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23<sup>rd</sup> July 2025

Public Contracts Review Board  
Notre Dame Ditch  
Floriana

**REFERENCE: CT2329/2024 Design and Build Tender for New Acute Mental Health Wards and Extension of Emergency Department at Mater Dei Hospital, using Environmentally Friendly Construction Materials and Products (hereinafter ‘the Tender’);**

Reasoned Objection of CE-BB Projects Ltd (TID 224705);  
Respectfully submits:

## 1. Introduction and Background

- 1.1 CE-BB Projects Ltd (hereinafter “the Objector”) hereby lodges a formal objection before the Public Contracts Review Board (hereinafter “PCRB”) against the Department of Contracts’ decision to reject the tender offer by the Objector, and subsequently to cancel Tender CT2329/2024.
- 1.2 The Objector’s bid in response to the Tender was abruptly rejected via a letter dated 14 July 2025, which stated that the Objector’s bid “*was found to be economically not feasible*”.
- 1.3 Subsequently, the Contracting Authority made reference to Article 18.3(a) of the General Rules Governing Tendering (*sic*) as the basis for cancellation, quoting the rule that a tender may be cancelled when “*no qualitatively or financially worthwhile tender has been received*”.
- 1.4 Notably, no further explanation or justification were provided in the rejection and cancellation notice beyond this bare reference to “*economically not feasible*”.
- 1.5 In summary, the Objector asserts that the Contracting Authority:-
  - 1.5.1 failed its duty of care towards it, through its failure to adhere to its *de facto* duty to clarify, and proceeded to cancel the Tender, thus undermining the fundamental fairness of the process.

**1.5.2** failed to articulate any reasoning for deeming the bid “*economically not feasible*”, violating fundamental principles of transparency, good administration, reason-giving, and legal certainty under both EU and Maltese procurement law.

**1.5.3** failed its duty to uphold the principle of proportionality, in particular by its failure to preserve commercially sensitive information, in cancelling the Tender at this stage, thus amounting to anti-competitive behaviour.

**1.6** In this respect, the Objector is respectfully requesting the PCRB to revoke the rejection and to annul the cancellation decision, and this based on the following grievances:

**2. Duty to investigate the alleged price anomaly – A *de facto* duty to clarify - The duty is more evident, due to the sole bidder status**

**2.1 Duty to investigate the alleged price anomaly**

**2.1.1** When faced with a pricing anomaly, be it an abnormally low or high offer, the Contracting Authority is not only permitted but expected to engage in a thorough examination of the deviation before taking any definitive action. This principle is grounded in the broader procurement obligations of transparency, proportionality, and equal treatment. A unilateral and unexplained exclusion, particularly where a price diverges from the estimated procurement value (hereinafter ‘EPV’), undermines the fundamental fairness of the process and may result in unjustified discrimination against compliant economic operators; as is the case under review.

**2.1.2** If the Technical Evaluation Committee (hereinafter the ‘TEC’) determined that there is a notable discrepancy between a bidder’s price and the EPV, thus presumably<sup>1</sup> leading to the economical non-feasibility of the offer, *de minimis*, this should have prompted an investigation and a comparative assessment. The TEC should have analysed the reasons for such a difference in relation to the scope, complexity, and risk factors of the

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<sup>1</sup> vide grievance 3 hereunder on lack of explanation

contract. A proper analysis should have confronted the submitted price versus the expected market norms. It should have extended to deliberate on the assumptions underlying the Contracting Authority's own estimates versus the assumptions underlying the Objector's submitted price. Only after such a structured evaluation can a sound decision be reached.

- 2.1.3** This process naturally leads to an obligation to request a clarification from the Economic Operator whose price is in question. This is not simply a matter of discretion but a necessary procedural step to ensure a fair and informed determination. Proceeding directly to exclusion without affording the Objector an opportunity to justify its price, particularly in a context which is complex and of high-value, is an outright violation of the principles of good administration. It is a draconian use of discretion by the TEC. The aim of the public procurement process is to secure value for money while preserving competition and procedural fairness, objectives that cannot be achieved by arbitrarily excluding bids without due inquiry.

## **2.2 A *de facto* duty to clarify**

- 2.2.1** In line with OECD<sup>2</sup> and SIGMA<sup>3</sup> guidelines, procurement processes must be thoroughly documented, especially where decisions impact the participation or exclusion of Economic Operators. This includes detailed records of all exchanges with bidders, as well as the rationale behind any action taken. When a tendered price significantly diverges from the EPV, whether higher<sup>4</sup> or lower<sup>5</sup>, best practice requires that the Contracting Authority actively engages with the bidder to understand the reasons behind such price anomaly. The absence of this engagement undermines the transparency and accountability of the procedure. Consequently, a *de facto* obligation to clarify emerges. The Contracting Authority cannot justify an exclusion without first affording the bidder the opportunity to clarify the pricing anomaly.

- 2.2.2** Moreover, both the OECD and SIGMA emphasise that seeking clarification is not a discretionary consideration but a critical step to ensure that

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<sup>2</sup> [https://www.oecd.org/en/publications/2009/03/oecd-principles-for-integrity-in-public-procurement\\_g1gh9fbc.html](https://www.oecd.org/en/publications/2009/03/oecd-principles-for-integrity-in-public-procurement_g1gh9fbc.html)

<sup>3</sup> [https://www.sigmaxweb.org/en/publications/2023/11/the-principles-of-public-administration\\_5e68f805.html](https://www.sigmaxweb.org/en/publications/2023/11/the-principles-of-public-administration_5e68f805.html)

<sup>4</sup> A *de facto* obligation in accordance with the principle of good administration

<sup>5</sup> A *de jure* obligation in accordance of Reg. 243 of S.L. 601.03

decisions are informed, transparent, and proportionate. If a Contracting Authority identifies a substantial discrepancy between a bid and the EPV, it is not sufficient to reject outright the offer. Instead, the Contracting Authority is expected to initiate a clarification process, giving the bidder a chance to explain its pricing structure, methodology, or underlying assumptions. This procedural safeguard forms part of a broader principle of good administration and equal treatment. In this respect, the duty to clarify becomes a functional necessity, particularly when the alternative is the extreme measure of exclusion.

- 2.2.3 This obligation is also clearly documented both within the Department of Contracts Procurement Policy number 40<sup>6</sup>, as well as within the General Rules Governing Tenders<sup>7</sup>, in particular wheresoever TEC determines that something is “*not sufficiently explicit and clear*”

*“In the eventuality that it transpires that the submitted information / documentation is or appears to be ambiguous, contrasting or **not sufficiently explicit and clear**, Contracting Authorities / Entities, in their capacity as Evaluation Committees, **shall request** the concerned Economic Operators to clarify the necessary information / documentation, within the appropriate Time Limit.”*

(added emphasis)

- 2.2.4 Similarly, the same de facto duty has been well established within the ECJ decision in the names of **Tideland Signal Ltd vs Commission of the European Communities (Case T0211/02)**<sup>8</sup>, whereby it was held that:

*“In response to the Commissions’ argument that its Evaluation Committee was nevertheless under no obligation to seek clarification from the applicant, the Court holds that the power set out in section 19.5 of the Instructions to Tenders must, **notably in accordance with the Community law***

<sup>6</sup> <https://contracts.gov.mt/wp-content/uploads/2024/03/PPN40.pdf>

<sup>7</sup> General Rules Governing Tenders – Article 15

<sup>8</sup> See also *Antwerpse Bouwwerken NV vs European Commission* [10<sup>th</sup> December 2009] [Case T-195/08]

*principle of good administration, be accompanied by an obligation to exercise that power in circumstances where clarification of a tender is clearly both practically possible and necessary.”*

(added emphasis)

### 2.3 The duty is more evident, due to the sole bidder status

- 2.3.1 When a procurement procedure results in a sole bidder, the obligation of the Contracting Authority to act with enhanced diligence and fairness is significantly amplified.
- 2.3.2 The absence of competing bids removes the usual benchmark by which the “feasibility” of a price can be measured. In such circumstances, the Contracting Authority cannot simply rely on its estimates, but is expected, *de minimis*, to engage in a clarification process with the sole bidder, particularly when the submitted offer is perceived as divergent.
- 2.3.3 Fundamentally, price “feasibility” cannot be assessed solely against the internal EPV of the contract. While estimates serve a useful guiding function, they are inherently projections and not binding thresholds. A more objective method of gauging price anomalies would typically involve comparison with competing bids; however, where no such bids exist, the EPV must be treated with even greater caution.
- 2.3.4 For all intents and purposes, the Objector respectfully submits that it is not the offer which is not feasible, *se mai*, it is the EPV which may fall short of the actual market realities. Thus, in such cases, the burden on the Contracting Authority to seek clarification before exclusion is not only recommended, but it becomes essential to ensure due process and equitable treatment.
- 2.3.5 The latter is even more relevant when the tender documentation itself included a disclaimer stating that the estimated contract value is indicative and not to be construed as a price ceiling. The tender in article 1.3 stated that,

*“The purpose of this value shall be for **guidance of prospective bidders** when submitting their offer and **is not to be considered as a binding capping price.**”*

(added emphasis)

**2.3.6** The review of this language is crucial: it reflects an understanding that market conditions may produce offers which are either above or below such estimates. Therefore, the Contracting Authority cannot rely solely on the EPV as a rigid basis for exclusion. Indeed, the Contracting Authority has the right to reject financial offers exceeding the EPV, however when faced with a single bid, the Contracting Authority is duty-bound to open a dialogue with the bidder, assess any justification offered, and only then decide whether the price is “not feasible” or otherwise. Failure to do so is a breach of fundamental procurement principles and may amount to an arbitrary exercise of discretion.

**2.3.7** It is evident that comparing the bidder’s price with the EPV is not the sole criterion to establish a price anomaly. Comparison with the prices offered by other bidders is likewise another supplementing method which is useful to decipher the legitimacy of the submitted price<sup>9</sup>. Other equally important factors exist, such as a thorough review of the works/services required, versus the actual price tendered. This was also confirmed in a recent Court of Appeal judgment, in the names of *Star Fuels Limited v WasteServ Malta Limited et.*<sup>10</sup>, whereby it was established that:

*“Il-kriterju jekk prezz huwiex baxx b’mod mhux normali ma huwiex biss kif dak il-prezz iqabbel mal-prezz stmat mill-awtorità kontraenti jew ma’ offerti oħra validi, għalkemm dan jista’ jkun indikazzjoni. Kriterju ieħor huwa kif il-prezz offert iqabbel ma’ kemm il-prodott jew is-servizz jiswa lill-oblatur.”*

(added emphasis)

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<sup>9</sup> European Court of Justice, judgment of 27th November 2001, Lombardini and Mantovani, C-285/99 and C-286/99 “Comparison with other, competing tenders, however useful it may be in certain cases for the purpose of identifying any anomalies, cannot constitute the sole criterion used by the contracting authority in that regard.” [Rn. 37]”

<sup>10</sup> Qorti tal-Appell [Sede Superjuri] 450/2023/2 deċiża 22.01.2024, paragrafu 13

**2.3.8** It is only once an explanation is provided, that the TEC should be at the liberty to reach its reasoned conclusions and confirm or otherwise the legitimacy of the price submitted. The TEC, in the situation under review, failed to do so. The aforementioned Star Fuels judgment, with regards to this point, held that:

*“... iżda dan tista’ tqñidu biss wara li tqis l-ispjegazzjoni li l-awtorità kontraenti għandha težiġi hekk if tara li l-prezz jidher baxx wisq.”*

(added emphasis)

### **3. Lack of Explanation - Violation of Reason-Giving Obligations**

#### **3.1 Lack of Explanation**

**3.1.1** The Objector emphasises that the Contracting Authority’s rejection and cancellation notice failed to explain what was meant by “economically not feasible” in the context of the Objector’s bid. The phrase is vague and unsubstantiated in that the letter did not specify whether the issue was the price, an error in the financial offer, or some other economic assumption. Simply labelling the bid as not “financially worthwhile” (using the generic language of Article 18.3(a)) without any factual reasoning falls short of the basic requirement to give reasons for adverse decisions. Both EU procurement law and Maltese procurement regulations mandate transparency and adequate reasoning in procurement decisions, especially in a decision as significant as cancelling a tender.

**3.1.2** In other words, when a Contracting Authority decides to cancel a tender (i.e. not to award the contract), it must communicate the grounds (reasons) for that decision to the participants. In this case, no such meaningful grounds were communicated – the Objector was left guessing as to why its offer was deemed economically unfeasible. Maltese law similarly enshrines the duty to give reasons. The Public Procurement Regulations (S.L. 601.03), which implement the EU directives, require that any decision to cancel a tender must be made in writing and must include the findings and reasoning leading to that decision.

- 3.1.3 This is a direct reflection of the principles of transparency and good administration in public procurement. By only providing a perfunctory quote of Article 18.3(a) and a conclusory statement about economic infeasibility, the Contracting Authority breached its obligation to state sufficient reasons. The Objector and all tenderers are entitled to understand the actual justification for a cancellation, not merely be notified of the cancellation's existence.
- 3.1.4 Recent judgements confirm that a lack of reasoning renders a cancellation decision unlawful. In a 2025 case, the Maltese Court of Appeal (Superior Jurisdiction) overturned a Contracting Authority's cancellation of a tender, where bidders were only informed via a short notice that the tender was cancelled. The Court held that such a bare-bones notification certainly did not suffice to satisfy the Contracting Authority's obligations.
- 3.1.5 Indeed, in the judgment delivered by the Court of Appeal (Superior), in the names *Agius Stone Works Limited v. Kunsill Lokali Valletta et* on the 8<sup>th</sup> April 2025 (Rik. Nru. 65/2025/1), the Court held:

*“F’dan ir-rigward il-liġi tgħid fir-Regolament 15(3) tar-Regolamenti dwar Kuntratti Pubblici li d-deċiżjoni li twassal għall-kancellament tas-sejha trid issir bil-miktub u jrid ikun fiha s-sejbiet u r-raġunijiet li wasslu biex din tkun inħarġet. Minn kliem il-liġi għalhekk id-deċiżjoni ta’ kancellament ta’ sejha jrid ikun fiha **mhux biss ir-raġunijiet** li wasslu t-tħassir tas-sejha **izda jrid ikun fiha anke s-sejbiet (findings).**”*

(added emphasis)

## 3.2 Violation of Reason-Giving Obligations

- 3.2.1 The parallels to the present matter are clear: the Contracting Authority's one-line 'explanation' ("economically not feasible") is no explanation at all, and it frustrates the Objector's right to understand and contest the decision. Fundamentally, the obligation to state reasons is a cornerstone of both EU law and Maltese administrative law. It serves not only to inform the affected party, but also to ensure accountability and enable effective review.

- 3.2.2 Reference is also made to the decision of this Honourable Board, in the decision delivered on the 27<sup>th</sup> of March 2017 (Tender of Reference CT 2042/2016 listed as Case No 1040) subsequent to an objection filed by Cherubino Ltd:

*“This Board refers to the “Letter of Rejection” dated 17<sup>th</sup> March 2017, wherein it was stated that the reasons why the Central Procurement and Supplies Unit had rejected Cherubino Ltd’s bid was that the latter was neither qualitatively nor financially worthwhile while quoting Article 18.3 of the “General Rules Governing Tenders” version 1.14 issued by the Department of Contracts on 4 January 2016, with the latter dictating the circumstances and eventualities as and when a Tender can be cancelled by the Contracting Authority...*

*In this regard, and as emphasised on numerous occasions, this Board opines that the Contracting Authority should have given the very specific reason for the rejection of the Appellant’s offer and consequently for the eventual cancellation of the Tender itself.”*

(added emphasis)

- 3.2.3 The Court of Appeal (Superior), by means of a decision dated 3<sup>rd</sup> October 2017 (Rik Nru 203/17) in the names ***Cherubino Limited (C-3677) v. Dipartiment tal-Kuntratti et*** proceeded to revoke the cancellation decision.
- 3.2.4 This obligation reflects the requirements of transparency and reason-giving in decision-making, and it allows affected persons (such as tenderers) to assess whether the decision was lawful and well-founded. Without any real reasons given, the Objector has been denied a proper explanation of why its tender (which it invested substantial effort and resources in preparing) was disregarded. This lack of clarity also undermines legal certainty, as participants in public tenders must be able to trust that their bids will be evaluated fairly and that any rejection or cancellation will be grounded in objectively explained criteria, not in obscure or unexplained conclusions. In summary, by failing to articulate any factual or legal justification for deeming the Objector’s bid

“economically not feasible,” the Contracting Authority violated the principles of transparency, good administration, and reason-giving. The decision letter lacks the “reasoning and the findings” that should underpin the outcome. As such, the cancellation decision is procedurally defective and cannot stand.

#### 4. Rejection and Cancellation; disproportionate decision by the Contracting Authority – Unwarranted disclosure of commercial sensitive information

##### 4.1 Rejection and Cancellation; disproportionate decision by the Contracting Authority

4.1.1 The principle of proportionality has been invoked loosely in various procedures; however, it carries a specific and critical legal meaning. Proportionality seeks to strike a fair balance between the interests of all stakeholders, ensuring that measures taken do not unduly infringe on the rights of one party to the unjust advantage of another. It is a guiding principle intended to safeguard fairness, reasonableness, and equity in administrative decision-making.

4.1.2 In the case under review, the Objector claims that the actions by the Contracting Authority are not proportionate, *inter alia*, for the following reasons:

**FIRST** The solutions on offer, at least the one by the Objector, provides precisely what the Contracting Authority requires.

**SECOND** The solution on offer by the Objector, is the sole bid in this procurement procedure.

**THIRD** Cancellation is widely recognised as an exceptional measure that should only be invoked as a last resort. In this context, however, it does not appear to serve as a genuine last resort, but rather as a convenient course of action aimed at shielding the Contracting Authority. This approach seemingly bypasses the necessary diligence required to substantiate its conclusions through proper verification and assessment.

- 4.1.3 The manner in which the tender was cancelled was not only non-transparent but also procedurally unfair and disproportionate to the circumstances. The Objector's bid had effectively passed all stages of evaluation aside from this sudden economic feasibility judgment.
- 4.1.4 To then have the process terminated with effectively no rationale undermines the trust in the procurement process and the Objector's rights as a participant. It also suggests a lack of good faith or diligence on the part of the Contracting Authority, which should have identified any fatal issues earlier or given the bidder a chance to address them. The timing and disproportionate action in this decision raises suspicion. The decision was "abrupt" in the sense that the Objector had addressed any concerns, and it was "disproportionate" in that the Contracting Authority opted for the most extreme outcome: the cancellation of the entire procedure on the basis of an unelaborated concern.
- 4.1.5 In view of the above, the Objector contends that the cancellation was carried out in an unfair manner and was excessive under the circumstances. It violated the Objector's right to a fair and transparent evaluation process.
- 4.1.6 After all, this was the essence of the ECJ decision in the names of **Tideland Signal v Commission**<sup>11</sup> which confirmed that:

*"... the principle of proportionality requires that measures adopted by the community institutions **do not exceed the limits of what is appropriate and necessary** in order to attain the objectives pursued and that where there is a choice between several appropriate measures recourse must be had to the least onerous .."*

(added emphasis)

- 4.1.7 Finally, with regard to the principle of proportionality, it is imperative to highlight that, although the tender may potentially be subject to European Union funding<sup>12</sup>, such funding has not yet been secured, nor have any co-financing models been communicated through<sup>13</sup>. This distinguishes the

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<sup>11</sup> T -221/02, para 39

<sup>12</sup> Tender provision 14.2

<sup>13</sup> Vide clarification Note 9E, stating that, "This project is being considered to be part financed through the European Regional Development Fund"

present case from other similar tenders where funding parameters were clearly established in the tender document<sup>14</sup>. In this context, the outright rejection of the bid based solely on a presumed unfeasibility of the project, without proper verification or exploration of viable alternatives, is not only premature but also a manifestly disproportionate decision.

#### 4.2 Unwarranted disclosure of commercial sensitive information

- 4.2.1** The cancellation of the tender at such an advanced stage appears solely intended to prejudice the rights of the Objector, being the sole remaining tenderer. Given that the Objector's price has already been disclosed, the cancellation confers an unfair competitive advantage on any prospective bidder who chose not to participate initially, thereby undermining the principles of transparency and equal treatment.
- 4.2.2** The lack of consideration to the obligation to protect confidential information is indeed worrying. It is significantly prejudicial to the interests of the Objector. The disclosure of price mechanisms was amply discussed in the Court of Appeal decision in the names of, **Cateressence Limited (C-49407) v. Ministeru tal-Intern u Sigurtà Nazzjonali; id-Direttur Ġenerali (Kuntratti); u James Caterers Limited (C-30139)**<sup>15</sup>, whereby it was determined that such actions lead to anti-competitive behaviour:

*"Dan il-fattur anti-kompetitiv, li ċertament jikser il-par condicio tal-oblaturi, jegħleb kull vantaġġ li jista' jinkiseb – u jekk hemm xi vantaġġ, ma ntwerix x'inhu – bit-tħassir tas-sejha għal offerti. Iservi biss biex jagħti vantaġġ lil min, sa issa, l-offerta tiegħu żammha mistura, li ċertament huwa kontra l-ispirtu tal-ġhoti ta' kuntratti pubbliċi."*

(added emphasis)

- 4.2.3** Consistently, the Court of Appeal ruled in favour of protection of competition, as opposed to cancellation of a tender, unless this is strictly necessary. This must be the last resort. This was once again reaffirmed in

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<sup>14</sup> Refer to *Polaris Marine Services Co Ltd vs Direttur Ġenerali tas-Sajd u l-Akkwakultura* (331/2024/1) para 46 et

<sup>15</sup> Appell numru 401/2019

the judgment in the names of **Melchior Dimech v Ministeru għall-finanzi u Xogħol et**<sup>16</sup>, whereby it was determined that:

*"Fi żgur, mhijiex indikattiva s-soluzzjoni proposta mill-appellant li ssejha għandha tiġi mħassra kollha kemm hi. Soluzzjoni bħal din twassal biex jiġi mfixxkel il-proċess tal-kompetizzjoni minhabba li illum il-prezzijiet tal-oblaturi ekonomiċi huma mikxufa u għalhekk l-oblaturi jafu x'inhu lprezz tal-oblaturi l-oħra u b'hekk ikunu jistgħu ibiddu l-offerta tagħhom jekk kemm-il darba ssir sejha għida"*

(added emphasis)

- 4.2.4** Anti-competitive conduct and breaches of competition law are strictly prohibited under the Treaty on the Functioning of the European Union (hereinafter 'TFEU'). Such practices undermine the integrity of the internal market and distort fair competition, and as such, they must not be tolerated in any form or under any circumstances.

## 5. Refund of the deposit paid

- 5.1** Without prejudice to any other grievance submitted by the Objector, in view of the lack of information provided by the Department of Contract/Contracting Authority, the Objector is compelled to submit its objection in accordance with Reg. 270 S.L. 601.03, in an effort to at least obtain the reasons for such a course of action.

- 5.2** This position was also held by the Court of Appeal in a decision in the names of **Borg Bros v. Ministeru għall-familja u Solidarjeta' Socjali et.**<sup>17</sup>

*Illi s-sejha għall-offerti kienet intenzjonata li tkopri servizzi ta' ġarr ta' għamara, magni, stationery u affarijiet oħra bejn diversi dipartimenti tal-Ministeru appellat, iżda wara bidla fil-politika (fis-sens ta' 'policy') tal-Gvern, it-tender giet irtirata fit-termini tal-Artikoli 33.1 u 33.3(b) tal-istruzzjonijiet għal min jitfa' offerta li kienu jinsabu annessi fit-tender documents. L-artikoli inkwistjoni jippermettu l-irtirar ta' hruġ għall-offerti meta "the economic or technical parameters of the project*

<sup>16</sup> Rikors numru 431/23/1 para 41.

<sup>17</sup> 27 ta' Gunju 2014

*have been fundamentally altered". Is-soċjetà appellanti tilmenta mill-fatt li hi ma ngħatatx spjegazzjoni ta' effettivament x'inbidel, ħlief waqt it-trattazzjoni tal-każ quddiem il-Bord, u li, f'kull każ, l-ispjegazzjoni ma hijiex waħda li tiġġustifika l-irtirar tas-sejha.*

*Fuq l-ewwel aggravju, din il-Qorti tara li l-awtorità konċernata kienet in regola meta qalet biss li irtirat is-sejha a bażi tar-regolamenti msemmija. F'dak l-istadju indikat li riedet bidla fil-politika rilevanti, u sta għal min kien interessat li jitlob spjegazzjoni u/jew kjarifiki. Ovvjament, darba li l-awtorità konċernata ma tatx spjegazzjoni fl-ittra tal-irtirar, min kellu interess kellu jressaq appell quddiem il-Bord biex isir jaf, kif kellu dritt, x'wassal għall-irtirar, bil-konsegwenza li l-Bord ma kellux jordna t-telf tad-depożitu li sar biex seta' jisma l-appell. L-Awtorità konċernata aġixxiet strettament mal-liġi meta rriferiet għar-regolamenti li jippermettula tirtira sejha għall-offerti, però, min hu interessat għandu dritt jikkontesta d-deċiżjoni u jitlob sħarriġ ġudizzjarju tad-deċiżjoni li wasslet għall-irtirar (ara Hospital Ingenieure Krankenkenhaustechnik Plannings GmbH v. Stadt Wien, deċiżja mill-Qorti Ewropea tal-Ġustizzja fit-18 ta' Gunju 2002), u biex dan ikun jista' jsir, trid tingħata informazzjoni dwar x'wassal għall-irtirar. Darba dan ingħata quddiem il-Bord, u s-soċjetà appellanti kienet ġustifikata titlob spjegazzjoni, ma għandhiex tbatli l-ispejjeż tal-proċeduri quddiem il-Bord. Dan ma jfissirx li dak li sar kien null, iżda biss li s-soċjetà appellanta kienet ġustifikata li tressaq ilment quddiem il-Bord. Kien f'dan il-kuntest li l-Bord ħass li jirrimarka li kien ikun aħjar li kieku l-awtorità konċernata tati "the specific reasons to all bidders for the cancellation of the tender"*

(added emphasis)

5.3 In view of the aforesaid, and independently of the merits of its objection, the Objector is hereby respectfully requesting the PCRB to order the refund of the deposit paid.

## 6. Demands

For the foregoing reasons, and whilst reserving the right to submit further observations and evidence, the Objector respectfully requests that the Public Contracts Review Board:

- i. Annuls and overturns the Contracting Authority's decision to reject the offer of the objector and consequently to cancel Tender CT2329/2024, as communicated in the letter of the 14<sup>th</sup> July 2025;
- ii. Reinstates the tender process to the stage prior to cancellation, with the Objector's bid still under consideration;
- iii. Orders the refund of the deposit made in conjunction with this Objection;
- iv. Gives any appropriate remedy and make any relevant and necessary declarations in furtherance of the above.



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Transaction: Pay third party  
Beneficiary Name & Surname: Cashier Malta Government  
/ Company / Group name:  
Relation: Technical Services  
Reason: Other  
Payment details: Deposit Tender CT2329/2024  
Currency: EUR - Euro  
Beneficiary IBAN/Account: MT55/MALT011000040001EURCMG5001H  
Beneficiary IBAN/Account type: Valid IBAN of country - Malta  
Bank name: Other bank  
Bank address / Bank's BIC: Let the bank apply the beneficiary bank BIC  
Beneficiary address: No  
Withdraw from account: 5001806152 8 (EUR)  
Charges should be paid by: Shared - I pay BOV charges; Cashier Malta Government pays the beneficiary bank charges  
Amount: EUR 50,000.00  
Receiving bank to get the money as: normal priority payment  
To be effected on: as soon as possible  
Credited amount: EUR 50,000.00  
Debited amount (excluding charges): EUR 50,000.00  
Estimated amount to be withdrawn from account: EUR 50,004.00