

PUBLIC CONTRACTS REVIEW BOARD

Case 2013 – CfQ - REST34/2023/A – Quotation for the Supply and Delivery of Pre-mixed Mortar to be used for Plastic Repair

24th May 2024

The Board,

Having noted the letter of objection filed by Dr Alessandro Lia on behalf of Lia Aquilina Advocates acting for and on behalf of Vaults Co Limited, (hereinafter referred to as the appellant) filed on the 22nd April 2024;

Having also noted the letter of reply filed by Mr Norbert Gatt acting for the Restoration and Preservation Department (hereinafter referred to as the Contracting Authority) filed on the 25th April 2024;

Having taken cognisance and evaluated all the acts and documentation filed, as well as the submissions made by representatives of the parties;

Having noted and evaluated the minutes of the Board sitting of the 20th May 2024 hereunder-reproduced;

Minutes

Case 2013 – REST34/2023/A – Call for Quotations for the Supply and Delivery of Pre-mixed mortar to be used for plastic repair

The tender was issued on the 5th February 2024 and the closing date was the 6th March 2024

The estimated value of this tender, excluding VAT, was € 4,488.

On the 22nd April 2024 Vaults Co Ltd filed an appeal against Restoration and Preservation Department, Ministry for the National Heritage, the Arts and Local Government objecting to the decision to reject their tender as it was deemed to be technically non-compliant and the subsequent cancellation of the tender.

A deposit of € 400 was paid.

There were two bids.

On the 20th May 2024 the Public Contracts Review Board composed of Mr Kenneth Swain as Chairman, Ms Stephanie Scicluna Laiviera 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 – Vaults Co Ltd

Dr Alessandro Lia
Mr Ivan Farrugia

Legal Representative
Representative

Contracting Authority – Restoration and Preservation Department

Mr Dennis Attard	Chairperson Evaluation Committee
Mr Godwin Xuereb	Secretary Evaluation Committee
Ms Tabitha Dreyfuss	Evaluator
Mr Norbert Gatt	Representative
Mr Jefferson Bruce Galea	Representative

Mr Kenneth Swain Chairman of the Public Contracts Review Board welcomed the parties and stated that the Board notes that on page 2 of the Call for Quotations it is mentioned that the estimated procurement value is € 4,488.

It is firmly and clearly laid out in Regulation 270 of the Public Procurement Regulations that ‘where the estimated value of the public contract meets or exceeds five thousand euro, any tenderer or candidate concerned.....may file an appeal.....’.

Since, the estimated procurement value of this call for quotations does not meet the figure indicated in Regulation 270 this Board is of the view that it does not have jurisdiction to hear this appeal on Call for Quotation REST34/2023/A.

At this stage the Board refers to the letter sent by the Evaluation Committee to Vaults Co Ltd dated 11th April 2024 which included instructions on the form of appeal. This clearly misguided Vaults Co Ltd and although the Board will not be hearing this appeal it hereby decides and directs that the deposit paid by appellant should be refunded.

Dr Alessandro Lia Legal Representative for Vaults Co Ltd said that whilst accepting the Board’s decision he would point out that according to Regulation 87(e) it can hear any case assigned to it.

The Chairman said that this is the procedure the Board will follow and leaves it to the parties to make representations if they disagree. In this case the amount of the tender is very small and the subject is of no great importance. He thanked the parties and declared the hearing closed.

End of Minutes

Hereby resolves:

Having noted the objection filed by Vaults Co Limited (hereinafter referred to as the Appellant) on 22nd April 2024, refers to the claims made by the same Appellant with regards to the tender of reference REST34/2023/A listed as case No. 2013 in the records of the Public Contracts Review Board.

Appearing for the Appellant: Dr Alessandro Lia

Appearing for the Contracting Authority: Mr Norbert Gatt

The Board refers to the minutes of the Board sitting of the 20th May 2024 whereby reference was made to Regulation 270 of the Public Procurement Regulations (“PPR”) which specifically states that *“where the estimated value of the public contracts meets or exceeds five thousand euro, any tenderer or candidate concerned..... may file an appeal*”

Considering that estimated procurement value of this specific CfQ was that of Eur4,488, i.e. lower than the threshold stipulated under Regulation 270 of the PPR, the Board opines that it has no jurisdiction to hear this appeal.

The Board,

Having evaluated all the above and based on the above considerations, concludes and decides:

- a) Since the requirements of Regulation 270 of the Public Procurement Regulations have not been met, this Board will not continue hearing this appeal,
- b) Directs that the deposit paid by Appellant to be reimbursed.

Mr Kenneth Swain
Chairman

Mr Lawrence Ancilleri
Member

Ms Stephanie Scicluna Laiviera
Member