PUBLIC CONTRACTS REVIEW BOARD

Case 2002 – HMP2023/13 – Tender for the Supply, Deliver 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.

2nd May 2024

The tender was issued on the 10th October 2023 and the closing date was the 9th November 2023.

The estimated value of this tender, excluding VAT, was € 20,000.

On the 26th February 2024 HospiMalta filed an appeal against the Hospice Malta objecting to its disqualification on the grounds that the tender was cancelled.

A deposit of € 400 was paid.

There were two bids.

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

The attendance for this public hearing was as follows:

Appellant - HospiMalta

Dr Adriano Spiteri Legal Representative

Contracting Authority – Hospice Malta

Ms Roslynne Vella Chairperson of the Evaluation Committee

Ms Anna Frendo Evaluator
Mr Karl Azzopardi Evalautor

Mr Kenneth Swain Chairman of the Public Contracts Review Board welcomed the parties. He then went on to state that the Board refers to the cancellation notice dated 12th February 2024 which refers to the cancellation of the tender in line with Article 18.3 of the General Rules Governing Tenders and the date of the letter of appeal of the 26th February which was actually filed on the 26th February. The Board refers to Public Procurement Regulation 271 which allows ten calendar days in which to file an appeal.

In this instance, said the Chairman, the appeal is *fouri termine* as it has been filed beyond the ten calendar days. It is clear that the appellant was misguided by the Contracting Authority providing when the wrong date for filing of appeals. However, the Board has no option but to consider case *fouri termine* and will not hear the case. The deposit will be refunded to the appellant.

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 HospiMalta on the 26th February 2024 and the letter of rejection by Hospice Malta filed on the 12th February 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 cancellation of the tender
- c) Directs that the deposit paid by the Appellant be reimbursed.

Mr Kenneth Swain Ms Stephanie Scicluna Laiviera Mr Lawrence Ancilleri
Chairman Member Member