

PUBLIC CONTRACTS REVIEW BOARD

Case 2105 – CFT014-4207/24 (CPSU1365/24) – Supplies – Tender for the Supply, Delivery, Installation and Commissioning of Qty 7 ICU Electrically Powered Hospital Beds for the CU/ITU at the Gozo General Hospital

12th May 2025

The Board,

Having noted the letter of objection filed by Dr Adriano Spiteri on behalf of Spiteri Legal acting for and on behalf of HospiMalta, (hereinafter referred to as the appellant) filed on the 24th March 2025;

Having also noted the letter of reply filed by Dr Alexia Farrugia Zrinzo and Dr Leon Camilleri on behalf of 360 Legal acting for the Central Procurement and Supplies Unit (hereinafter referred to as the Contracting Authority) filed on the 3rd April 2025;

Having heard and evaluated the testimony of the witness Mr Joseph Rapa (Secretary of the Evaluation Committee) as summoned by Dr Adriano Spiteri acting for HospiMalta;

Having heard and evaluated the testimony of the witness Mr Stephen Mercieca (Chairperson of the Evaluation Committee) as summoned by Dr Adriano Spiteri acting for HospiMalta;

Having heard and evaluated the testimony of the witness Dr Robert Sciberras (Member of the Evaluation Committee) as summoned by Dr Adriano Spiteri acting for HospiMalta;

Having heard and evaluated the testimony of the witness Mr Joseph Rapa (Secretary of the Evaluation Committee) as summoned by Dr Alexia Farrugia Zrinzo acting for the Central Procurement and Supplies Unit;

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 5th May 2025 hereunder-reproduced;

Minutes

Case 2105 CFT014-4207/24 – Tender for the Supply, Delivery, Installation and Commissioning of Qty 7 ICU Electrically Powered Hospital Beds for the CCU/ITU at the Gozo General Hospital.

The tender was issued on the 22nd of November 2024, and the closing date was the 16th of December 2024.

The estimated value of the tender, excluding VAT, was €50,848.

On 24th March 2025, HospiMalta, lodged an appeal against Central Procurement and Supplies Unit (CPSU) in accordance with Regulation 270 of the Public Procurement Regulations. The appellant objected to the cancellation of the procurement procedure.

A deposit of €400. Was paid.

There were six bids.

On the 5th of May 2025, the Public Contracts Review Board (PCRB), composed of Mr. Kenneth Swain as Chairman, Dr Ana Thomas and Mr. Lawrence Ancilleri as members, convened a public hearing to consider the appeal.

The attendance for this public hearing was as follows:

Appellant – HospiMalta Ltd.

Dr Adriano Spiteri – Legal Representative.

Contracting Authority – Central Procurement Supplies Unit (CPSU).

Dr Alexia J Farrugia Zrinzo – Legal Representative.

Mr. Stephen Mercieca – Chairman — online.

Mr. Joseph Rapa – Secretary – online.

Mr. Michael Cini – Evaluator – online.

Mr. Robert Sciberras – Evaluator – online.

Mr. George Schembri – Evaluator – online.

Mr Kenneth Swain Chairman of the Public Contracts Review Board welcomed the parties and invited submissions.

Initial Submissions

Initial Submissions by the Appellant

Dr Adriano Spiteri, legal representative for the appellant, stated that he is representing HospiMalta and is also a partner in the company. The subject of this appeal concerns the cancellation of the tender, as per the correspondence received, citing a discrepancy in the technical specifications. However, the appellant maintains that the discrepancy in question lacked sufficient detail, raising doubts as to whether this was the actual basis for the cancellation. Furthermore, it was asserted that HospiMalta's offer was in full compliance with the specifications as published.

Initial Submissions by the Contracting Authority

Dr Alexia J. Farrugia Zrinzo, legal representative for the Central Procurement and Supplies Unit (CPSU), stated that the CPSU stands firmly by its position and will refer to the pre-contractual issues outlined in Regulation 262. With respect to the fourth grievance, she argued that the appellant's act of filing this appeal is, in itself, evidence that the appellant was duly notified in accordance with the General Rules Governing Tenders. She affirmed the contracting authority's adherence to its original decision.

Witness Testimonies

Mr. Joseph Rapa (ID 17291G) – Summoned by Dr Adriano Spiteri

Dr Spiteri inquired for a drafter of specifications and the composition of the evaluation team. Mr. Joseph Rapa, who identified himself as the secretary of the board (without voting rights), confirmed that he participated in drafting the tender document. In his professional capacity, he stated he serves as a procurement officer, with responsibilities including evaluating specifications to ensure they do not favour any particular brand or entity. His duties involved drafting the tender documents, including literature, declarations, technical offer forms, and the tender dossier.

Mr. Rapa denied being the author of the technical specifications, clarifying that these were provided by technical experts from the Gozo General Hospital (GGH). As a vetting officer, he was only able to review the specifications to a limited extent and reiterated that he possesses no technical expertise in relation to beds and mattresses. Although he had prior experience with public procurements, this was his first involvement in one concerning beds.

When questioned by Dr Spiteri regarding familiarity with the clause referencing the Trendelenberg position, its clinical advantages, and whether he reviewed the tender before publication, Mr. Rapa responded in the negative.

Upon being asked whether he modified any part of the tender after receiving it from GGH, Mr. Rapa explained that he highlighted certain specifications and forwarded them to the end user for review and feedback. He acted upon their input, created clarifications, and guided the board on how to use the EPPS system. However, he emphasised that he was not a decision-maker. The cancellation decision was taken after the contracting authority recognised an error in specifications 2.1.1 and 2.1.2, which listed +180 and -180 degrees—an evident technical error. According to Clause 4.8 of the General Rules Governing Tenders, the contracting authority reserves the right to cancel in such instances.

Mr. Joseph Rapa – Cross examination by Dr Alexia J. Farrugia Zrinzo

Dr Farrugia Zrinzo, representing the contracting authority, reiterated that Mr. Rapa's involvement was purely administrative and limited to assisting evaluators in using the EPPS system. She reaffirmed that the basis of the cancellation was rooted in specifications 2.1.1 and 2.1.2.

Mr. Rapa confirmed that he received the cancellation decision from the evaluation committee.

Mr. Stephen Mercieca (ID 162469M) – Summoned by Dr Adriano Spiteri

Mr. Mercieca, who served as Chairperson of the tender, confirmed he is a procurement officer with experience in drafting tenders and some technical knowledge of beds. When questioned about the response of the six bidders to clauses 2.1.1 and 2.1.2, he acknowledged that the error in these clauses was apparent, stating that "no patient can stay in a bed that folds 180 degrees both ways." He was familiar with the term "Trendelenburg" but did not understand its medical meaning.

Dr Spiteri pressed for feedback received from the six bidders regarding these clauses and whether each bid had been evaluated. Mr. Mercieca confirmed that all six bids were evaluated, although he could not recall specific comments from the bidders.

When asked to interpret Clause 2.1: *"The bed is to be capable of undergoing the following positional functions,"* Mr. Mercieca stated it referred to the operational functions of the bed. Regarding the column Unit of Parameter and its interpretation in the context of specifications 2.1.1 and 2.1.2 as not applicable, Mr. Mercieca declined to answer, indicating that responsibility lay with the original authors of the specifications.

Dr Spiteri questioned the rationale behind the cancellation of the tender. Mr. Mercieca replied that the evaluation committee concluded cancellation was necessary due to the specification error in the angle of degrees.

When further questioned on why a clarifying evaluation was not pursued instead of cancellation, Mr. Mercieca responded that such action would have been unfair to economic operators who did not submit a bid because they were unable to meet the original specifications.

Dr Spiteri asked whether any bidders met the required specifications. Mr. Mercieca replied, "None."

Dr Spiteri then queried whether Mr. Mercieca was aware of the "*Standard Operating Procedures for Evaluation Committees*" and whether three main considerations were taken into account prior to cancellation:

1. Clause 2.1 – Positional Functions.
2. "Unit of Parameter" as listed "N/A".
3. No dimension indicated after "180."

Mr. Mercieca confirmed that these were considered.

Dr Robert Sciberras (ID 110466M)– Summoned by Dr Adriano Spiteri

Dr Spiteri requested Dr Sciberras' interpretation of the term "Trendelenberg." Dr Sciberras, a clinical expert, explained that the Trendelenberg position involves elevating the patient's legs, whereas the anti-Trendelenberg position involves raising the head. He further explained that the tender required the bed to perform all ten listed functions, but they identified an error: the notation '0' in "180" should have been a small "°" symbol indicating degrees. He clarified that the unit of parameter for a Trendelenburg position is degrees, not meters or centimetres.

Dr Spiteri asked whether certain angles could be clinically disadvantageous. Dr Sciberras stated that patient safety is always paramount. While he personally would have preferred a range of motion to be defined, the committee had to abide by the published specifications. He noted that submitted bids offered angles between 12 and 17 degrees. Nevertheless, they were bound to evaluate bids based on the published specifications.

Observations by Dr Alexia J. Farrugia Zrinzo

Dr Farrugia Zrinzo observed that the tender listed "180", and that Dr Sciberras had merely assumed this meant "18°" due to his clinical background.

Mr. Joseph Rapa – Summoned by Dr Alexia J. Farrugia Zrinzo

She asked Mr. Rapa whether any request for clarification had been submitted. Mr. Rapa emphasised that, according to Note 3 under Clause 4.8 of the General Rules Governing Tenders, clarifications were not permitted in such cases.

Final Submissions

Final Submission by Dr Adriano Spiteri

Dr Spiteri reiterated that HospiMalta is a small enterprise that submitted a bid in good faith, paid the necessary deposit, and now seeks a refund on the grounds that the cancellation resulted from an error not of their making. He noted that GGH provided the original requirements and that no changes were made to the tender after that. The drafter had no technical expertise. He highlighted that although the secretary had no vote, his involvement in the drafting and evaluation raises procedural concerns.

He pointed out that the evaluation committee's assumption—that "180" meant "18 degrees"—was never corrected, and nowhere was it explicitly stated that 180 was a typographical error. He argued that the issue could have been resolved through the evaluation clarification mechanism, as set out in Section 15 of the General Rules Governing Tenders:

"The evaluation committee may, after obtaining approval of the director as the case may be, ask a tenderer to clarify any aspect of the tender."

Dr Spiteri argued that clarification would not have been unfair to other bidders but would have ensured functionality compliance. He added that he is also a qualified engineer with an MDR Certificate and affirmed that all Trendelenberg beds have recognised clinical benefits. He maintained that the specifications did not contain a discrepancy warranting cancellation. He cited the CPSU's own statement that:

"If the clause was impossible to be met by any economic operator, the tender would still have been cancelled on the basis of Clause 18.3.A."

He contended that the authority should not rely solely on legal references but also provide a concrete rationale for the cancellation. He quoted this from page 2 section 7 and insisted again that there should be a refund of the deposit. Dr Spiteri said that in the balance between cancellation and evaluation there are certain factors to see whether the decision was distorted or disproportionate. If there was an error in the tender, the tender, should not be republished and it could have been clarified.

Quoting from case law no. 1253, he stated:

"To determine whether the principle of proportionality applies, one must consider two important instances, whether the measure issue is appropriate for obtaining the objective pursued and whether it goes beyond what is necessary to achieve that objective."

He also referred to case no. 436:

"The board stated that the discrepancy did not necessarily invalidate a tender and could have easily been rectified had a clarification been asked."

When the authority says that the tender will be published again in six months, one reference to case: Melchior Dimech v. Minister for Finance and Works, which cautioned that:

"A solution like this would disrupt the competition process because the bidders would know the prices of the other bidder and they can change the offer of their bid".

Cancellation of Tenders case no. C13116, the court held that:

“Authorities may invite tenderers to clarify their bids or correct obvious errors, provided that all tenderers in the same situation receive the same opportunity, the process ensures fair treatment, and the clarification does not equate to submitting a new tender.”

Dr Spiteri concluded by stressing the time and investment required to prepare such tenders and that any correction could have been managed through clarification. A republished tender would not significantly alter market prices in the interim.

Final Submissions by Dr Alexia J. Farrugia Zrinzo

Dr Farrugia Zrinzo argued that a discrepancy was indeed present and noted that the cancellation notice was properly issued to HospiMalta in the CPSU letter dated 17 March 2025, citing specification issues. These were further explained by the clinical and drafting personnel involved. The core issue related to specifications 2.1.1 and 2.1.2, which listed "+180" and "-180," without further context. The assumption that this referred to 18° was speculative.

She stated that in public procurement, specifications constitute the evaluators' guiding document—akin to a "bible"—and that deviating from these undermines the legal integrity of the tender process. Allowing individual interpretation would breach the principle of self-limitation and unfairly affect potential bidders who refrained due to the erroneous specs. Therefore, the CPSU maintained that cancellation was the only legally sound remedy.

Concluding Remarks

Dr Adriano Spiteri expressed disagreement with Dr Farrugia Zrinzo's interpretation. He likened the situation to a tender for a car that mentions wheels but not how many—arguing this type of omission could easily be clarified. He reiterated that while the tender document is the evaluators' reference point, in this case, the committee made assumptions rather than seeking confirmation. The clinical expert suggested a range for safety, and no proof was offered that the actual bid submissions did not satisfy patient safety requirements.

Even if the board considers that the “not applicable” label constituted a discrepancy, an evaluation could and should have taken place. Dr Spiteri concluded that cancellation under such conditions is unjustified.

Conclusion

As no further arguments were presented, the Chairman, Mr. Kenneth Swain, formally thanked all parties for their participation and declared the hearing concluded.

End of Minutes

Hereby resolves:

The Board refers to the minutes of the Board sitting of the 24th March 2025.

Having noted the objection filed by Hospimalta (hereinafter referred to as the Appellant) on 24th March 2025, refers to the claims made by the same Appellant with regards to the tender of reference CFT014-4207/24 (CPSU 1365/24) listed as case No. 2105 in the records of the Public Contracts Review Board.

Appearing for the Appellant: Dr Adriano Spiteri

Appearing for the Contracting Authority: Dr Alexia Farrugia Zrinzo

Whereby, the Appellant contends that:

a) ***1st grievance - Discrepancy in the tender document***

The Contracting Authority found a discrepancy between the tender document and the bidder's reply, meaning that the claim that there was a discrepancy "in the tender document" is unfounded. Provided that the term "discrepancy", according to the Cambridge dictionary is defined as a difference between two things that should be the same. By this definition, a discrepancy in the tender document entails a conflicting request or description within the tender document itself. In this case the Contracting Authority compares its published specifications with the replies of the bidder, in this case the Appellant's own replies. Thus, it is not factual that there is a discrepancy in the tender document, thereby the reason for cancellation does not qualify. As explained above, in this case the specification "discrepancy" was actually between the Tender Document specifications and the bidder's offer, therefore the only thing that the Evaluation Committee could have resorted to was asking the bidder/s for a clarification apart from deciding on the outcome. Furthermore, specifications 2.1.1 and 2.1.2 asked for anti/trendelenburg and including an angle unaccompanied by other terms such as "not more than", "minimum of" of "maximum". The fact that no bidder felt the need to clarify these specifications may potentially mean that beds cannot tilt more than the listed angles in the published documents. The Court of Justice of the European Union (CJEU) recognizes that if discrepancies prevent fair evaluation, cancellation is a legitimate remedy, but authorities must justify it and consider less drastic alternatives. Furthermore, if the Contracting Authority believes that specifications 2.1.1 and 2.1.2 prevented unfair competition due to the way they were written, even if it opted for cancellation without availing of the right to evaluation clarifications, the reason for cancellation would have been Section 18.3(e) not 18.3(d). More so when Mr Joseph Rapa's reply clearly stated that *"there has been an error in degree angle hence why this tender is being cancelled"*.

b) ***2nd grievance – Functional specifications and intended use***

While the technical specifications clarify what the contracting authority is seeking to procure, such specifications shall be interpreted in light of the functional specifications (substance over form) as well as intended use published. This tender calls for electrically powered hospital beds for CCU/ITU.

c) ***3rd grievance - The use of an evaluation clarification and prejudice suffered by the Appellant***

At no point did the evaluation committee make use of evaluation clarification questions to clarify any aspects of the bid, as it had a right to do by means of Section 15.1 of the General Conditions Governing Tenders. The cancellation of the Tender following publication of tender prices is prejudicial in confront of the Appellants, more so when the ground for which the Tender is being cancelled for, is not justified. The Appellants feel aggrieved by this cancellation decision. To add insult to injury, the Contracting Authority made it clear that the tender is being reissued with amended technical specifications. This means that a new tendering process will attract the same offered items, however this time round at an expense for the Appellant now that bid prices have already been disclosed. This is in clear breach of the basic principles of Public Procurement of Non-Discrimination.

d) ***4th grievance - No notification***

While the Contracting Authority issued a letter to the tenderer containing reference to Tender ID 000219855, no such letter was issued for Tender ID 000219840. Hence the second offer by the Appellants was ignored without notice, in breach of Section 18.2 of the General Conditions Governing Tenders as well as Section 272 of S.L. 601.03.

e) ***5th grievance – Re-Publication***

The Appellants contend that the re-publication of the same tender with amended specifications places them at a huge competitive disadvantage, provided that their offers are the cheapest bids received by the contracting authority. They retain that this decision is in breach of the principle of proportionality and transparency; thus also in breach of the doctrine of self-limitation.

This Board also noted the Contracting Authority's Reasoned Letter of Reply filed on 3rd April 2025 and its verbal submission during the hearing held on 5th May 2025, in that:

a) ***On the First Ground of Appeal - Discrepancy in the Tender Document***

The objector in the first part of this grievance is stating that there is a discrepancy between the tender document and the objector's offer, meaning that ex-admissis that objector is saying that its offer is not compliant with the published specifications. The above however was not the reason given in the letter of cancellation, since the contracting authority acknowledged a discrepancy between the specifications published, and the intended specifications, in the sense that the

specifications published were impossible to achieve by any economic operator. The General Rules Governing Tenders in clause 18.1 is very widely worded to grant a wide discretion to Contracting Authorities in the cancellation of tenders, so much so that clause 18.3 uses the words "may include", meaning that such list is not an exhaustive one. Without Prejudice to the above, the reason for cancellation given was properly states since there was actually a discrepancy between the intended specifications which were internally sent for publication and the specifications actually publishes, in the sense that what was intended to be 18° ended up being published 180, which meant that it was specification, impossible to be met by any economic operator. The General Rules Governing Tenders only states that the tender may be cancelled Where there is a discrepancy in the tender document and not within the tender document. The fact that no economic operator filed any clarification or request in terms of regulation 262 of the Public Procurement Regulations (PPR) does not mean that the clause was not impossible to perform, as will be proven during the hearing. Moreover and without prejudice to the above, if the clause in question was impossible to be met by any economic operator, the tender would have still been cancelled on the basis of clause 18.3(a) of the General Rules Governing Tenders because no economically or financially worthwhile tenders have been received.

b) ***On the Second Ground of Appeal - Functional Specifications and Intended Use***

In this part of the objection, the objector argues that the evaluation should have been done on some sort of functional specifications and intended use. The Contracting Authority respectfully disagrees. If the tender was in relation to pencils or any other product where the technical specifications and the functional specifications are one and the same, this argument might have certain validity, however this certainly does not hold in the present case where the call for tenders is for highly specialized equipment which requires detailed specifications in order to be properly procured. The powers and discretion of an evaluation committee are regulated by the parameters of the tender, thus clear, realistic and unambiguous specifications are essential to ensure a proper evaluation process and the procurement of the supplies which are required for the contracting authority's intended use. The objector in this grievances also states ex-admissis that the requirement for a tilt of 180° was unrealistic, thus it would not have been just and appropriate if the contracting authority realized that the tender was published with such a specification, and proceeded with the technical evaluation. It is not contested that such ambiguity or mistake should have been identified at an earlier stage, and ideally avoided completely, however such foresights are always possible and the General Rules Governing Tenders provide for a remedy, which is the cancellation, which is the method used in the present case by the contracting authority. CPSU is therefore within its remit at law.

c) ***On the Third Ground of Appeal - The Use of an Evaluation Clarification and the Prejudice Suffered by the Appellant***

The objector states that at no point did the evaluation make use of an evaluation clarification. CPSU respectfully submit that an evaluation clarification could clarify some point from the economic operator's offer, however it cannot change the specifications, unlike a clarification at bidding stage. CPSU also rebuts the claim implying discrimination against the objector. The General Rules Governing Tenders in clause 18.1 clearly provide that The Central Government Authority/Sectoral Procurement Directorate/Contracting Authority reserves the right to initiate a new invitation to tender. The cancellation was indeed proportionate, since it was the only way in which CPSU could procure technically compliant equipment. The cancellation was done for all economic operators, and a new call would be in over 6 months after the first call, thus all economic operators will be in a status quo ante.

d) ***On the Fourth Grievance - No Notification***

The Fact that the objector filed its appeal is enough proof that the economic operator has been duly notified. Clause 18.2 of the General Rules Governing Tenders provide that: “18.2 In the event of a tender procedure's cancellation, tenderers will be notified by the Central Government Authority/Sectoral Procurement Directorate/Contracting Authority.” The above cited rule does not state that a separate notification has to be sent to each and every over, considering that the outcome is one and the same for all offers within the same call for tenders.

e) ***On the Fifth Grievance - Re-Publication***

This grievance is a reproduction of the third grievance and thus CPSU refers to the its submissions in reply to that grievance.

This Board, after having examined the relevant documentation to this appeal and heard submissions made by all the interested parties including the testimony of the witnesses duly summoned, will now consider Appellant's grievances.

a) ***On the issue of the Discrepancy, Functional Specifications and Intended Use -***

Reference is made to the Tender Document, Section 3 – Specifications / Terms of Reference – page 13, where Specification No 2.1.1 is listed as “Trendelenberg Position (+180)” while Specification No 2.1.2 is listed as “Trendelenberg Position (-180)”.

Following the sworn testimony of Mr Stephen Mercieca and Dr Robert Sciberras, this Board is satisfied that the intended specification was “+/- 180”.

Nonetheless, it must be emphasised that no requests for clarification were submitted by any of the economic operators during the tender process. Furthermore, no applications under Regulation 262 entitled “Remedies before closing date of a call for competition” by any prospective tenderers. Consequently, the Tender Evaluation Committee was bound to evaluate submissions strictly based on the wordings of the published tender, in accordance with the principle of Self Limitation. An

Evaluation Committee cannot base its assessment on the presumed intention of the tender drafter but must adhere to the published terms, ensuring transparency and equal treatment for all economic operators.

This Board finds it difficult to reconcile the Appellant's position, especially given that they submitted a bid offering a tilt of only 12°. Even if the term "0" were clarified to indicate degrees, the Appellant's offer would still be technically non-compliant.

The Chairperson of the Evaluation Committee unambiguously confirmed that none of the submitted bids proposed a bed capable of achieving both positive and negative tilt of 180°. Therefore, this Board fully concurs with the Contracting Authority's statement, particularly point 2 of its reply, which reads: "... *the specifications published were impossible to achieve by any economic operator.*"

In conclusion this Board does not uphold these grievances of the appellant.

b) ***On the issue of the Clarification***

As already outlined, any clarification issued by the Contracting Authority in this particular instance would have served no purpose and, more importantly, would have contravened the principle of equal treatment.

This Board is of the considered opinion that the Tender Evaluation Committee's actions were both appropriate and proportionate to the circumstances in question.

c) ***On the issue of the Deposit -***

Reference is made to the rejection letter issued to HospiMalta Ltd, dated 17 March 2025. This letter simply stated that the procurement procedure was being cancelled "*due to an issue with the specs*", and cited paragraph 18.3(d) of the General Rules Governing Tenders, which allows for cancellation where "*there is a discrepancy in the tender document*".

The Board notes that, although a general reference was made to an issue with the specifications, no specific details were provided as to which specification(s) the Contracting Authority was referring. Prima facie, the Appellant is justified in requesting the refund of the deposit, irrespective of the outcome of the appeal on its merits.

However, the email thread submitted with the Appellant's objection clearly shows that, on the same day the rejection letter was issued—17 March 2025—the Appellant sought clarification regarding the alleged discrepancy. Mr Rapa, Secretary of the Evaluation Committee, responded the same day, identifying the specific technical specifications in question: 2.1.1 and 2.1.2.

Accordingly, this Board finds it difficult to accept the Appellant's claim that their rights were prejudiced in this regard.

This Board has, on multiple occasions, stressed that rejection letters must include specific reasons for rejection. Merely quoting a general clause from the General Rules Governing Tenders is insufficient. Ideally, the information provided by Mr Rapa on 17 March 2025 should have been included in the original rejection letter.

However, since the clarification was provided on the same day and the Appellant was in possession of all relevant information for the entirety of the 10-day standstill period, this Board does not uphold this grievance.

d) ***On the issue of no notification -***

The Board notes that HospiMalta submitted two bids in this tender procedure, with Tender ID numbers 000219855 and 000219840.

The sole deposit of €400 was submitted in relation to Tender ID 000219855. Therefore, the Board's jurisdiction is limited to matters concerning that specific bid. The Board shall not and cannot adjudicate on any issues related to Tender ID 000219840.

The Board,

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

- a) Does not uphold Appellant's Letter of Objection and contentions,
- b) Upholds the Contracting Authority's decision in the cancellation of the tender,
- c) Directs that the deposit paid by Appellant not to be reimbursed.

Mr Kenneth Swain
Chairman

Dr Ana Thomas
Member

Mr Lawrence Ancilleri
Member