CONTRACTS REVIEW BOARD

Case 2001 – KLM 2023/08 – Tender for the Cleaning, Upkeep and Maintenance of Public Gardens and Soft Areas in Marsaskala using Environmentally Friendly Products & Practices

7th May 2024

The tender was issued on the 6th November 2023 and the closing date was the 5th December 2023.

The estimated value of this tender, excluding VAT, was € 236,350.

On the 9th February 2024 Mr Anthony Scerri filed an appeal against the Marsaskala Local Council objecting to his disqualification on the grounds that his bid was not technically compliant.

A deposit of € 1181.75 was paid.

There were eight bids.

On the 30th April 2024 the Public Contracts Review Board composed of Dr Charles Cassar as Chairman, Mr Lawrence Ancilleri and Ms Stephanie Scicluna Laiviera as members convened a virtual public hearing to consider the appeal.

The attendance for this public hearing was as follows:

Appellant – Mr Anthony Scerri

Dr Nicholas Mifsud

Legal Representative

Contracting Authority – Marsaskala Local Council

Dr Andrew Saliba	Legal Representative
Mr Joseph Grech	Evaluator

Preferred Bidders – Callus Garden Centre

Invited but did not attend

Dr Charles Cassar Deputy Chairman of the Public Contracts Review Board welcomed the parties and stated that the Board is precluded from hearing this case as the appeal lodged by the Appellant, Mr Anthony Scerri was *fouri termine*. The rejection letter was dated 26th January 2024 whilst the appeal was filed on the 9th February 2024 well outside the statutory period laid down in article 271 of the Public Procurement Regulations.

The Chairman then declared the hearing closed.

End of Minutes.

The Board refers to the Minutes of the sitting of the 30th April 2024 and hereby resolves that having noted the objection filed by Mr Anthony Scerri on the 9th February 2024 and the letter of rejection by the Marsaskala Local Council filed on the 26th January 2024, noted that the appeal was presented *fouri termine* in terms of Public Procurement Regulation 271. The appeal 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 award of the tender
- c) Directs that the deposit paid by the Appellant be reimbursed.

Dr Charles Cassar	Ms Stephanie Scicluna Laiviera	Mr Lawrence Ancilleri
Chairman	Member	Member _