

19th December 2025

Chairman  
Public Contracts Review Board  
Notre Dame Ditch  
Floriana, FRN 1601



Dear Sir,

**Re: Service Tender for the Collection of Bulky Refuse and WEEE using Low Emission Service Vehicle for the Hal Balzan Local Council - BLC 04/2025**

By means of the present we are hereby filing the 'Reasoned Letter of Reply' for and on behalf of the Balzan Local Council, as the contracting authority publishing the captioned tender (hereinafter referred to as the 'Contracting Authority'), with reference and in response to the letter filed on the 10th December, 2025 (hereinafter referred to as the 'Objection Letter') by Malta Recycle & Waste Collection Limited (hereinafter referred to as the 'Appellant') in relation to the captioned tender.

The Contracting Authority informed the Appellant, by means of a letter dated 2<sup>nd</sup> December 2025, that the tender submitted was found to be non-eligible for the following reason:

*"Your offer was deemed as non-eligible since you violated Rule 14.2 of the General Rules Governing Tenders as per Police Report reference number - 12/POL/5489/2025"*

This is evident in the letter which is being attached and marked as **Doc. A**.

By means of the Objection Letter, the Appellant contested the reason for rejection by relying on a number of grounds, which in summary are the following:

1. *The offer submitted by the Appellant was the cheapest offer and therefore the Tender should have been awarded to the Appellant;*
2. *The Appellant is a company which enjoys a separate and distinct legal personality;*
3. *The accused is innocent until proven guilty;*
4. *The Police report filed was intended to harm and a declaration was made by the person filing the report.*

The Contracting Authority will humbly proceed with the following submissions as a form of reply to all grounds of objection of the Appellant's Objection Letter:

1. *The offer submitted by the Appellant was the cheapest offer and therefore the Tender should have been awarded to the Appellant;*

The Appellant's expectation to be awarded with the tender merely on the basis that his offer was the cheapest offer is in breach of the tender document. The principle is that the offer is awarded to the cheapest **compliant** offer. Thus primarily the offer is to pass the administrative and technical criteria test. Only once such tests are successfully passed can the offer proceed to the financial evaluation.

In this particular case the offer could not be considered further for financial evaluation. Such situation arose after one of the evaluators, throughout the evaluation process, filed a police report claiming that he received threats from Twanny Barun in relation to the tender. A copy of the Police Report is being attached and marked as **Doc. B**. As will become evident throughout the sitting, the caller was identifiable as being Twanny Barun who is the sole shareholder, sole director, sole judicial and legal representative and the company secretary of Malta Recycle & Waste Collection Limited (the Appellant) (evidence for this in **Doc. C**). On the basis of this, after having considered the nature of the threats made, the clear identification by one of the evaluators of the director of the Appellant and the severity of the threats made against one of the evaluators, the

Evaluation Committee has proceeded to disqualify the tender offer made by the Appellant. Such a decision was not taken lightly but after due consideration of all these elements and the General Rules Governing Tenders.

To this end, reference is made to article 14.2 of the General Rules Governing Tenders which state:

*14.2 Information concerning checking, explanation, opinions and comparison of tenders and recommendations concerning the award of contract, may not be disclosed to tenderers or any other person not officially involved in the process unless otherwise permitted or required by law. Any attempt by a tenderer to approach any member of the Evaluation Committee, or of the Central Government Authority/Sectoral Procurement Directorate/Contracting Authority directly during the evaluation period will be considered legitimate grounds for disqualifying his tender.* (emphasis added)

Reference is also made to clause 21.1 of the General Rules Governing Tenders (Ethics Clause) which states:

*21.1 Any attempt by a candidate or tenderer to obtain confidential information, enter into unlawful agreements with competitors or influence the outcome of the procurement procedure during the process of examining, clarifying, evaluating, comparing and the recommendation leading to the award or cancellation of tenders will result in the rejection of his/her candidacy or tender and may result in administrative penalties.* (emphasis added)

Such a circumstance is so severe that the legislator included this as one of the grounds for blacklisting by means of article 199 of the Public Procurement Regulations:

*(f) the economic operator has undertaken to unduly influence the decision-making process of the contracting authority, to obtain confidential information that may confer upon it undue advantages*

*in the procurement procedure or to negligently provide misleading information that may have a material influence on decisions concerning exclusion, award or selection;*

From a review of the report it is undeniably clear that the threats were aimed at influencing the decision and the decision making process and thus the natural effect of such threats was the disqualification and rejection of the offer made. Thus irrespective of the fact that the offer was the cheapest offer, the circumstances led to grounds for disqualification of the Appellant's offer.

2. *The Appellant is a company which enjoys a separate and distinct legal personality;*

In its second ground of appeal the Appellant claims that the company has a separate and distinct juridical personality. Although the Appellant fails to delve further into this statement, the inferral which the Appellant is attempting to make is that the Company should not suffer any consequences for actions done by its directors.

It should firstly be noted that should this theory be the binding principle, then article 14.2 and 21.1 of the General Rules Governing Tenders would not apply to any company and would only apply to physical persons making an offer. This would thus put companies in favour and give a clear advantage to companies over physical persons to use all such efforts within their power to influence the decision makers since a company can never itself threaten or influence the decision making process. It can only do so through its directors. However a company acts through its directors and the action and intent of a director, particularly in the context of public procurement, are attributed to the company itself. In fact this is a principle which is embraced in common law known as the 'Directing Mind Doctrine' whereby a company is guilty if the crime's guilty intent

belongs to its senior leadership. It is undoubtedly evident that Twanny Barun, being the sole director, is considered as part of the senior leadership.

Moreover, it is important to emphasise that this Honorable Board does not operate in the realm of Criminal Law but rather operates in the realm of Administrative Law. Thus the effect of the decision of the Evaluation Committee was not to lead to any criminal punishment. However the decision of its director is a clear reflection of the professional suitability and standing of the company itself.

3. *The accused is innocent until proven guilty;*

In its third ground of appeal the Appellant contends that an accused is innocent until proven guilty and that the fact that a police report is filed is not necessarily a reflection of the truth. Whilst the Appellant is correct in these two principles, it is evident that the Appellant is again applying principles found in the realm of the Criminal Law sphere to an area of the law which is distinct. The remit of this Honorable Board is not to decide whether Twanny Barun committed a crime in influencing one of the evaluators but whether the Evaluation Committee was correct in its decision to disqualify the Appellant's offer on the basis of the threats and the undue influence made.

Moreover, this Honorable Board is not expected to have a burden of proof beyond reasonable doubt but on the contrary it is expected to have evidence on the basis of probability. Thus the Appellant's expectation to apply criminal law principles and burden of proof beyond reasonable doubt for the Public Contracts Review Board is being challenged and outrightly contested.

4. *The Police report filed was intended to harm and a declaration was made by the person filing the report.*

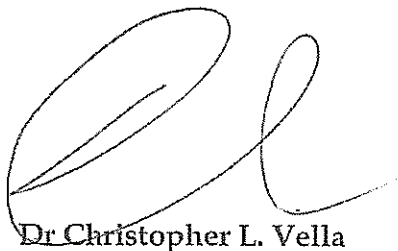
It is up to the appellant to bring sufficient evidence manifesting that the report was filed with the intention to harm. Thus the burden of proof shifts on the Appellant to bring such evidence, which declaration is being challenged and contested in its entirety. With reference to the declaration made (Dok. C), which is not sworn on oath, it is evident that such declaration was made with reference to any criminal proceedings and thus its effects are that the evaluator is confirming that he will not pursue with criminal proceedings. However it does not state that the threats were not made and neither does it confirm that the report made was false.

Thus the declaration filed as 'Dok. C' has no impact on these proceedings or on the validity of the Police Report or threats made by the Appellant's sole director, shareholder and company secretary.

On the basis of the foregoing, my client contends that the Public Contracts Review Board should find against all the appellant's demand and confirm the decision of the Contracting Authority.

Whilst thanking you for your kind attention, I remain,

Yours truly,



**Dr Christopher L. Vella**

40/1, Old Mint Street, Valletta  
[cvella@oldmintlegal.com](mailto:cvella@oldmintlegal.com)



Hal Balzan Local Council

Doc. A.

Malta Recycle and Waste Collection Ltd

Tuesday 2<sup>nd</sup> December 2025

**Service Tender for the Collection of Bulky Refuse and WEEE using Low Emission  
Service Vehicle for the Hal Balzan Local Council –  
BLC 04/2025**

To whom it may concern,

We regret to inform you that your offer BLC 04/2025 has not been accepted by the Hal Balzan Local Council.

- i. The sole criterion for award was the price. The contract was awarded to the tenderer who submitted the cheapest priced offer, satisfying the administrative and technical criteria;
- ii. The successful bidder is Saviour Mifsud;
- iii. The price of the successful bidder is €22,400.00;
- iv. Your offer was deemed as non-eligible since you violated Rule 14.2 of the General Rules Governing Tenders as per Police Report reference number – 12/POL/5489/2025;
- v. The deadline for filing a notice of objection (appeal) is ten (10) calendar days from the date of this letter;
- vi. An appeal can be lodged against a deposit of €400.00.

Kind Regards

A handwritten signature in black ink, appearing to be 'df'.

Doriette Farrugia  
Executive Secretary

Doc. B.

**BRIEF INCIDENT REPORT**

District: GENERAL HEAD QUARTERS

Division: REMOTE REPORTING UNIT

Ref No: NPS 12/POL/5489/2025

Printed By: (PC 947 Noel Aquilina aquin031)

Date Printed: 11/10/2025 at 13:37

NPS Session:13563902

Type of Incident: MISCELLANEOUS - INSULTS AND THREATS

Incident Date from: 08/10/2025

Incident Time from: 15:11

Incident Date to: 08/10/2025

Incident Time to: 15:11

**INCIDENT ADDRESS**

Address: RABAT - GHAWDEX

**ACTION TAKEN**

Ryan Cefai Mercieca made the following online report via email

This email is to submit the report that as a board member of the evaluation for Balzan Local Council for the Tender for Bulky Refuse Service, I received call from Twanny Barun (99044394) on Wednesday 8th at 15:11 where he insulted me and threatened to use violence towards me and vandalise my car if he dosent get the tender.

The insults were

'Insibek u ma tahrabx minni x-xeba li intik'

'Int ma int xejn biex tiddeciedi jekk niehux it-tender'

'Inkissrek u anke l-karozza nifqalek, bicciet issibha'

Rabat Gozo police station has been informed about the report.

**COMPLAINANT NO.: 1**

ID Card No.: 0539988M

Name:

RYAN

Passport No.:

Surname:

CEFAL MERCIECA

Officer Entering Report

PC 947 AQUILINA, NOEL on: 11/10/2025 at: 13:15

END OF INCIDENT

END OF REPORT [NB printouts without a NPS Session number in the header will not be considered valid.]

HOW DID WE DO? WE'D LOVE TO HEAR ABOUT YOUR EXPERIENCE.

more information on contacting the IDPC, visit [www.idpc.org.mt](http://www.idpc.org.mt). To access details on how data is processed by the MPF, its policies, and how to exercise your rights, visit our website [www.pulizija.gov.mt](http://www.pulizija.gov.mt).

*Doc C*



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# MALTA RECYCLE & WASTE COLLECTION LTD (C 97801) ...

Registration Number

C 97801

Full Name

MALTA RECYCLE & WASTE COLLECTION LTD

Registration Date

07-01-2021

State

Active

Registered Address

15, GROGNET STREET,

MOSTA

MST 3613

Malta



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# MALTA RECYCLE & WASTE COLLECTION LTD (C 97801) ...

Number of Authorised Shares

1,200

Total Authorised Shares Value

€1,200.00

Number of Issued Shares

1,200

Total Issued Shares Value

€1,200.00

## Authorised Shares

Type	Class	Number Of Shares	Value Per Share	Total Authorised Value
ORDINARY		1,200	€1.000000	€1,200.00

## Issued Shares - Shareholders (1)

Shareholder	Shares	Type	Class	Number Of Shares	Value Per Share	Percentage Paid Up	On Behalf Of
<b>TWANNY BARUN</b> Address: 40, TRIQ IL-HARIFA QORMI Malta Nationality: Maltese		ORDINARY		1,200	€1.000000	20	

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# MALTA RECYCLE & WASTE COLLECTION LTD (C 97801)

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## Directors



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Involved Party	Address	Nationality
TWANNY BARUN	40, TRIQ IL-HARIFA QORMI Malta	Maltese



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## Company Secretaries



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Involved Party	Address	Nationality
TWANNY BARUN	40, TRIQ IL-HARIFA QORMI Malta	Maltese



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## Judicial Representatives

Involved Party	Address	Nationality
TWANNY BARUN	40, TRIQ IL-HARIFA QORMI Malta	Maltese



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TWANNY BARUN	40, TRIQ IL-HARIFA QORMI Malta	Maltese



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Involved Party	Address	Nationality
TWANNY BARUN	40, TRIQ IL-HARIFA QORMI Malta	Maltese



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Involved Party	Address	Nationality
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