

PUBLIC CONTRACTS REVIEW BOARD

Case 2118 – MEYR693/2024 – Services – Voice Tender Services

16th June, 2025

The Board,

Having noted the letter of objection filed by Dr Joseph Camilleri and Dt Philippa Gingell Littlejohn acting for and on behalf of GO p.l.c, (hereinafter referred to as the appellant) filed on the 13th January, 2025;

Having also noted the letter of reply filed by Mr Sean Fava acting for and on behalf the Ministry for Education, Sport, Youth, Research and Innovation (hereinafter referred to as the Contracting Authority) filed on the 16th January, 2025;

Having also noted the letter of reply filed by Dr Mariella Azzopardi and Dr Gertrude Borg Micallef acting for and behalf Melita Limited [hereinafter referred to as the Recommended Bidder] filed on the 23rd January, 2025;

Having heard and evaluated the testimony of the witness Mr Anthony Pisani (Representative of GO p.l.c) as duly summoned by Dr Joseph Camilleri acting for the Appellant Company;

Having heard and evaluated the testimony of the witness Mr Sean Fava (Chairperson of the Technical Evaluation Committee) as summoned by Dr Joseph Camilleri acting for the Appellant Company;

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 June, 2025 hereunder-reproduced.

Minutes

MEYR 693/2024 – Services - Voice Tender services

Case 2118

This Tender was published through the Government Gazette on the 19th November 2024 and by the Ministry of Education – MEYR - on the 27th November 2024

The closing date of the call for Tenders was on the 22nd November 2024 and was extended through a clarification till 11th December 2024

The estimated value of the Tender (Excluding of VAT) was 417,100 euro

A deposit of 2,085.50 euro was paid

On the 3rd January 2025 the ICT Procurement Team at MEYR informed GO p.l.c. that its offer was not its cheapest compliant offer submitted.

On the 13th January 2023 Avv. Joseph Camilleri of Mamo TCV Advocates and Avv. Philippa Gingell Littlejohn of GO p.l.c. lodged an appeal on behalf of GO p.l.c. against the Ministry for Education, Sport, Youth, Research and Innovation (MEHR) in accordance with Public Procurement Regulation S.L. 601.03. The Appellant objected for being rejected, the main reason is of not being the cheapest compliant offer submitted in relation to the Tender.

On the 16th January 2025 the Contracting Authority issued a Reasoned Reply in answer to the objection filed by GO p.l.c.

On the 23rd January 2025 Melita Limited filed a Reason letter of reply

There were 3 bids

On the 5th June 2025 the Public Contracts Review Board (PCRB) composed of Dr Vince Micallef as Chairperson, Dr Ana Thomas and Mr Lawrence Ancilleri B.A., M.A as members, convened a public hearing to consider the appeal.

The attendance for this public hearing was as follows:

Appellant – GO p.l.c

Dr Joseph Camilleri	Legal Representative
Dr Philippa Ginger Littlejohn	Legal Representative
Dr Martha Deguara	Legal representative
Ms Elaine Fenech	Company Representative
Mr Gunnar Grech	Company Representative
Mr Anthony Pisani	Company Representative
Mr Geoffrey Cauchi	Company Representative (Senior Manager digital)
Mr Arthur Azzopardi	Company Representative (Online)

**Contracting Authority
Ministry for Education, Sport, Youth, Research and Innovation - MEHR**

Dr Claudine Mercieca Galea	Legal Representative
Dr Denis Zammit	Legal Representative
Mr Mario Borg Martin	CIO
Mr Sean Fava	Chairperson/contributed to the writing of the specifications
Mr Ryan Faure	Evaluator
Mr Eric Spiteri	Evaluator
Mr Melchior Muscat	Evaluator
Mr Natalie Polidano	Secretary

Recommended Bidder – Melita Limited

Dr Steve Decesare	Legal Representative
Dr Stephan Cutajar	Legal Representative
Mr Ian Buhagiar	Company Representative

Minutes

The Chairperson Dr Vince Micallef welcomed the parties.

At this point, Dr Steve Decesare informed the Chairperson that the preferred bidder does not have any copies of documents which were presented with the appeal.

These were passed on to Dr Decesare during the sitting.

Dr Joseph Camilleri was invited to present his initial submissions.

Dr Camilleri clarified that this appeal was based more on technical aspects rather than legal ones and hence he would be asking both technical personnel representing GO p.l.c. together with evaluators from the Adjudicating Board. He explained that the questions that he would be asking would be only to delve into the technical evaluation of the TEB and to understand whether this exercise was done properly and if certain aspects were scrutinized by the evaluators.

Dr Camilleri explained that GO p.l.c. is already providing similar services like those in the present appeal to the Ministry of Education and there have never been any problems in this regard. He continued that GO's offer was not found to be technically non-compliant but that it was not the cheapest bid.

Referring to the letter of rejection sent by the Contracting Authority, Dr Camilleri reiterated that certain details found in a typical tender were lacking and that GO is basing its appeal on two technical grievances. The first one concerns how encryption is made. He stated that GO does not have access to the details of the offers of the other bidders but from information found in the market and that which is confirmed and included in this appeal, GO is aware that it is the only bidder who can offer end-to-end encryption services which meets what was asked for in the Tender.

Dr Camilleri explained that because of this, GO suspects that the other bidder's offers are not compliant because they cannot offer the requested end-to-end-encryption, and hence this means that any solutions offered cannot be effective and thus cannot meet the call for the tender.

Dr Camilleri stated that the letter of reply by the C.A. indicates that the authority was satisfied as long as the bidder ticked the right boxes where encryption was asked for. He explained that the appellant does not accept this approach as one has to see that the technical offer, which was presented, has to be verified so that what is being asked for is provided and just ticking boxes does not oblige bidders to explain their obligations regarding the technical offer.

Referring to the question of third parties, Dr Camilleri stated that there are technical reasons which can be explained by technical experts that indicate that relying on 3rd parties to provide encryption does not provide the security needed in such a tender. Secondly Dr Camilleri stated that secondly since the reply of the Contracting authority is not clear one has to ask whether the Contracting Authority delved deep to know who these 3rd parties are, and what type of services will be asked from them especially regarding their capabilities and how the service is going to be used through these 3rd parties. Dr Camilleri emphasized that all in all there is nothing wrong in relying on these 3rd parties.

Moving on to the third appeal Dr Camilleri referred to limits requested in the tender regarding the maximum of 131.5 downtime hours on the service throughout the 60-month contractual period and which cannot be more than 0.3% since problems are always bound to happen. Dr Camilleri explained that the PCRБ realizes the importance of this factor and that the leeway allowed is very small.

Dr Camilleri insists that since the Contracting Authority wants a system with less downtime as much as possible than it follows that Go is in a better position since it operates through two different servers/locations as compared to the other bidders including the preferred bidder, who operate only through one location and one server. This means that Go can use one system in case there is a failure in the other thus creating redundancy which reduces the element of downtime which is so important in this tender.

Dr Camilleri asked if the Contracting Authority has examined this aspect throughout the evaluation process to ensure whether the unwanted element of downtime could be lessened, even though Melita is insisting that this technical requirement can still be compliant even though one does not have this geographical redundancy, i.e. relying on two servers.

Dr Camilleri stated that the appellant has doubts if the Contracting Authority checked this aspect as in its letter of reply it is indicating that as long as the preferred bidder confirmed his technical offer the CA is agreeing and in any case there are penalties if the bidder does not meet his offer.

Dr Camilleri reiterated that the appellant therefore is insisting that there should be an examination to check if the solution offered by the winning bidder's technical offer is satisfying what is being asked in the tender. Further-more, the appellant contends that this element is not present and was not done and therefore insists that the award should be annulled and a new evaluation should be made.

Initial submissions by Dr Denise Zammit

Dr Denise Zammit started his intervention by stating that the statement by Dr Camilleri regarding missing details or information in the rejection letter does not hold as this was not included in the rejection letter.

He then referred to Dr Camilleri's accusation that the evaluation committee should have dug deeper to scrutinize the technical specification submitted by all bidders. He reiterated that this was not its remit and the main task of the Evaluation Board was to stick to what there is in the Tender Document. Dr Zammit insisted that even if with hindsight the tender might have needed more requirements, instead of going into the details mentioned by the appellant the evaluating committee had to judge with the tools provided in the tender.

Dr Zammit also insisted that the evaluating committee couldn't even analyse information provided by Go from third parties and which according to them expose Melita's limitations. We could even had been faced by an appeal from Melita if they were judged on requirements which were not in the Tender Document He argued that at the end of the day winning bidders give guarantees which are covered by penalties and if warranted technical specifications are not met after winning a tender, successful bidders are penalized. He emphasized that the Board was bound by what he had in front of him.

Dr Decesare in his submission stated that -

Firstly:

If GO was the only bidder with the right specifications there was no need for this tender and the contracting authority could have just issued a direct order and there was no need for any competition.

Secondly:

Although there might be certain technical details, many of which were not even mentioned in the tender, which could be discussed, yet, according to the principles of self-limitation it is what is written in the tender which takes priority. This means that evaluation committees have to rely on information/declarations given by bidders.

Thirdly:

As regards the technical aspect, Melita is confirming that it will not rely on third parties as she has the technical capabilities to meet the requirements. Hence, we do not even have to discuss the second appeal if the appellant agrees.

Dr Decesare then referred to the document he asked for at the beginning of the session and stated that this document does not include the technical capabilities of Melita but is a document which is about a different service.

He also referred to the principles of self-limitation and stated that the tender document refers to encryption and does not refer to Geo redundancy.

Dr Decesare also addressed Dr Camilleri's arguments about redundancy and stated that Melita has redundancy through two servers but not in two different places and still this was not asked for in the tender.

Dr Camilleri summoned Mr Anthony Pisani (ID 363477M) Company Representative of GO

After giving details of his position and experience with GO Mr Pisani explained his involvement in the present tender and explained that GO provides services through encryption to entities including a present one to MEYR and all this proves that GO can provide this service. Answering questions by Dr Camilleri, Mr Pisani stated that Go is already offering the same type of services to MEYR in another contract and its preoccupations arise from information given by other clients who used the services of Melita before changing their commitments with GO, hence it obtained the said information legally and not through spying.

Mr Pisani continued that other preoccupations about Melita's ability to offer the services demanded in this tender arise from the fact that there were instances a couple of months ago when Melita did not meet the services it offered in another tender and the result was that this tender was retaken by GO.

Answering further questions Mr Pisani also insisted that there are grave risks if encryption is not offered like the one offered by GO. Third persons can intercept conversations and even passed on to others like information on tenders and private affairs. This is why he contended that sensitive entities chose GO.

As regards redundancy Mr Pisani continued to explain that GO has multiple locations and so this offers GO the option of hosting its services. GO's infrastructure he continued, is made up of many components and since GO has two geo-redundant locations one in the north and another in the south the service or server or the underlying infrastructure, automatically switches from one to another in case the service needs, maintenance, correction of faults or even when in need of updates. He continued that the components are not only related to SIP telephony but also with the underlying infrastructure on which it has to be operated upon. He continued that GO is resilient throughout.

Mr Pisani explained that GO has 3 cables for internet while Melita has only one, the other to which it alludes to belongs to Vodafone, hence while GO has complete control where redundancy is concerned one cannot say this to Melita.

To the statement by Mr Camilleri that during the session in order to substantiated its offer GO provided a piece of paper that certain details which were said in the appeal were not included as part of Go's offer, Mr Pisani insisted that GO gave all the technical details to reassure the tenderer.

He also declared that he was aware of a clarification regarding the terms of the tender

Cross examination by Dr Denis Zammit

Dr Zammit stated that the contracting authority has no doubts about GO's capabilities in fact MEYR is currently using its services. He then asked questions regarding the document presented by Go which questioned Melita's technical capabilities.

Answering to Dr Zammit's questions Mr Pisani stated that the document which was passed through GO's clients does not reflect the service which is required in the tender and if telephones are encrypted they cannot be intercepted. He also answered in the affirmative that the tender required the service to be encrypted.

When Dr Zammit asked the witness how did GO come to the conclusion that Melita cannot meet this requirement Mr Pisani stated that this comes from his experience and documents from relations with GO's customers who had relations with Melita and not through Melita's documents as this would be spying.

Cross examination by Dr Decesare

Answering to questions by Dr Decesare, Mr Pisani confirmed that the tender document did not mention any cables, ownership or leasing neither any references to Special Border Controls. After a brief discussion between the legal representative and the chairperson it was decided that the board examines the details of what was submitted by GO in their offer.

Dr Camilleri asked Mr Sean Fava (ID 123488M) Chairperson of the evaluating committee to take the witness stand.

Mr Fava explained his experience and his involvement in the tendering process i.e. the person who did the market research and who wrote the technical specifications of the tender besides being the Chairperson of the evaluation committee.

Answering questions regarding what was asked from the bidders as regards the element of encryption by Dr Camilleri, Mr fava answered that through encryption telephone conversations cannot be intercepted and the tender left it open to bidders to describe how the encryption is made. In fact, he contended, replying to a clarification made by one of the bidders who asked what type of encryption we are asking for, we answered that what we want is that the telephone call is not intercepted.

Asked about the formation and experience of the adjudication committee Mr Fava explained that there were 5 members, himself as Chairperson, a secretary and 3 members who work in networks, one of whom assisted him regarding telephony on level one bases.

Answering further questions Mr Fava explained the tendering process which included the checking one by one of what was answered in the tender boxes, and when asked through clarifications what type of encryption was needed, the answer was simply that telephones couldn't be intercepted in order not to limit bidder's offers. He added that no bidder indicated that they were making any use of sub-contractors.

Dr Camilleri asked whether the evaluation committee checked and scrutinized the technical proposals by all bidders who had confirmed the terms and conditions of this tender by answering with a YES or a NO thus confirming the encryption requested. He also asked Mr Fava whether the EB checked to see if what was proposed was eventually effective.

To these questions, Mr Fava replied that if a bidder enters a 'YES' in the box the Evaluating Committee is not supposed to go back to the bidder to confirm his 'YES' and if the bidder fails to honour what he proposes, in that case he will face the mandatory penalties. He continued that this was done in the financial offer where the bidders were asked to confirm their financial

bid as it was found that there was a difference in the estimation of the price when compared to other prices of other tenders.

To the question by Dr Camilleri of what did you do to ascertain that what the preferred bidder's presented solution was as regards encryption, Mr Fava repeated that an EB cannot go back to ask for confirmation of what was being offered.

To further questions about Redundancy Mr Fava answered that as regards redundancy there were no mentioning in the tender documents to any geo locations as mentioned by Mr Pisani who referred to Go's data centres in the North and South of Malta. He continued that what was written in the tender document regarding redundancy was that redundancy was to be subject to two voice gateways 4331(for redundancy) and two Cisco BE7M-M6-K9 servers (for redundancy) and this can be found in Page 16, Section 4, 1.5. He continued that the tender also asked from the supplier 150 channels – sectioned accordingly connected through the Cisco Voice gateways for redundancy and this is found in Section 4, 4.2 page 19.

To a question about whether an assessment about all this in relation to the required uptime Mr Fava responded in the affirmative and emphasized that that is why there are daily penalties if this time limit is not reached.

Final Submissions by Joseph Camilleri

Dr Camilleri invited the PCRБ to check GO's technical offer as this was not a simple tick the box exercise but also providing the necessary information to prove that its offer can be provided as it is doing in another current tender with the Ministry.

Dr Camilleri insisted that the crux of the matter is that when a bidder is chosen one has to be reassured that the offer and the proposal service meet the requirements of the call for tender. He continued that an appellant has to be specific and explain through evidence on what grounds he feels that other bidders do not have the necessary requirement in order to file an appeal. On the other hand, Dr Camilleri stated that one cannot go the extreme and say that to challenge the technical specifications of the recommended bidder one has to examine his tender because this is impossible as the appellant is not the evaluation committee and he does not have at his disposal Melita 's offers.

Dr Camilleri reiterated that in this case Go explained from where they brought their information and hence has doubts about two particular and crucial aspects. We did not ask the adjudication board to show us that their offers were compliant but that there are two aspects necessary for this service that from the information given to GO's it turns out that Melita were not in a position to reassure the evaluating committee.

Dr Camilleri continued that no proof has been put forward which shows that this technical aspect was evaluated and contrary to what GO is saying the other bidders really have the requirements to provide this service. Dr Camilleri stated that appellant only heard from the C.A. that they made a tick the box exercise and one expects that when a tender asks for technical requirements it is expected that an evaluation board asks whether a bidder is bound with what he is proposing. He continued that relying on penalties is not enough and in this case there is a situation where it is evident that certain technical concerns were not truly addressed and evaluated from technical perspectives. Here Dr Camilleri quoted the declaration of Mr Pisani

during his answers at the witness stand when he stated that he was not interested in what the solution is once bidder declared his commitments.

Dr Camilleri made a marked distinction between not being interested how encryption is offered and delving deep in the merit of how the encryption is offered. He reiterated that the distinction between the two is:

- I understand that one cannot impose oneself on how this solution is going to be provided as long as it is effective
- The position of what we heard today is not simply chose what you provide as a system but “I didn’t even check whether this system works or not as I am happy with what was offered for inscription.”

Dr Camilleri continued that anyone could with this argument claim that he could provide what was asked for and then he would see later how to do this. He stressed the fact that we have a situation where the presented solution was not even technically evaluated except that there was a confirmation if the bidder declared or not, or promised or not that he was going to provide the inscription. Moreover, he continued that we do not know how the inscription was made and the Evaluation Committee was not interested in this either.

Dr Camilleri emphasized that we cannot have a situation where a real technical evaluation is not done so the appellant is insisting that as a minimum there should be a re-evaluation where technical experts are included to see if what is offered is truly valid according to what is being asked for and not just relying on just a promise.

Final Submission by Dr Dennis Zammit

Dr Zammit stated that there already exist certain safeguards in this tender as this was open to existing providers experienced in Telephony services.

He emphasized that the main objection is that the evaluation board did not dig deep to see whether what was offered was possible or not. He continued that if for the argument we admit that the tender was written wrongly, the tender did not demand a detailed report of a type of system which was to be used and bidders couldn’t be asked for such information as this would have been ultra vires and added to this if the tender was to be given to GO, today we would be facing an appeal by Melita.

Dr Zammit emphasized that the evaluation board was not concerned with the capabilities of the respective bidders and were not interested to know who was the best provider but gave priority to the best prize as long as what they promised to be compliant.

Dr Zammit also insisted that when asked about the document presented by GO and whose information was passed on by their clients, Mr Pisani confirmed that the service mentioned was not the same as the one in the call for this tender.

Dr Zammit ended by stating that:

- During this session Melita confirmed that it has the capabilities needed for this tender.
- The evaluating board would have acted Ultra Vires if it surpassed the limits of adjudication as explained by Mr Fava that one has to judge on what is presented in front of him.

- No single proof has been brought forward that Melita cannot provide the service requested,

Final submission by Dr Steve Decesare

Dr Decesare stated that the appellant had to prove that the Tender Document asked for certain requirements and that Melita did not conform to them. Appellant asked the Evaluating Committee to consider GO's offer while this has nothing to do with this appeal. The role of the PCRB's role has to confirm that Melita's offer is not the same as that of GO and that which Melita submitted conforms with was requested.

Dr Decesare continued that Melita would have provided more evidence if it was asked how the encryption or the uptime was reached. But this was not requested. There are Law Cases which confirm that one cannot provide information which is not requested in tender document. As regards the tick the box exercise and that there was no evaluation for the technical solutions Dr Decesare pointed out that the specifications asked for were not complicated and these included 5 declarations to be filled in a questionnaire which bidders had to fill in order to comply with what was asked for. This is what Melita did.

Dr Decesare continued by referring to Court of appeal case No 625/23/1 paragraph 26 which states that proof has to be submitted during a hearing and in this case no proof has been established that Melita did not comply to what was requested.

Dr Decesare continued that the only proof presented was that GO's representative tried to prove that GO's offer was better than Melita's and who incidentally agreed that a lot of details presented by GO were not in the tender.

Dr Decesare again referred to the mentioned case where in paragraph 36 the court referred to case Bezzina vs St Vincent the Paul Long Term Facility which states that if the bidder does not comply to what he offered the Contracting authority should take the necessary steps to give penalties.

Dr Decesare reiterated that considering the 1000 euro daily penalty if Melita surpasses the four-week time frame, the 500 euro daily penalty if it does not honour the service and other penalties if another contractor takes up the tender if Melita does not honour the technical specifications it would be folly for Melita to offer uncompliant specifications in a tender worth about 85,000 euro. All this is a confirmation that Melita has the required specifications and can honour its commitments.

Final intervention by Dr Camilleri.

Dr Camilleri stated that earlier during the session it was said that the Contracting Authority was not interested to have the best service as long as it is in line with the call for tenders that is, the cheapest price and the appellant still holds that it seems that a real technical evaluation was not done.

Dr Camilleri Invited the board to examine the mentioned court case as the context of the case refers to specifications required particular services provided by a 24/7 team. He reiterated that

in this case there were requests of inscription and the evaluation committee did not delve into how the inscription is provided.

He stated that this is not a question if the winning bidder is providing a particular or other solution but there is a clear fine distinction between that everyone can provide a system which he wants and another which state that “I did not check whether the offered system is really giving me what I am asking for in the tender.”

Dr Camilleri concluded by stating that due to this failure the appellant expects as a minimum that the evaluation is done again to see what solutions have been offered.

Final intervention by Dr Zammit:

Dr Zammit clarified that he did not say that the Ministry is not interested to receive the best service. He continued that the Ministry is not interested to find whose service is the best but the evaluating committee wanted to rely on the information received and which was requested in the tender.

At this point, Dr Decesare intervened and referring to the mentioned court case he insisted that there were numerous other cases which came to the same conclusions.

At this point the Chairperson thanked the participants and declared the session closed.

End of Minutes

Hereby resolves:

The Board refers to the minutes of the Board sitting of the 5th June, 2025.

Having noted the objection filed by Mr Joseph Camilleri and Dr Philippa Gingell Littlejohn for and on behalf of GO p.l.c. (hereinafter referred to as the Appellant) on 13th January, 2025, refers to the claims made by the same Appellant with regard to the tender of reference MEYR693/2024 – Services – Voice Tender Services listed as case No. 2118 in the records of the Public Contracts Review Board.

Appearing for the Appellant: Dr Joseph Camilleri and Dr Philippa Gingell Littlejohn

Appearing for the Contracting Authority: Dr Dennis Zammit

Appearing for the Recommended Bidder: Dr Steve Decesare and Dr Stefan Cutajar

Whereby, the Appellant contends that:

On 3rd January, 2025, GO was informed by means of an email originating from the ICT Procurement Team at MEYR that GO's offer was "not the cheapest compliant offer submitted" in relation to the Tender.

In accordance with the Public Procurement Regulations (S.L. 601.03), an extract of which was also included in Section 2 of the Tender, GO is hereby respectfully objecting to the veracity of the above-quoted phrase and, therefore, to the results of the Tender and the process of arriving thereat by MEYR. GO is filing its objection based on the following grounds:

- (i) Only GO provides end-to-end encryption for SIP services on the Maltese market:

GO would first and foremost like to respectfully bring to the attention of the Review Board that the technical criteria which the Tender document required, and which could potentially distinguish the tendering economic operators' offers from each other, were essentially two. Broadly speaking, they related to: (i) Encryption of SIP Trunk Channels; and (ii) redundancy.

In both its covering letter as well as its technical response to the Tender, GO was crystal clear on the inherent end-to-end encryption capabilities of its SIP voice services. It detailed all the encryption security features and the layers its voice services enjoy as well as the technology it uses to achieve this and the level of support this technology enjoys so as to ensure continuously available and seamless encryption, not to mention a fully redundant service.

On the other hand, it is an established fact that the two-existent alternative economic operators which compete with GO on this market and which are authorised to provide SIP PABX services cannot offer end-to-end encryption. As a matter of fact, they both declare this deficiency on their respective specification sheets for the SIP PABX services they offer. To this effect, GO is submitting the specification sheet entitled 'Connecting a SIP PABX to Melita's VolP Service of Melita Limited (hereinafter 'Melita') as Doc A while also attaching the document epic SBC Information/SIP PBX Questionnaire' which is provided by Epic Communications Limited (hereinafter 'Epic') to its prospective SIP PABX customers as Doc B.

The fact that both Melita's and Epic's SIP PABX Volp services use User Datagram Protocol (UDP) technology as an internet transport layer protocol should, in and of itself, be a red flag for MEYR as, while UDP technology is known to be speedy and efficient for applications requiring low latency, a rudimentary internet search will inform interested persons that it is also an unreliable and connectionless protocol which does not support encryption for signalling. Signalling means the details of the call.

To this effect, Melita also declares that "Signalling over TLS" is "unsupported", where TLS stands for Transport Layer Security which is like a tunnel used to encrypt and protect the details contained in the signalling. This implies that, unlike in the case of GO's SIP service, neither details of the call nor the actual audio are encrypted on Melita's SIP service. Therefore, to explain further, using Melita's or Epic's technology implies that any interested outsider with basic know-how can access actual voice conversations between end-users while also identifying the calling number, the called number, the duration of the call and the IP address of the media used, which is what actually gives access to the audio of the calling parties. On the other hand, Epic offers no information whatsoever in relation to whether or not it offers media encryption, leading one to conclude that it does not as, otherwise, it would be stated as a selling point. This means that MEYR's preferred economic operator, whichever it may be, cannot itself offer security or confidentiality of calls over a SIP PABX and therefore should be excluded from eligibility.

In fact, given the self-proclaimed technical inability to provide encrypted SIP services by both Melita and Epic in their own respective service specification sheets, GO finds itself at a loss as to how either of them could have successfully satisfied all the required criteria and is to be awarded the Tender. MEYR is misguided if it is simply relying on the fact that the successful economic operator has ticked all the boxes at the end of the Technical Offer to declare its ability to fulfil all the stated Tender requirements. If it has not already done so, MEYR should seek out the necessary clarifications and carry out the necessary technical verifications to establish the veracity or otherwise of whether the encryption criterion can actually be properly fulfilled by another operator other than GO prior to MEYR awarding the Tender.

- (ii) Melita or Epic can only satisfy the eligibility criteria relating to encryption by wholly depending on a third-party service and/or external equipment:

In view of the above explanation based on documentation routinely provided by Melita and GO to their business customers, GO notes that only equipment or software extraneous to Melita's or Epic's networks and to their respective SIP PAX can render voice calls encrypted, but that this - in and of itself - implies an inferior level of encryption, increases risks, vulnerabilities and, most importantly, total dependency on third parties for supply, maintenance, fault management and repair etc.

In fact, in order to overcome the obstacle posed by the non-encryptable nature of the standard service it provides, the successful economic operator, whether Epic or Melita, must engage or have engaged the services and/or capabilities of a third-party information technology company which it and MEYR will now both be completely reliant and dependent on for their encryption. This is not without its disadvantages, complexities and technical risks which, as explained in more detail below, once again places substantial doubts on whether the encryption criterion has been satisfied by the successful economic operator.

The IT company would need to install a setup which comprises of a pair of SBCs, one at the Malta Information Technology Agency (MITA) to connect MEYR, and the other at the economic operator's Data Centre, which would be responsible to encrypt both the Signalling and RTP MEDIA from MEYR to the economic operator's end. Furthermore, these would need to be protected by a pair of firewalls against malicious access and denial of service (DDoS) attacks. It would also mean that, although there is encryption between the SBCs (or session border controllers which govern the manner in which calls are initiated, carried and terminated over VoIP), this will not be end-to-end encryption, i.e. encryption safe from interception. Such a system adds to the overall complexity of the system. Such complexity would also have an impact on the uptime since each component would need to undergo routine security and performance updates and subsequently have the whole setup tested for resiliency. On the other hand, GO can support TLS and SRTP via its own infrastructure in conjunction with the clients' CISCO Gateways, thus reducing the level of complexity, whilst ensuring the optimal level of resiliency and end-to-end encryption.

Furthermore, such third-party IT provider is unlikely to be an authorised telephony provider and therefore, from a practical point of view, would not necessarily be used to operating in the telephony market or understand its exigencies.

- (iii) Given the lock of resiliency manifestly stated in their respective specification documentation, it is highly improbable that Melita or Epic can guarantee uptime for 99.7%

The Tender only allows a maximum of 131.5 hours of downtime on the service throughout the 60-month contractual period or term of the contract (43,824 hours X 0.3%). GO respectfully contends that the SIP PABX service offered by both Epic and Melita does not enjoy the resilience required to guarantee that the maximum limit of downtime set by the Tender will not be exceeded, and this for the following reasons.

As already stated, the complexity of the piecemeal encryption which can be offered by Melita and/or Epic already makes it more susceptible to downtime due to the need to conduct regular, planned maintenance and to the disruptive capabilities of DDOS attacks. However, there are other considerations which make the service they offer more vulnerable. Both operators allow their SIP Trunk services to register to only one location and one server.

Melita's singular domain is stated as being 'sippabx.melitabusiness.com'. Epic's singular server is given as '80.85.108.4/32'. With only one server or location, it is clear that a server/system failure, connectivity issues with the economic operator's Data Centre, DDoS attacks on the network and/or SIP infrastructure as well as unplanned or forced maintenance on the server or network will all create opportunities for substantial downtime.

On the other hand, GO uses DNS SRV to instruct its clients' systems on which SIP Cluster to Register with.

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REVE LOIUUIIE 14/9 C191
11:56:52 174058160mS DNS: Local Query trunk.gotel.com.mt to 3.8.8.8
11:56:52 174058196mS DNS: Local Response trunk.gotel.com.mt result =8180:questions=
1,answer
RRs=2,authority RRs=0,additional RRs=0
11:56:52 174058197 mS DNS: RR: QType=0021 @Class=0001 ttl= 852
name=_sip._udp.trunk.gotel.com.mt target=zt.trunk.gotel.com.mt ipaddr=0.0.0.0 «SRV -
priority=45
weight = 50 port =5060>
11:56:52 174058197mS DNS: RR: QType=0021 @Class=0001 ttl=852
name=_sip._udp.trunk.gotel.com.mt target=mo.trunk.gotel.com.mt ipaddr=0.0.0.10 <SRV -
priority=60 weight=50 port= 5060>
```

The above is an extract from a DNS SRV query performed on GO's servers with the highlights being added for the Public Contracts Review Board's ease of reference. From the response given by the servers, one can note that it replies with two domains (or FQDNs). These are "zt.trunk.gotel.com.mt" and "mo.trunk.gotel.com.mt", with each resolving to two distinct and geo-redundant SIP infrastructures. Each entry denotes a "Priority" value which the system will automatically select in order to send the registration to the entry FQDN having the best priority. In this case, this is "50", being "zt.trunk.gotel.com.mt".

If, for whatever reason, the server with the best priority becomes unresponsive or unavailable, the system would immediately send its Registration to the secondary entry in line with RFC protocols requiring seamless transitions to the entry having the best priority, with GO's secondary entry being "mo.trunk.gotel.com.mt".

GO's clusters can both handle calls and registrations. Furthermore, prior to any maintenance, GO modifies its priority, so that clients would connect to the server indicated by the new priority which is not undergoing maintenance.

```
zt.trunk.gotel.com.mt A217.22.184.27
900 (TTL)
mo.trunk.gotel.com.mt A217.22.184.27 900 (TTL)
```

The above is done to ensure resiliency and a smooth transition during maintenance or system failure with our clients not suffering any impact whatsoever.

As per the Tender, an extract of which is being copied hereunder, MEYR required 150 Channels to be provided via the use of 2 SIP Trunks and each connected to the MEYR's CISCO Gateways for redundancy purposes:

* SIP Trunk Channels

- i. 150 Channels - sectioned accordingly connected through the Cisco Voice gateways for redundancy.*
- ii. Installation of Sip services at Mita data Centres (St. Venera)*
- iii. Sip encryption services*

Redundancy can loosely be explained as being the planned and intentional investment in the duplication of systems so as to increase the dependability of a given system. GO respectfully submits that, in order to meet the MEYR's above-quoted requirement, an economic operator would need to ensure that its SIP and network infrastructure are both fully resilient, i.e. with end-to-end resiliency allowing it to recover from a fault, attack or system failure, thus maintaining continuity and stability of the service.

However, as indicated above, GO is the only operator enjoying network infrastructure and assets that can provide end-to-end resiliency for SIP PABX services over VolP. All other local economic providers are unable to do so due physical and network limitations of their infrastructure.

As a matter of fact, for SIP Trunk services to always be available, the below features must always be present:

- Frequent SIP registrations;
- Options Keepalive messages;
- Call load balancing and Overflow mechanisms; and
- Systems resiliency.

Frequent SIP registrations are important because if the SIP Trunk client does not re-register in a timely manner, the service provider would declare the relevant SIP Trunk as being 'down'. Where a client has 2 SIP Trunks, as in the case of MEYR, should one of the Trunks be unregistered, GO would immediately declare that Trunk as being unavailable and divert all calls to the secondary Trunk in less than 5 minutes. In the case of Melita, their specification sheet states under the Technical Terms relating to 'Registration Requirements' that:

"Registration intervals must not be less than every 60 minutes."

Therefore, for Melita to identify or declare a Trunk to be 'down', the system would need to wait for the next registration which would take up to 60 minutes. In the meantime, Melita might try to send calls to a system which is unavailable, making MEYR and all schools unreachable by phone and unable to use their phone system.

The delay in registration also means that if a SIP PABX customer suffers an internet failover and, hence, a change in its IP address, this would not be reflected immediately and would therefore impact the availability of the service. On the other hand, with GO having frequent re-registrations every 300 seconds, this would imply that the client would send a fresh registration from the new IP address, and this would ensure the service availability in a seamless manner.

Whilst frequent registrations help to ensure that economic operators/service providers have the latest registration details, to ensure faster service availability checks, GO uses "SIP Options" messages, also known as 'keepalives'. Every 30 seconds, GO sends a keepalive to its clients' systems awaiting a reply. Should a client's system fail to reply to the "Options message", GO will declare that SIP Trunk as 'down'. Again, in the event of a company having multiple trunks, GO's SIP Infrastructure would then immediately re-route calls to the other trunk.

Melita's SIP PABX service does not support this functionality as their SIP PABX specification sheet states plainly that:

"Melita reserves the right to restrict the number of simultaneous calls that the customer may place and receive at any point in time. This is to protect the underlying infrastructure." (GO's emphasis)

To be clear, GO does not implement any such restrictions. A GO SIP PABX customer will always benefit from the full availability of the contracted number of channels.

On the basis of these submissions, GO respectfully requests that the Public Contracts Review Board re-evaluates the decision taken by MEYR qua Contracting Authority and orders the annulment of this decision on the basis of the fact that the selected offer does not meet the requirements and criteria set out by the MEYR itself as the successful economic operator cannot satisfy, let alone guarantee, encryption of its voice services.

Furthermore, GO p.l.c, requests that the award process and conclusion of the contract is suspended as provided under Article 275 of the Public Procurement Regulations and until this matter is resolved conclusively.

This Board also noted the **Contracting Authority's Reasoned Letter of Reply** filed on the 16th January, 2025 and its verbal submission during the hearing held on the 5th June, 2025, in that:

- (i) Only GO provides end-to-end encryption for SIP services on the Maltese market:

The CA would like to specify that in the tender document, the only specifications mentioned related to SIP encryption services were always listed as "encrypted SIP trunk channels". No specific type of encryption (such as end-to-end encryption) was required. Furthermore, as per clarification no 2, question 13 (produced hereunder) of the Technical Offer Questionnaire, it was clearly stated that VoIP calls need to be transmitted securely, and all calls should be encrypted across the 150 SIP trunk channels.:

QUESTION 13: Clarification: Is the ministry after any particular TLS version for the SIP trunk encryption?

ANSWER 13: The VoIP calls needs to be transmitted securely, hence all the calls should be encrypted. This should be given on all the 150 Sip trunk channels.

Therefore, the CA never specified what type of encryption must be used, leaving it up to the Service Providers to ensure compliance with the requirement that all calls are encrypted on the SIP trunks, The CA emphasises that this approach is consistent with public procurement best practices, as it allows Service Providers flexibility in delivering solutions that meet the tender requirements. Furthermore, as per Technical Offer Questionnaire question 3, (produced hereunder), all Service Providers accepted all the terms and conditions of the tender, thereby confirming that all requested technical specifications including encryption, would be provided.:

3. Confirm that bidder accepts all the terms and conditions of this tender. Confirm < Y/N >

Therefore, all bidders, including Melita Ltd. and Epic Communications Ltd., were considered technically compliant with the encryption requirements outlined in the tender document. The CA relied on these confirmations during the evaluation process and concluded that the encryption requirements would be fulfilled by the awarded bidder.

- (ii) Melita or Epic can only satisfy the eligibility criteria relating to encryption by wholly depending on a third-party service and/or external equipment:

The CA emphasises that how Service Providers achieve compliance is their responsibility, whether through their own infrastructure or reliance on third-party solutions. The use of third-party providers is a common industry practice, and the CA does not restrict how Service Providers meet the tender requirements, as long as the required services are delivered in line with the tender specifications.

Further to the reply provided under question 1, it is important to note that it is up to the Service Provider to implement the necessary encryption measures, regardless of the equipment being used, as long as the pricing provided in Section C (ii) of the financial bid form is respected.

The CA emphasises that the evaluation focused on whether the bidders committed to providing all the technical specifications required, including encryption. As per the Technical Offer Questionnaire, question 3, all bidders confirmed their acceptance of these terms.

- (iii) Given the lack of resiliency manifestly stated in their respective specification documentation, it is highly improbable that Melita or Epic can guarantee uptime of 99.7%:

Following the reply provided under question 1, as per Technical Offer Questionnaire question 3 (copied hereunder), all Service Providers accepted all the terms and conditions of the tender, thereby confirming that all requested technical specifications would be provided and that the bidders were considered technically compliant. :

3. Confirm that bidder accepts all the terms and conditions of this tender. Confirm < Y/N >

In accordance with the above, the Evaluation Board recommended the award to Melita Ltd on the basis that the Service Provider was found to be the cheapest technically compliant bidder. This decision was made after confirming that all administrative, technical and financial requirements were met. The CA confirms that the tender process was conducted in accordance with the Public Procurement Regulations, ensuring transparency, fairness, and value for money.

The CA remains confident that the awarded bidder will fulfil all tender requirements in accordance with the terms outlined in the tender document. Furthermore, the CA reiterates that the evaluation process was carried out in full compliance with public procurement regulations, and that the decision to award the contract was based on objective and impartial criteria.

This Board also noted the **Recommended Bidder's Reasoned Letter of Reply** filed on the 23rd January, 2025 and its verbal submission during the hearing held on the 5th June, 2025, in that:

In its reasoned letter of objection, Complainant based its claim on three (3) grievances, which shall be tackled in the same order for ease of review by this Honourable Board.

1. First Grievance of Complainant: "Only GO provides end-to-end encryption for SIP Services on the Maltese market."
 - 1.1. That the first grievance of Complainant assumes that it is the sole telecommunications provider within the Maltese Islands offering a complete end-to-end encryption solution for Session Initiation Protocol (SIP) services.
 - 1.2. Therefore, the crux of Complainant's argument lies in Melita's alleged failure to comply with the mandatory encryption requirements set forth in the tender specifications. Specifically, Complainant avers that Melita does not currently provide encryption for SIP over Transport Layer Security (TLS), a protocol explicitly outlined as essential within the tender documentation to secure traffic. In the absence of LS encryption, traffic remains vulnerable to interception, manipulation, or unauthorized access during transmission, exposing sensitive communications to significant security risks.
 - 1.3. That respectfully, Melita clarifies that while SIP over TLS does not inherently include audio traffic, Melita shall also be providing the Contracting Authority with encrypted audio traffic, in full compliance with the tender requirements.
 - 1.4. That furthermore, in an attempt to strengthen its argument, Complainant has resorted to annexing documentation to its objection which does not even form part of the tender process!. This specification sheet, whilst allegedly signed by Melita, should bear no relevance to the decision of this Honourable Board since it has not been completed or submitted as part of this particular tender process. It is thus wholly irrelevant and inadmissible to the present proceedings.

- 1.5. As a preliminary point, Melita formally requests a copy of the specification sheets submitted by Complainant and which form part of the Objection. This documentation has already been requested to the PCRB by email on the 15th January 2025, but has not yet been received.
- 1.6. That on the merits, Complainant's reliance on this document reflects a calculated and deliberate effort by Complainant to distort the facts and create a false narrative based on the assertion that only GO pic. is capable of supplying the Contracting Authority with the Service. In doing so, Complainant has relied on an outdated specification sheet that, at one point in time, indicated that "Signalling over TLS" was "unsupported" by Melita. However, this response is no longer reflective of Melita's current technological capabilities and Complainant could never have foreseen how the Company would respond to this requirement in the context of the current tender because, in fact, Melita was prepared to confirm that SIP over TLS is fully supported. Complainant's attempt to rely on said response is therefore wholly speculative, misleading, and irrelevant; an improper tactic which merely serves to highlight the fundamental weakness of Complainant's position.
- 1.7. That Melita respectfully submits that its mere submission of a quotation itself reflects Melita's capability and commitment to meet this requirement. Should Melita not have been compliant with this requirement, it would simply not have submitted its offer *ab initio*.
- 1.8. Therefore, without prejudice to the above, Melita submits that Complainant's first grievance should be rejected by the Board on the basis that it is unfounded, both in fact and at law, and for the following reasons:
 - 1.8.1. The Service offered by Melita Is fully compliant with the Tender Procedure, including end-to-end encryption;
 - 1.8.2. Complainant's Objection relates to a document which does not form part of the documentation submitted by Melita Limited during this tender process.
2. Second Grievance of Complainant: "Melita or Epic can only satisfy the eligibility criteria relating to the encryption by wholly depending on a third-party service and/or external equipment."
 - 2.1. Preliminarily, Melita respectfully submits that this reply is solely being made on its own behalf and does not in any way represent, reflect, or extend to Epic's position.

- 2.2. That Complainant's grievance is unfounded both in fact and at law since it is premised on the unfounded allegation that Melita has to wholly depend on a third-party in order to provide the services requested by the Contracting Authority in the tender document.
- 2.3. That the solution offered by Melita is composed of a direct SIP trunk over TLS between the Contracting Authority's existing PABX and Melita's infrastructure. This set-up guarantees end-to-end security and seamless integration, entirely eliminating the involvement of any third-party or external equipment for supply, maintenance, fault management, or repair. Thus, Claimant's allegations and assertions of third-party dependence increasing the risk of potential interception are factually incorrect and legally untenable, since they misrepresent the factual and technical realities of the solution provided by Melita. Thus, in view of the aforesaid since no additional third-party systems are being introduced, risk of potential Distributed Denial of Service (DDoS) threats is not being increased.
- 2.4. That without prejudice to the aforesaid, and since Complainant in its Objection refers to Distributed Denial of Service (DDoS) threats, Melita respectfully submits that protection against DDoS attacks was not listed within the tender requirements and thus, has not been requested by the Contracting Authority. The attempt to impose such extraneous obligations, seeks to create the impression that Melita is incapable of meeting the tender requirements, therefore positioning Complainant itself as the sole entity capable of compliance. Such manoeuvres seek to unjustly undermine the legitimacy of Melita's proposed solution, despite this being in full adherence to aforementioned tender document.
- 2.5. Therefore, Melita respectfully submits that Complainant's second grievance is unfounded both in fact and at law and should therefore be dismissed by this Board for the following reasons:
 - 2.5.1. The Service offered by Melita is in full compliance with all technical requirements set out in the tender document;
 - 2.5.2. 2.5.2. That Complainant's Objection is based on an unfounded assumption that Melita is incapable of delivering the required service without reliance on third-party services. This assumption is factually incorrect and lacks evidentiary support.
 - 2.5.3. That Complainant's Objection is improperly seeking to amend or expand the scope of the tender requirements by attempting to introduce additional technical conditions were not Included in the tender document. Such attempt to alter the goalposts of the procurement process should not be entertained by this Honourable Board.

3. Third Grievance: "Given the lack of resiliency manifestly stated in their respective specification documentation, it is highly improbable that Melita or Epic can guarantee uptime of 99.7%"
 - 3.1. Preliminarily, with regards to this grievance Melita once again respectfully submits that this reply is solely being made on its own behalf and does not represent, reflect, or extend to Epic's position in any way.
 - 3.2. That Melita notes that by means of this grievance, Complainant is attempting to introduce redundancy as a mandatory requirement in its Objection, despite this not being a requirement specified or requested by the Contracting Authority in the tender document.
 - 3.3. Without prejudice to the above and on the merits, Melita respectfully submits that Claimant's assertion that Melita's fixed telephony core SIP infrastructure lacks the resilience required to guarantee an uptime of 99.7% is both factually and technically incorrect. While it is acknowledged that Melita's core telephony SIP infrastructure is not geo-redundant, it is fully physically redundant, ensuring continuity of service. After all, it is imperative to note that the Contracting Authority did not mandate geographical redundancy, and as such, it is outside the scope of this tender to evaluate solutions against criteria that were neither required nor specified.
 - 3.4. That although Melita's PAB configuration points towards a single domain name, this domain resolves to a Virtual IP (VIP) address. The VIP address operates as a floating IP across two (2) separate physical systems, ensuring seamless redundancy during routine maintenance or unplanned outages. This design minimizes client impact and guarantees continuity of service, further emphasizing the solution's reliability.
 - 3.5. The IP address in question is secured through an automated anti-DDoS mitigation service, a measure that actively monitors and analyses traffic passing through the associated links. Any detected DDoS attacks are automatically blocked, ensuring the integrity and availability of the SIP telephony core infrastructure and protecting it from external threats. This automated service is designed to detect and mitigate DDoS attacks in real time, safeguarding the platform from potential disruptions. Consequently, the Claimant's claim of DDoS vulnerability in the Second Grievance is without merit, as all necessary protections are fully in place.
 - 3.6. That in its Objection, Complainant once again refers to the specification sheet, which sheet was never submitted as part of the tender documentation filed by Melita and is therefore irrelevant to these proceedings. Yet, without prejudice to the foregoing, Melita humbly submits that whilst for standard customers that do not request redundancy it limits the standard registration interval to not less than every sixty (60) minutes, Melita will accommodate more aggressive timers including OPTIONS keep-alive messages depending on the requirement from the PABX to ensure timely failovers, and this in full compliance with the 99.7% SLA as mandated in the tender document.

- 3.7. That by referring the same specification sheet, Complainant highlighted the fact that "Melita reserves the right to restrict the number of simultaneous calls that the Customer may place and receive at any point in time. This is to protect the underlying infrastructure." In this regard, Melita respectfully clarifies that this statement means that if the Customer procures one hundred fifty (150) channels, Melita will limit the Customer to 150 channels in full compliance with the tender requirements. Such restrictions are a necessary and critical safeguard to address scenarios where a client's PABX might generate an abnormal volume of calls, which could jeopardize the quality of service or the operational stability of the platform. By implementing such measures, Melita ensures equitable and uninterrupted access to its infrastructure, fulfilling its obligations to maintain a reliable and robust service for all clients.
- 3.8. That for the foregoing reasons, Melita respectfully submits that Claimant's third grievance should be rejected in its entirety. Melita's solution is fully adherent to the tender requirements laid down by the Contracting Authority.

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 as follows in their entirety.

This decision concerns an appeal filed by GO p.l.c. against the recommendation made by the Technical Evaluation Committee (TEC) in the context of a public procurement process for the provision of SIP PABX services. GO p.l.c. submits that it is the only economic operator on the Maltese market capable of delivering true end-to-end encryption for SIP trunk channels, a core technical criterion within the tender document. It contends that the recommended bidder—whether Epic Communications Ltd. ("Epic") or Melita Ltd. ("Melita")—cannot meet this requirement without relying on third-party solutions or external equipment, thereby rendering their bids non-compliant.

Summary of Appellant's Submissions

GO p.l.c. argues that the tender requirements centred upon two pivotal technical criteria:

- (i) End-to-end encryption for SIP trunking services; and
- (ii) Service redundancy to ensure continuity and resilience.

The appellant asserts that its offer clearly demonstrates these capabilities, explicitly stating its technological stack, encryption layers, and continuous support measures. In contrast, it submits that neither Melita nor Epic offer SIP services with built-in end-to-end encryption. Specifically:

- Melita’s documentation, notably its "Connecting a SIP PABX to Melita’s VoIP Service" technical sheet (Doc A), openly states that TLS signalling encryption is unsupported, and media encryption is also absent.
- Epic’s documentation, namely the “SBC Information/SIP PBX Questionnaire” (Doc B), does not address encryption at all, which GO argues and suggests a lack of support for this requirement.

GO further argues that both Melita and Epic use UDP (User Datagram Protocol) for SIP signalling and media transport, which is widely understood to be inherently unencrypted and connectionless, and therefore not suitable for secure voice communications.

The tender requires secure voice services via SIP encryption, which presupposes end-to-end encryption as standard. GO p.l.c. maintains that only it can provide native TLS and SRTP encryption within its own infrastructure, thereby ensuring secure communication from source to destination.

By contrast, Melita and Epic—based on documentation publicly and routinely provided to their business customers—do not natively support encrypted SIP signalling or media. Melita’s own documentation states explicitly that it does not support TLS, and Epic’s SBC configuration fails to reference encryption at all. In order to meet the encryption criteria, they would need to:

- Engage a third-party IT provider (an assertion which was completely shot down by the recommended bidder during the hearing);
- Deploy a setup involving a pair of SBCs (one at MITA and one at the operator’s Data Centre);
- Protect these SBCs with additional firewall infrastructure;
- Rely on encryption between SBCs, but not end-to-end across the operator’s full network.

This architecture introduces several non-trivial implications:

- The encryption is not inherent to the operator’s core infrastructure;
- The system introduces complex dependencies on third parties for support, maintenance, and troubleshooting;
- It fails to meet the definition of end-to-end encryption, since calls are only encrypted between SBCs and not at the transport layer across the entire SIP path.

Furthermore, such third-party IT providers are not regulated telephony operators, raising practical and operational concerns regarding their familiarity with carrier-grade VoIP networks and their availability for support during outages or incidents.

The reliance on third-party solutions, according to GO, not only increases the attack surface but undermines the autonomy and accountability of the economic operator, thereby violating the requirement for direct provision of secure VoIP services.

On Lack of Service Resiliency

The tender document requires an uptime of 99.7% over a 60-month contractual term, translating to a maximum allowable downtime of 131.5 hours.

GO p.l.c. argues—and substantiates with technical references—that neither Melita nor Epic can realistically guarantee such uptime due to fundamental weaknesses in their SIP registration architecture and lack of redundancy.

Single-Server Architecture

Both Melita and Epic allow SIP Trunk services to register with only one server or domain:

- Melita: sippabx.melitabusiness.com
- Epic: 80.85.108.4/32

This creates a single point of failure. Any disruption—planned or unplanned—at the server level would interrupt SIP services and potentially isolate all associated institutions from voice communication.

By contrast, GO uses DNS SRV failover records that dynamically route SIP registrations between multiple geo-redundant clusters (zt.trunk.gotel.com.mt and mo.trunk.gotel.com.mt) with priority-based routing and fall-back mechanisms. This setup adheres to SIP resiliency best practices, as described in RFC 3263, and ensures continuous availability in the event of failure or maintenance.

Registration and Keep Alive Mechanisms

Melita's technical document states:

“Registration intervals must not be less than every 60 minutes.”

This slow refresh rate increases exposure to service lapses, as the system may delay recognition of a downed trunk for up to an hour. In the event of an internet failover or IP change, the SIP trunk would not re-register promptly, affecting availability.

In contrast, GO's architecture, performs registrations every 300 seconds, and further uses SIP Options "keep alive" messages every 30 seconds to proactively monitor trunk health. These mechanisms enable rapid fault detection and automatic failover, reducing downtime significantly.

GO concludes that unless a bidder can natively offer encrypted SIP services, it should not be deemed eligible. It challenges the evaluation outcome on the basis that the TEC relied on a simplistic binary ("yes"/"no") self-declaration without corroborating the encryption capabilities through the required technical literature, thereby breaching the principles of transparency and equal treatment.

TEC Evaluation and Testimonies

During the hearing, the Chairperson of the Technical Evaluation Committee, Mr Sean Fava, who incidentally was one of the main architects of the tender document's content, testified that the TEC limited its assessment to the "yes" or "no" responses provided by the bidders in the technical offer form. He clearly and unequivocally stated that the TEC did not analyse or corroborate these responses using the technical literature submitted by bidders. In simple terms, he cited the doctrine of self-limitation as the legal basis for this restricted approach, arguing that the form did not mandate a deeper review.

However, the Board observes that page 7 of the tender document, under Section (C) – *Technical Specifications*, states unequivocally:

*"Literature as per form marked 'Literature List' to be submitted with the technical offer at tendering stage.
The scope of the literature is to corroborate a fully compliant technical offer."*

This clause imposes, rather, a clear and binding obligation on the TEC to examine the supporting technical literature to verify the technical capabilities of all bidders.

Legal Assessment

The doctrine of self-limitation, grounded in EU procurement case law and local jurisprudence, requires evaluation committees to strictly follow the procedures and criteria set out in the tender. However, it does not permit evaluators to ignore criteria or procedures expressly stated in the tender documentation.

In this instance, by excluding a review of the technical literature, the TEC has breached the principle of self-limitation—not by exceeding its powers, but by failing to discharge its duty to evaluate all mandatory components of the bid.

Most critically, the Board finds that the TEC's failure to evaluate the technical literature submitted by the bidders, as the tender document demanded in itself, undermines the credibility of the entire evaluation process. It is insufficient for an economic operator to merely "tick" a box on a technical form. Compliance must be demonstrated and substantiated, particularly where encryption and security—topics of national importance—are involved and more in particular when the tender document itself so necessitated. It is ultimately the Contracting Authority itself who authored the terms of the tender, including Section (C) dealing with Technical Specifications.

Therefore, this Board upholds the Appellant's grievances.

The Board,

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

- a) To uphold the Appellant's concerns and grievances since the Technical Evaluation Committee failed to corroborate a fully compliant technical offer form of the bidders with the literature list as required in the tender document under the heading *Technical Specifications*;
- b) To cancel the Notice of Award letter dated 2nd January, 2025;
- c) To revoke the Letter of Rejection dated 3rd January, 2025 sent to GO p.l.c;
- d) To order the Ministry for Education, Sport, Youth, Research and Innovation to reinstate the offer of the appellant company and to re-evaluate the bid by a newly constituted evaluation committee taking into consideration the Board's findings and to do anything else which is conducive and necessary for the proper execution of the above orders;
- e) Directs that the deposit paid by Appellant be fully reimbursed.

Dr Vincent Micallef
Chairman

Mr Lawrence Ancilleri
Member

Dr Ana Thomas
Member