

PUBLIC CONTRACTS REVIEW BOARD

Case 2211 – SPD3/2025/075 – Framework Contract for the Supply of Hardware Supplies & Items including Paints with a reduced environmental impact to the Public Schools & Educational Offices around Gozo – Lot 4

18th February 2026

The Board,

Having noted the letter of objection filed Dr Michael Caruana for and on behalf of Michael Caruana & Co Ltd, (hereinafter referred to as the appellant) filed on the 19th January 2026;

Having also noted the letter of reply filed by Dr Tatiane Scicluna Cassar acting for Ministry for Gozo (hereinafter referred to as the Contracting Authority) filed on the 27th January 2026;

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 13th February 2026 hereunder reproduced.

Minutes

Case 2211 Objection -- SPD3/2025/075 -- Framework Contract for the Supply of Hardware Supplies and Items, Including Paints with a Reduced Environmental Impact - Public Schools and Educational Offices Around Gozo (Lot 4 - Plumbing).

The tender was issued on the 11th of November 2025, and the closing date was the 2nd of December 2025.

The estimated value of the tender for Lot 4, excluding VAT, was €24,989.70.

On 19th January 2026, Michael Caruana & Co Ltd lodged an appeal against the Ministry for Gozo and Planning -- the Contracting Authority.

The Public Contracts Review Board (PCRB), composed of Mr. Kenneth Swain as Chairman, Dr. Damien Gatt and Mr. Lawrence Ancilleri as members, convened a public hearing to consider the appeal.

A deposit of €400 was paid.

There were four bids for Lot 4.

The recommended contract value, excluding VAT, was €11,886.05.

The attendance for this public hearing was as follows:

Appellant -- Michael Caruana & Co Ltd.

Dr. Michael Caruana -- Company Representative.

Ms. Carol Caruana -- Company Representative.

Contracting Authority -- Ministry for Gozo and Planning.

Dr. Tatiane Scicluna Cassar -- Legal Representative.

Ms. Marie Claudette Cefai -- Evaluator.

Mr. Ramon Caruana -- Evaluator.

Mr. James Tabone -- Evaluator.

Mr. Paul Mejlak -- Secretary.

Preferred Bidder -- F. Caruana Trading Limited.

Officially declined the invitation and did not attend. The preferred bidder communicated their confidence in the eventual decision of the Board.

Opening Statements.

Mr. Kenneth Swain, Chairman of the Public Contracts Review Board, welcomed the parties present and outlined the procedural format for the hearing. The Chairman explained that initial submissions would be heard first from the Appellant followed by the Contracting Authority, after which any evidence or witnesses would be presented if required. Final submissions would follow the same order, concluding with the Appellant first and then the Contracting Authority.

Initial Submissions.

Initial Submissions by Ms. Carol Caruana (for the Appellant).

Ms. Caruana explained that the appeal concerned Lot 4 for plumbing supplies. Michael Caruana & Co Ltd had submitted the cheapest bid and subsequently received a letter stating that the technical offer was non-compliant because it was not completely filled in, and that the technical offer form was non-rectifiable.

The Appellant filed an objection and presented correspondence clarifying that the only incomplete element was the technical offer form, which requested either brand or model number. The Appellant had opted to provide the brand names of the items being offered for the tender. Following submission of the objection, the Contracting Authority's response shifted focus from incompleteness to questioning whether certain entries constituted valid brands or models.

Specifically, the Contracting Authority challenged items sixteen, seventeen, eighteen, and nineteen. For items seventeen and eighteen, the Appellant had entered "YY cable accessories," which the Contracting Authority claimed did not represent a brand or model but rather a generic product description. The Contracting Authority characterised the term "YY cables" as a generic technical designation commonly used to describe a type or category of electrical cable by reference to construction, insulation, and characteristics.

Ms. Caruana contested this position, stating that YY Cables is in fact a company and brand name. She demonstrated that by searching online for "YY cable accessories," one would find the company's website displaying the exact items that the Appellant intended to supply. The company website clearly shows products such as YY cable clips and round cables, along with all the accessories that were to be provided under the tender.

Regarding items sixteen and nineteen, the Contracting Authority objected because the Appellant had entered "Italian origin." Ms. Caruana explained that this tender was essentially a copy-paste of an identical tender issued three years prior. The Appellant had filled out the previous tender under the predecessor company, Joseph Caruana Company Limited, using the same product descriptions including "Italian origin" and "Turkish origin" without specifying brand or model numbers. That submission was accepted, the contract was awarded, and materials were supplied throughout the three-year period. When the tender was reissued, the Appellant quoted the same products that had performed satisfactorily in the previous contract, maintaining the same country-of-origin designations that had been previously accepted.

Ms. Caruana expressed particular concern that the Contracting Authority decided that YY Cables does not exist as a company, while the tender documents themselves state that tenderers will be requested to clarify submitted information within five working days from notification. The Appellant has extensive experience with procurement processes since the online system began and has successfully completed tenders of all types across various categories. In previous cases, such as tenders for large manhole covers for water services, even when the Appellant ranked first, samples were requested from the top three bidders to verify that specifications and material quality met requirements before final award. The Contracting Authority could have requested samples or clarifications to verify whether the products met their requirements, but instead the Appellant was eliminated without being given this opportunity.

Ms. Caruana noted that the Contracting Authority itself had written that the primary objective of public procurement legislation is to ensure that the public receives supplies or services that meet required standards and specifications at the best possible value for money. The Appellant represented the best possible value for money yet was not even asked for further clarifications or samples to verify the items in question. The Contracting Authority stated that the objective is not simply to identify the lowest price, which the Appellant understands based on previous tenders where despite not being the lowest bidder, they were awarded contracts because their specifications were superior.

Initial Submissions by Dr. Tatiane Scicluna Cassar (for the Contracting Authority).

Dr. Scicluna Cassar began by emphasising that contrary to the Appellant's allegations, the technical offer clearly specified before bidders began filling in the brand and model information that this technical specification information is not subject to rectifications or clarifications. In this type of tender, clarifications absolutely could not be requested, nor could rectifications be made. The case concerns the fact that certain mandatory information was not completed in the form by the Appellant.

The Contracting Authority clarified that it was not objecting to the fact that bidders had the option to fill in either brand or model. The Appellant was not disqualified for failing to provide both brand and model. Rather, the disqualification was based on the fact that certain mandatory items were filled in with entries that constituted neither a brand nor a model. For example, in item eighteen, neither brand nor model was provided.

Regarding items sixteen and nineteen, which were filled in only with "Italian origin," Dr. Scicluna Cassar addressed the Appellant's argument that because the same entry was accepted in an identical tender three years ago, it should be accepted again. The Appellant's position constituted an admission that "Italian origin" was acceptable and should therefore be accepted by the Contracting Authority as valid. However, the Contracting Authority maintained that "Italian origin" constitutes neither a brand nor a model; it is simply a geographical place of manufacture of the product. The tender clearly and unequivocally specified brand or model. The fact that "Italian origin," "Turkish origin," and similar

geographic designations were mentioned three years ago and allegedly accepted does not make them acceptable as brands or models. This represents a separate admission by the Appellant that such entries are acceptable merely because they were used previously, which the Contracting Authority rejected. Italian origin indicates nothing except where the product comes from and obviously demonstrates that the submission was not technically compliant.

Regarding items seventeen and eighteen concerning "YY cables," Dr. Scicluna Cassar explained that the adjudicating board requires specific specifications and must know the brand or model in order to check and verify whether the products meet requirements. The board cannot rely simply on "YY cables" to conduct verification. When the adjudicating board investigated what "YY cables" represents, they found, as the Appellant themselves acknowledged, that if one searches for it, it appears as a company. However, this designation constitutes neither a brand nor a model. The board checked what these items were and found that "YY cable" is simply a type or category of electric cable. It is neither a brand nor a model. Since the tender specifically required brand and model, this entry could not be considered acceptable and therefore could not be considered compliant.

On the matter of price, Dr. Scicluna Cassar emphasised that being the cheapest bid cannot be taken in isolation. Price alone cannot be taken into account and used as justification for acceptance. As has been confirmed and stated numerous times in decisions and rulings that she quoted from the PCRБ itself, price is not the sole decisive factor and cannot be considered in isolation. Price can only be considered after the tender has been determined to be compliant both administratively and technically. In this case, since the tender was not technically compliant, the price could not be taken into consideration. The preferred bidder was awarded the contract because their bid was both reasonable and feasible within budget, and was technically and administratively compliant.

Evidence and Witnesses

The Chairman asked both the Appellant and the Contracting Authority whether they had any witnesses or evidence to present. Both parties confirmed they had no witnesses or additional evidence to submit.

Final Submissions.

Final Submissions by Dr. Michael Caruana (for the Appellant).

Dr. Caruana submitted that YY Cables is a company and a brand. If one searches immediately on the website for "YY cable accessories," the company can be found as an existing entity. This is not something invented by the Appellant or an attempt to submit something that does not exist. Anyone can access the company's website and find the items listed. The Appellant demonstrated that the items appear on the product packaging itself with the company branding. The position that YY cables or accessories do not exist or are insufficient is not acceptable to the Appellant.

Regarding the two items designated as "Italian origin," Dr. Caruana explained that the Appellant normally follows precedent from previous tenders. The tender from three years ago had exactly the same conditions with the same four items in the same format as the current tender. The previous tender and the current tender are essentially photocopy 'paste-and-copy' documents with no differences. However, this time the adjudicating board appears to have decided differently. The items being quoted are the same brands quoted three years ago, the same items submitted and supplied three years ago. The Appellant submitted and is supplying the same material today as previously, nothing has changed.

Dr. Caruana argued that the Appellant should not be disqualified for the simple reason that YY Cables was not recognised by the adjudicating board when it can be found on the website, and secondly regarding the other two items, the Appellant followed what was submitted three years ago. Out of an entire tender with numerous items, only two were designated "Italian origin" while all others included brand names. The tender documents themselves, at page five note to clause five regarding tender selection and award requirements, state: "tenderers will be requested to clarify the submitted information within five working days from notification." The request for clarification from the Contracting Authority is regular practice and consistent with the tender documents themselves.

Final Submissions by Dr. Tatiane Scicluna Cassar (for the Contracting Authority).

Dr. Scicluna Cassar clarified that neither the adjudicating board nor the Contracting Authority ever stated that YY Cables does not exist or could not be found. Rather, they stated simply that, as the Appellant themselves confirmed, it is a company, and therefore it does not constitute either a brand or a model. If one searches as the Contracting Authority did, YY cables is simply a category of electric cable by reference to its construction or insulation characteristics. Irrespective of whether the company exists or not, the fact remains that "Italian origin" is neither a brand nor a model.

The fact that the Appellant relies on having done the same thing three years ago provides no proof whatsoever of what was contained in the previous tender or whether the same adjudicating board was involved. The current adjudicating board, which must operate according to public procurement regulations, must proceed correctly as required. The board cannot simply rely on the argument that because something was done a certain way three years ago based on the Appellant's allegations, the same approach should be accepted now.

The fact that "Italian origin" does not constitute either a brand or a model obviously disqualifies the Appellant since the required information was not filled in as specified. The board cannot accept this submission simply because it was allegedly accepted three years ago, especially when other bidders were capable of submitting the required brand and model information as specified. The fact that this bid was the cheapest does not mean that another bidder should be disqualified simply because the Appellant's approach was accepted three years ago. The fact that this submission is not qualified as technically compliant, and the argument that because it is the cheapest the adjudicating board should simply accept it or accept it because the same approach was used three years ago, is absolutely unacceptable. In this case, the Contracting Authority proceeded as required, their decision was proper, and therefore the appeal cannot be accepted or approved.

Conclusion of the Hearing.

The Chairman thanked the parties for their submissions and informed them that they would receive the Board's decision shortly.

End of Minutes

Hereby resolves:

The Board refers to the minutes of the Board sitting of the 13th February 2026.

Having noted the objection filed by Michael Caruana & Co Ltd (hereinafter referred to as the Appellant) on 19th January 2026, refers to the claims made by the same Appellant with regard to the tender of reference SPD3/2025/075 – Lot 4 listed as case No. 2211 in the records of the Public Contracts Review Board.

Appearing for the Appellant: Dr Michael Caruana & Ms Carol Caruana

Appearing for the Contracting Authority: Dr Tatiane Scicluna Cassar

Whereby, the Appellant contends that:

- a) The offer submitted by Michael Caruana & Co Ltd was the cheapest offer submitted under this LOT; however, the LOT was not awarded to said company on the basis that *"The Technical Offer was not completely filled in. The Technical Offer form is non-rectifiable."*
- b) It is being submitted that the Technical Offer sheet was filled in as instructed on the submission form itself, by the undersigned, and in the same manner that it had previously filled in similar forms for similar offers on other occasions. The only field which was not filled in was the field entitled Model, and this because the instructions on the Technical Offer sheet clearly indicated that one was to fill in, *"The **Brand / Model** Number of the items being offered"* (emphasis added), thereby showing that it is either the brand or the Model number that had to be indicated in the offer. This is further corroborated by the fact that the first line in the Technical Offer clearly states. *"Where in this tender document a standard, brand **or** label is quoted, it is to be understood that the Contracting Authority will accept equivalent standards, brands **or** labels"* (emphasis added). Nowhere is there a reference to a specific model number to be indicated, as long as the brand field is filled in.
- c) The offer submitted by the undersigned indicated the Brand for all materials that Michael Caruana & Co Lid intended to supply in accordance with the contract, meaning that the proposal was, in fact, technically compliant according to the instructions and specifications indicated in the Technical Offer sheet itself. Consequently, the undersigned humbly submits that the offer submitted by Michael Caruana & Co Ltd, which was clearly the cheapest offer submitted, should have been awarded the contract, having submitted an application which was clearly in line with the instructions indicated.

This Board also noted the Contracting Authority's Reasoned Letter of Reply filed on 27th January 2026 and its verbal submission during the hearing held on 13th February 2026, in that:

- a) First and foremost, the appellant was found to be technically non-compliant and was therefore not awarded the contract, as the technical questionnaire was not completed in accordance with the tender requirements and specifications. The specific shortcomings are outlined and explained below. The Technical Offer document clearly stipulates that tenderers who fail to complete and upload all requested information shall be deemed non-compliant and shall not be considered further for final adjudication. Furthermore, it is expressly stated that the information and technical specifications provided in the technical questionnaire are not subject to rectification.
- b) This approach is fully aligned with established PCRB jurisprudence, inter alia CRB Appeal No. 2174/2023 (Cassar Ship Repair Lid vs Department of Contracts) and PCRB Appeal No. 1248/2020 (V. & G. Enterprises Lid vs Enemalta plc), which consistently confirm that mandatory technical requirements must be complied with at the time of submission and cannot be remedied ex post facto without breaching the principles of equal treatment and transparency, particularly where the tender documents expressly prohibit rectification.
- c) With respect to the Appellant's grievance that it was sufficient to indicate either the brand or the model, the Contracting Authority clarifies that its decision was not based on the Appellant's failure to list both a brand and a model in every section.
- d) Rather, the non-compliance arises from the fact that in several mandatory sections, no brand or model was provided at all. In certain instances, specifically items 16 and 19, the information submitted refers to a brand or model that does not exist, thereby rendering the submission technically invalid for those items. In these instances, the Appellant merely stated "Italian origin," which does not constitute a brand or a model but merely indicates the country of manufacture. Such information does not satisfy the technical specification requirements laid down in the tender documentation.
- e) The PCRB has repeatedly held, inter alia in PCRB Appeal No. 1673/2021 (Hydrotech Ltd vs Infrastructure Malta), that where tender documents require the submission of specific technical identifiers or documentation, a failure to submit the requested information, or the submission of vague or generic data, must lead to disqualification, as the Evaluation Committee cannot speculate or infer compliance on behalf of a tenderer.
- f) For the avoidance of doubt, the indication "Italian origin" merely denotes the geographical place of manufacture of a product. It does not identify a specific manufacturer, brand name, product line, or model, nor does it allow the Evaluation Committee to objectively verify compliance with the technical specifications. As such, an indication of origin cannot be equated to, nor substituted for, the mandatory requirement to indicate a brand or model as expressly required by the tender documentation.

- g) Additionally, references such as "YY cables", as provided in items 17 and 18, do not represent brands or models. These are generic product descriptions and do not exist as registered brands or identifiable models. Consequently, they cannot be considered compliant with the tender's technical requirements.
- h) In other words, the term "YY cables" is a generic technical designation commonly used to describe a type or category of electrical cable by reference to its construction or insulation characteristics. It does not identify a specific manufacturer, brand name, or model, nor does it provide any unique technical identifier that would allow the Evaluation Committee to verify compliance with the detailed specifications laid down in the tender documentation. As such, a generic reference to "Y Y cables" cannot satisfy a mandatory requirement to indicate a brand or model.
- i) In this regard, the CRB has confirmed that generic descriptions which do not allow the Evaluation Committee to objectively verify compliance with the technical specifications cannot be accepted, as this would undermine the objectivity and transparency of the evaluation process.
- j) In view of the above, the Appellant's technical offer failed to meet the mandatory requirements of the tender documentation and was, therefore, correctly deemed technically non-compliant in accordance with the stated evaluation criteria. The Technical Evaluation Committee could not accept "YY Cables" and Italian Origin" as a brand or model, thereby rendering the submission technically non-compliant.
- k) This position is further reinforced by PCRB jurisprudence confirming that the submission of incorrect, indeterminate, or non-verifiable technical information constitutes a substantive defect and cannot be treated as a minor or clerical error. The Contracting Authority further clarifies and asserts that the preferred bidder fully met all the specifications outlined in the quotation document. With respect to the Appellant's assertion that its offer was the cheapest, it is stated that the preferred bidder's offer was deemed financially viable by the Technical Evaluation Committee. All requirements were met, and the principles governing public procurement were strictly adhered to.
- l) The PCRB has consistently reaffirmed that the lowest price is not decisive in isolation and that an offer can only be considered once it is fully compliant from an administrative and technical standpoint.
- m) Although not the lowest-priced offer, the preferred bidder's figures were considered reasonable, feasible, within budget, and fully compliant with the applicable Procurement Regulations.
- n) It must be emphasized that the role of the Technical Evaluation Committee is not solely to identify the lowest price, but to seek the most economically advantageous offer, provided that all administrative, technical, and financial criteria are fully satisfied.
- o) This principle has been expressly endorsed by the CRB, which has repeatedly held that an Evaluation Committee would be acting unlawfully were it to prioritise price over compliance with mandatory tender requirements. Furthermore, the primary objective of public procurement

legislation is to ensure that the public receives supplies or services that meet the required standards and specifications at the best possible value for money.

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. Based on the objection filed Dr Michael Caruana for and on behalf of Michael Caruana & Co Ltd, (hereinafter referred to as the appellant) filed on the 19th January 2026, the Board will consider the grievances as follows:

- Grievance 1: The Appellant's offer was the cheapest and should have been awarded; the elimination on grounds that "The Technical Offer was not completely filled in. The Technical Offer form is non-rectifiable" is unjustified.
- Grievance 2: The Technical Offer was filled in as instructed, indicating "Brand / Model Number" (emphasis added by Appellant), demonstrating that either brand or model was required, not both; previous similar tenders were completed in the same manner and accepted
- Grievance 3: The offer indicated the Brand for all materials and was technically compliant according to the instructions in the Technical Offer sheet

Grievance 1: The Appellant's offer was the cheapest and should have been awarded; the elimination on grounds that "The Technical Offer was not completely filled in. The Technical Offer form is non-rectifiable" is unjustified

- The Board notes that whilst the Appellant submitted the lowest-priced offer, price alone cannot be the determining factor for contract award in public procurement.
- The Board has consistently held that the lowest price is not decisive in isolation and that an offer can only be considered once it is fully compliant from both an administrative and technical standpoint.
- The Board concurs with the rationale for rejection provided by the Contracting Authority in its letter dated 9th January 2026: "*The Technical Offer was not completely filled in. The Technical Offer form is non-rectifiable,*" as further detailed below.
- Where mandatory technical specifications are not met, the Evaluation Committee acts in accordance with public procurement principles by eliminating such offers, irrespective of price competitiveness.

Therefore, the Board does not uphold the Appellant's grievance on this point.

Grievance 2: The Technical Offer was filled in as instructed, indicating "Brand / Model Number" (emphasis added by Appellant), demonstrating that either brand or model was required, not both; previous similar tenders were completed in the same manner and accepted

and

Grievance 3: The offer indicated the Brand for all materials and was technically compliant according to the instructions in the Technical Offer sheet

- The Appellant contends that the tender documentation's use of "*Brand / Model Number*" indicated that either brand or model was sufficient.
- The Appellant also maintains that its technical offer indicated brands for all materials and was therefore compliant.
- The Board notes that the Technical Offer form explicitly states: "*Bidders are to state the brand and the model of the supplies being offered*" (emphasis added).
- The use of the conjunctive "*and*" establishes an unequivocal requirement for both brand and model to be provided.
- The Appellant did not provide both the brand and model numbers in the technical offer form. The Technical Offer was therefore not completely filled in and was consequently not technically compliant.
- Moreover, the Contracting Authority's objection was based on the fact that in items 16 and 19, the Appellant entered only "*Italian origin*", which constitutes neither a brand name nor a model number but merely indicates geographical place of manufacture.
- The technical offer form falls under Note 3¹ which explicitly prohibits rectification. While clarifications on submitted information may be requested, this provision applies to clarifying information that has been submitted, not to rectifying missing² or non-compliant submissions³.
- With respect to the Appellant's reliance on previous tender practices, the Board notes that each tender must be evaluated independently according to its own terms and the applicable procurement

¹ Note 3 states that "*No rectification shall be allowed. Only clarifications on the submitted information may be requested. Tenderers will be requested to clarify the submitted information within five (5) working days from notification.*"

² The Board notes that this decision is consistent with PCRB Case 2160 – CFT021-3588/24 – (CPSU 5792/24) – Tender for the Supply of University of Wisconsin Solution in which clarifications can only be made on submitted not missing information as per Note 3. The decision is in line with the requirements of Procurement Policy Note #40.

³ The Board notes that this decision is consistent with established jurisprudence, most notably PCRB Appeal No. 2174/2023 (Cassar Ship Repair Ltd vs Department of Contracts), which confirmed that mandatory technical requirements must be complied with at the time of submission and cannot be remedied ex post facto where tender documents expressly prohibit rectification.

regulations. Past acceptance of similar submissions does not create legitimate expectation or binding precedent, particularly where submissions fail to meet explicit mandatory requirements.

- Given that the Appellant's technical offer failed to meet the mandatory requirements on multiple grounds as established above, the Board does not find it necessary to enter into the merits of the YY cables accessories designation in items 17 and 18 of the technical offer form.

Therefore, the Board does not uphold the Appellant's grievance on these points.

The Board,

Having evaluated all the above and based on the above considerations, concludes and decides in relation to Lot 4:

- 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

Dr Damien Gatt
Member

Mr Lawrence Ancilleri
Member