

PUBLIC CONTRACTS REVIEW BOARD

Case 2202 – SPD8/2025/128 – Supplies - Framework Contract for the Supply and Delivery of Laboratory Kits and Reagents for Use at EcoHive Complex, Malta North Laboratory – Wasteserv Malta Ltd

13th January 2026

The Board,

Having noted the letter of objection filed by Mr Ioannis Pliotas on behalf of Hach Lange Limited, (hereinafter referred to as the appellant) filed on the 8th December 2025;

Having also noted the letter of reply filed by Dr Luca Zammit acting for and on behalf of Wasteserv Malta Limited (hereinafter referred to as the Contracting Authority) filed on the 15th December 2025;

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

Having noted and evaluated the minutes of the Board sitting of the 9th January 2026 hereunder-reproduced.

Minutes

Case 2202 – SPD8/2025/128 – Supplies - Framework Contract for the Supply and Delivery of Laboratory Kits and Reagents for Use at EcoHive Complex, Malta North Laboratory – Wasteserv Malta Ltd.

The tender was issued on the 2nd October 2025, and the closing date was the 23rd October 2025.

The estimated value of the tender, excluding VAT, was €44,234.00.

On the 8th of December 2025 Hach Lange Ltd lodged an appeal against Wasteserv – the Contracting Authority. In accordance with Regulation 270 of the Public Procurement Regulations.

On the 9th of January 2026, the Public Contracts Review Board (PCRB), composed of Mr. Kenneth Swain as Chairman, Dr Maria Cardona and Mr. Keith Victor Grech, as members, convened a public hearing to consider the appeal.

A deposit of €400 was paid.

There were two bids.

The attendance for this public hearing was as follows:

Appellant – Hach Lange Ltd. (EL998764924)

Ms Pana Panagiota – Company Representative.

Ms Angeliki Apostolou – Company Representative.

Contracting Authority – WasteServ Malta Ltd.

Dr Luca Zammit – Legal Representative.

Mr. Nicholas Farrugia – Chairperson.

Ms Jisha Choolaparambil – Evaluator.

Ms Nana Adoma – Evaluator.

Ms Paula Farrugia – Evaluator.

Ms Joanne Camilleri -- Professional Procurement

Recommended Bidder – E.J Busuttil. (C10135).

Ms Debbie Vella – Company Representative.

Mr Paul Vella – Company Representative.

Initial Submissions.

Initial Submissions by Ms. Pana Panagiota (for the Appellant).

Opening Statements

Mr Kenneth Swain, Chairman of the Public Contracts Review Board, welcomed the parties present, namely the Appellant, Hach Lange Ltd., the Contracting Authority, Wasteserv, and the Preferred Bidder, E.J. Busuttil.

The hearing was conducted in English for the benefit of all interested parties.

Since Ms Pana Panagiota, representing Hach Lange Ltd., was not a lawyer, the Chairman explained the procedures of the Board.

Initial Submissions

Initial Submissions by Ms Pana Panagiota (for the Appellant)

Ms Panagiota stated that the main reason for their objection concerned the technical form, specifically that they did not tick the box in Item 1. The reason for the objection letter was that the initial document could not be checked, and Ms Panagiota did not wish to make any changes that could interfere with the document, as she wanted to preserve its integrity. She further explained that near the box there was a large "X", which was not required, and at that stage she could not provide any clarification. This was also cited as the main reason for the finding of non-compliance.

It was stated that the Technical Offer Form falls under the notes to Clause 5, which provide that no rectification shall be allowed, but only clarifications on the information submitted may be requested. Therefore, a clarification could have been requested for this item, as they were fully compliant with the regulations. This constituted Hach Lange Ltd.'s objection.

Initial Submissions by Dr Luca Zammit (for the Contracting Authority)

Dr Zammit stated that, in order to avoid repeating matters already mentioned in their letter of reply, he noted that no one was contesting the existence of a bug within the document. This was a technical bug, but it did not hinder the preferred bidder from submitting a correct version of the form and confirming its status as compliant, as opposed to the appellant.

With regard to this bug, the Contracting Authority provides an editable Word format of the document, which can easily be amended or modified, as the preferred bidder did. Alternatively, bidders could have inserted a comment within the document or informed the Contracting Authority of the existence of the bug. Neither of these actions was taken by the appellant, and consequently the Contracting Authority had no option but to proceed in the manner it did.

Dr Zammit stated that the Contracting Authority is not there to spoon-feed bidders or explain procedures step by step. It is the responsibility of each bidder to comply with the requirements.

Initial Submissions by Mr Paul Vella (for the Recommended Bidder)

Mr Vella stated that they completed the technical form using a converter easily accessible via Google. They obtained the PDF form correctly and amended and completed it accordingly.

He added that, had they encountered this problem, they would have raised a clarification prior to the closing date. From their end, the form was completed without difficulty.

The Chairman asked all parties whether they had any witnesses to be summoned. As there were none, he invited Ms Panagiota to proceed with her final submissions.

Final Submissions

Final Submissions by Ms Pana Panagiota

Ms Panagiota explained that, together with all the documents submitted with the tender, they also included a declaration indicating their intention to comply with all mandatory requirements, including regulatory obligations. They provided a declaration of acceptance of terms confirming that they were fully compliant, including compliance with CLP regulations, despite the item that could not be checked.

Final Submissions by Dr Luca Zammit

Dr Zammit added that the declaration was generic and did not specifically refer to Item 1 of the Technical Tender Offer. Apart from this, Dr Zammit relied on the submissions already made.

Conclusion of the Hearing

With no further arguments presented, Chairman Mr Kenneth Swain thanked the parties and formally concluded the session.

End of Minutes

Hereby resolves:

The Board refers to the minutes of the Board sitting of the 9th January 2026.

Having noted the objection filed by Hach Lange Limited (hereinafter referred to as the Appellant) on 8th December 2025, refers to the claims made by the same Appellant with regards to the tender of reference SPD8/2025/128 listed as case No. 2202 in the records of the Public Contracts Review Board.

Appearing for the Appellant: Ms Pana Panagiota

Appearing for the Contracting Authority: Dr Luca Zammit

Appearing for the Recommend Bidder: Mr Paul Vella

Whereby, the Appellant contends that:

- a) The Technical Offer Form provided by the Contracting Authority contained a technical malfunction specifically affecting Item 1 as the checkbox for Item 1 was disabled / non-interactive, it did not accept input and did not show a check mark.
- b) In addition to the checkbox for Item 1 being technically non-functional and not allowing us to select 'I confirm', we wish to point out that the 'Literature Details' cell on the right-hand column of item 1 was pre-filled with a large 'X'. As a result, the field did not allow any input, since under 'I confirm' for Item 1 the system indicated 'Literature is not required'. This configuration prevented any possibility of entering text, comments or additional confirmation in the relevant fields from our side.
- c) Therefore, the alleged "non-confirmation" was not due to any omission, negligence, or failure on our part, but was caused by a technical defect in the document supplied by the contracting authority, making it impossible to complete the field as required.
- d) As a result, the evaluation outcome does not reflect the true intention or compliance capability of our company, since we fully comply with the REACH and CLP regulations indicated in Item 1.

This Board also noted the Contracting Authority's Reasoned Letter of Reply filed on 15th December 2025 and its verbal submission during the hearing held on 9th January 2026, in that:

a) ***Clarification on the Tenderer's Technical Offer Form Format***

We would like to clarify that the Tenderer's Technical Offer (TTO) Form for this tender was provided in an editable Word format. This approach allows bidders full flexibility to complete or

adjust the document, including resolving minor formatting issues that may arise depending on software or system errors.

Furthermore, the TFO may be completed manually by hand, and handwritten confirmations—including checkboxes—are fully acceptable, provided they clearly reflect the bidder's compliance.

b) ***Responsibility for Ensuring a Complete and Compliant Submission***

We acknowledge the statement regarding a technical malfunction affecting the checkbox in Item 1. However, it remains the bidder's responsibility to ensure that their final submission is complete, accurate, and in line with the tender requirements. In cases where a checkbox or form field does not function, reasonable actions such as manually marking the confirmation, adding a clear annotation, or notifying the Contracting Authority during the dedicated clarification period are entirely acceptable and expected.

c) ***On the Nature of the Issue Raised***

We understand that the rejection of a bid due to what appears to be a minor confirmation field may seem disproportionate from the Appellant's perspective. However, from our standpoint it is equally surprising that such a small and easily manageable issue was allowed to remain unresolved in a formal tender submission, despite the flexibility provided in completing the form. Mandatory compliance items must be explicitly confirmed, and even small omissions can affect the validity of a bid.

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

- a) The Board has carefully examined the appellant's grievance concerning the alleged technical malfunction in the Technical Offer Form, specifically that the checkbox for Item 1 was non-functional and prevented confirmation of compliance with 'Reach' and 'Clp' regulations, while the "Literature Details" field was pre-filled with an "X" blocking input.
- b) The Contracting Authority clarified that the form was supplied in editable Word format, affording bidders full flexibility to complete it, including manual marking of checkboxes or annotations for any formatting issues. Handwritten confirmations were explicitly acceptable, provided they clearly indicated compliance.
- c) It emerged during oral submissions that the recommended bidder, E.J. Busuttill, successfully completed and submitted the Technical Offer Form without issue, demonstrating that the form was indeed functional and capable of proper completion by diligent tenderers.
- d) The Technical Offer Form constitutes a Note 3 document under the tender rules, which expressly states: *"Tenderers that fail to complete and upload the requested information will be deemed*

as non-compliant and will not be considered further for final adjudication." This unequivocal provision leaves no room for rectification or discretion by the Contracting Authority, such that a request for clarification from the contracting authority's side during the clarification period would not have remedied the non-compliance.

- e) Where any doubt or difficulty arose regarding the form's functionality, the appellant had ample opportunity to seek clarification during the dedicated clarification period, as contemplated by the tender rules. No such request was made, and the responsibility to submit a complete and compliant offer rests squarely with the bidder.
- f) The omission to confirm Item 1, even if attributable to a perceived technical issue, constitutes a failure to meet mandatory tender requirements. The Evaluation Committee was entitled, under the principle of self-limitation, to assess the offer strictly as submitted, without speculating on the appellant's intentions or capabilities.
- g) In these circumstances, the Board finds that the Contracting Authority's decision to deem the appellant's offer non-compliant was procedurally correct, proportionate, and in full conformity with the General Rules Governing Tenders and applicable procurement regulations.

The appeal is therefore not upheld.

The Board,

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

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

Mr Kenneth Swain
Chairman

Mr Keith Victor Grech
Member

Dr Maria Cardona
Member