

# **PUBLIC CONTRACTS REVIEW BOARD**

**Case 2220 – SPD5/2025/012 – Services – Tender for the Development of a Centralised Maltese Speech-to-Text Transcription Engine to Support Various Use Cases with Applications Across Multiple Industries together with relevant maintenance and support**

**03<sup>rd</sup> March 2026**

The Board,

Having noted the letter of objection filed by Mr Stefan Farrugia on behalf of Eunoia Limited, (hereinafter referred to as the appellant) filed on the 11<sup>th</sup> December 2025;

Having also noted the letter of reply filed by the Evaluation Committee acting for and on behalf of Ministry for Justice and Reform of the Construction Sector (hereinafter referred to as the Contracting Authority) filed on the 19<sup>th</sup> 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 24<sup>th</sup> February 2026 hereunder-reproduced.

## **Minutes**

**Case 2220 Objection – SPD5/2025/012 – Services – Tender for the Development of a Centralized Maltese Speech-to-text Transcription Engine to support various use cases with applications across multiple industries together with relevant maintenance and support.**

The tender was issued on the 18<sup>th</sup> of July 2025, and the closing date was 17<sup>th</sup> September 2025.

The estimated value of the tender, excluding VAT, was €147,750

On 11<sup>th</sup> of December 2025, Eunoia Limited lodged an appeal against Ministry for Justice and Reform of the Construction Sector – the Contracting Authority, in accordance with Regulation 270 of the Public Procurement Regulations.

On the 24<sup>th</sup> of February 2026, the Public Contracts Review Board (PCRB), composed of Mr Kenneth Swain as Chairman, Mr Keith Victor Grech and Mr Lawrence Ancilleri as members, convened a public hearing to consider the appeal.

A deposit of €739 was paid.

There were Three bids.

The attendance for this public hearing was as follows:

**Appellant – Eunoia Limited**

Dr Karen Coppini – Legal Representative

Mr Stefan Farrugia – Company Representative

Mr Nicholas Farrugia – Company Representative.

### **Contracting Authority – Ministry for Justice and Reform of the Construction Sector**

Dr Carlos Bugeja – Legal Representative

Mr Emanuel Grech – CA Representative/ Tender Drafter

Mr Steve Vella -- Director Corporate Services

Ms Lorraine Farrugia Mamo – Chairperson

Ms Charlene Cassar – Secretary

Ms Amanda Cilia Attard – Evaluator/Tender Drafter

Ms Kristina Fenech – Evaluator

Ms Marzia Farrugia – Evaluator

Mr Dalziel Bugeja -- Assisted in Tender Drafting

### **Preferred Bidder – Not Applicable**

### **Opening Statements**

The Chairman welcomed the parties present and stated that Mr Keith Victor Grech would be following the proceedings online. He formally opened Case Number 2220 in the records of the PCRB. The Chairman identified the Appellant as Eunoia Limited and the Contracting Authority as the Ministry for Justice and Reform of the Construction Sector.

The Chairman invited the legal representative for the Appellant to make the initial submissions.

### **Initial Submissions**

#### **Initial Submissions by Dr Karen Coppini (for the Appellant)**

Dr Coppini noted that their tender was rejected on the basis that it was deemed technically non-compliant. They had submitted an unofficial academic record dated 9 October 2024, while the Master of Education programme had been completed by 15 September 2024, but no official certificate had been presented. She wished to address the principle of proportionality. In response to the request for rectification, Eunoia submitted the unofficial academic record.

Key Expert 5, Ms Nicole Vella Critien, was awarded a certificate on 14 November 2025. However, on 10 December 2025, the Evaluation Committee did not request any clarification regarding this qualification but instead rejected the tender. This, she argued, ran contrary to the proper procurement procedure.

Eunoia considered that a request for clarification should have been made on 10 December rather than rejecting the tender. She referred to the CJEU Slovensko and Manova judgments, which stress the

importance of proportionality. This was a Note 2 requirement, where the Appellant could have clarified its position without altering the substance or format of the tender or the client's offer.

Proportionality, she argued, should prevail over disqualification. The qualitative tender should have been considered. This was not a material inconsistency or a missing tender requirement, but merely a point requiring clarification. Eunoia was not seeking to renegotiate and its right to a fair hearing had been breached.

Article 18.3(a) of the Governing Rules shows that the tender would not have been unsuccessful had clarification been requested.

The financial aspect was never mentioned, and Eunoia was the only bidder. The official certificate was available in November 2025, while the decision was published on 10 December 2025. Dr Coppini insisted that the Appellant had not been given a fair hearing.

### **Initial Submissions by Dr Carlos Bugeja (for the Contracting Authority)**

Dr Bugeja stated that there had been no cancellation of the bid, but rather a declaration of non-compliance. He added that there were other bidders who had also been declared non-compliant for the same reason.

The tender concerned a speech-to-text system to be used in Court, and the requirement was for a person holding a master's degree in Maltese.

Ms Nicole Vella Critien was still undertaking the course and did not yet possess the required degree. Eunoia submitted an unofficial academic record, which could be printed from the University's website, dated 2024, showing completion of 60 out of the required 90 ECTS. This record was submitted following a request for rectification, as only CVs had been submitted with the original tender.

The academic record showed that additional year was required before the degree would be awarded. The Contracting Authority requested a degree in Maltese Language, the completion of which occurred after the tender submission stage.

The appeal before the PCRB could not be used to gain time in order to present documentation that was not available at the submission stage.

The Chairman, Mr Swain, stated that since neither party had called witnesses, the proceedings could move directly to the final submissions.

### **Final Submissions**

#### **Final Submissions by Dr Karen Coppini (for the Appellant)**

Dr Coppini stated that the tender was published on 17 July 2025, with a submission deadline of 17 September 2025. At that time, Eunoia held the unofficial academic record dated 9 October 2024, confirming an expected completion date of 15 September 2025.

An additional clarification could have been requested in order to verify whether the academic record had become official by that time.

The requirement was for an MQF Level 6 qualification, whereas Ms Vella Critien obtained an MQF Level 7 qualification. The decision of the Contracting Authority was taken on 10 December 2025, by which time she had already obtained the certificate.

#### **Final Submissions by Dr Carlos Bugeja (for the Contracting Authority)**

Dr Bugeja stated that the expected completion date of the course was 15 September 2025, while the submission deadline was 17 September 2025. However, there was no letter confirming that Ms Vella Critien had passed her examinations and was awaiting the University's graduation ceremony.

The Contracting Authority is now aware of this information, but no request for an extension had been submitted. During the rectification stage, a certificate was requested. At that stage, the bidder knew that documentation was missing.

If Ms Vella Critien had possessed any record confirming that she had passed her examinations, an updated document could have been submitted by printing it from the University's system.

The Contracting Authority would have considered the qualification if evidence had been provided showing completion of the full 90 ECTS, even without the formal certificate. Until December 2025, the Contracting Authority did not know whether she had passed the examinations.

It is a fact that at the submission stage the person concerned did not possess the required degree.

#### **Conclusion of the Hearing**

With no further arguments presented, the 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 24<sup>th</sup> February 2026.

Having noted the objection filed by Eunoia Limited (hereinafter referred to as the Appellant) on 11<sup>th</sup> December 2025, refers to the claims made by the same Appellant with regards to the tender of reference SPD5/2025/012 listed as case No. 2220 in the records of the Public Contracts Review Board.

Appearing for the Appellant: Dr Karen Coppini

Appearing for the Contracting Authority: Dr Carlos Bugeja

Whereby, the Appellant contends that:

a) ***The requested qualification certificate for Key Expert 5 is now fully available***

The regret letter states that the only missing compliance element concerned Ms. Nicole Vella Critien (Key Expert 5: Maltese Language Expert), whose provided document consisted of an Unofficial Academic Record confirming an expected completion date of 15 September 2025. The Evaluation Committee therefore determined that her qualification could not be verified. We wish to formally notify the Board that the official certificate attesting to Ms. Vella Critien's completion and award of the Master of Education in Maltese has now been issued and is fully available. Eunoia is ready to submit the original certificate immediately upon request by the Board or the Contracting Authority.

b) ***Eunoia complied with the rectification request within the stipulated timeframe***

We submitted all documentation requested in the rectification, including certificates for all Key Experts. The only item considered deficient was the issuance status of one certificate, which we can now fully rectify without affecting the integrity, fairness, or competitiveness of the process.

c) ***The cancellation of the tender on the basis of Article 18.3(a) is not warranted in this context***

The tender was cancelled on the basis that "*no qualitatively worthwhile tender has been received*" pursuant to Article 18.3(a). However, Eunoia's bid substantially met all technical criteria, and with the now-issued certificate, all key experts fully satisfy the qualification requirements. It is therefore our position that the process should not be considered unsuccessful, nor should our tender be excluded on the basis of an administrative timing issue that is now fully resolved.

This Board also noted the Contracting Authority's Reasoned Letter of Reply filed on 19<sup>th</sup> December 2025 and its verbal submission during the hearing held on 24<sup>th</sup> February 2026, in that:

a) Reference is made to the Formal Objection filed by Eunoia (Tender ID 000232719) on 11<sup>th</sup> December 2025 in relation to the decision communicated by the Sectoral Procurement Directorate regarding Tender SPD5/2025/012.

b) Section I - Article 5 (C) (i) iv requires bidders to submit the Qualification Certificates and CVs for all Key Experts. The bidder submitted the CVs but did not provide the Qualification Certificates. In this regard, on 31<sup>st</sup> October 2025, the Tender Evaluation Committee (hereinafter, the Committee) sent a rectification letter to Eunoia granting the bidder the opportunity to remedy its submission by providing the Qualification Certificates/Warrants for all Key Experts listed in the Key Expert/s Form, namely: Mr Keith Cutajar, Mr Alan Falzon, Mr Isaac Zammit, Mr Roman Voytovich and Ms Nicole Vella Critien. This request was made in accordance with the requirements outlined in Section 1 —Article 5 (C) (i) iv of the published tender document, as such documentation was not located by the Committee during the initial verification process. The bidder submitted its response to the rectification request within the stipulated deadline.

- c) Upon evaluating the documentation submitted in response to the rectification request, the Committee noted that the bidder had provided the necessary certificates for all the identified Key Experts, with the exception of Ms. Nicole Vella Critien. In her case, the documentation submitted consisted of an Unofficial Academic Record dated 9th October 2024, indicating that the Master of Education in Maltese programme was expected to conclude on 15th September 2025. In view of the nature of the documentation submitted, the Committee was unable to ascertain whether this Key Expert had, in fact, obtained the required qualification at the time of submission, and did not have the ability to request further clarification.
- d) In its formal objection, Eunoia now asserts that the official certificate attesting to Ms. Vella Critien's completion and award of the Master of Education in Maltese has since been issued and is currently available. Nonetheless, this certificate was not provided at submission stage or during the rectification period. The only document submitted at the time was the 2024 unofficial academic record, which confirmed progress in the Master's programme, namely the completion of 60 out of the required 90 ECTS.
- e) In light of the foregoing, it is noted that while Eunoia is prepared to submit the official certificate immediately upon request, such documentation was not submitted during the stages prescribed by the tender conditions. The Committee's assessment was therefore correct, consistent with the tender requirements, and thoroughly based on the evidence available within the legally permitted timeframe.

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 examined the Appellant's grievance that its bid ought not to have been rejected on the basis of non-compliance with the qualification requirements relating to the Key Experts, in particular Key Expert 5 (Ms. Nicole Vella Critien, Maltese Language Expert), since the missing documentation was later supplied and the experts now fully satisfy the criteria. The Board notes, however, that the tender clearly required that all mandatory qualification documentation for Key Experts be submitted at bidding stage and that bids had to be compliant *ab initio* in order to be considered for further evaluation.
- b) In this regard, the Board refers to regulation 62(1) of the Public Procurement Regulations (S.L. 601.03), which provides that: "Without prejudice to Part VI and regulation 235(2), the authority responsible for the tendering process must ensure that an economic operator must *ab initio* be eligible to qualify for a tender and must consequently be in possession of all the requirements stipulated in the procurement documents by the closing date for the submission of the same." This provision codifies the principle that eligibility and possession of all required documentation must exist at the closing date, not be perfected afterwards.

- c) From the Contracting Authority's reply and the documentation on record, it results that the Evaluation Committee identified the specific gap in Eunoia's submission – namely, the absence of the official certificate attesting to Ms. Vella Critien's completion and award of the Master of Education in Maltese – and, in line with the applicable public procurement rules, afforded the Appellant an opportunity to rectify by submitting the missing qualification certificate within a set timeframe of five (5) working days. Notwithstanding this rectification window, the Appellant failed to provide the required certificate within the permitted period, instead submitting an Unofficial Academic Record that did not verify completion of the qualification and stating that the formal certificate was expected to be completed by 15 September 2025.
- d) During the hearing held before this Board, the Appellant's representative submitted that a further clarification request could have been issued by the Contracting Authority, given that Eunoia had confirmed the expected date of completion of the course and eventual issuance of the certificate. The Board does not accept this argument. The purpose of a rectification or clarification request is to afford an economic operator the opportunity to remedy a specific deficiency by producing documentation that was required at bidding stage but was omitted or incomplete. It is not, however, a vehicle for iterative exchanges whereby an operator may be given multiple chances to regularise the same non-compliance. In the present case, the Evaluation Committee clearly identified the missing certificate, afforded the Appellant a fair and adequate timeframe to produce it, and received in response a document that fell short of the requirement together with a projection that the certificate would only be issued at a future date. A second rectification request on the same item would have gone beyond the Committee's powers under the public procurement framework and would have granted the Appellant a preferential treatment not available to other participants.
- e) In light of regulation 62(1), the Board considers that, since the requirement and accompanying certificate were expressly required at bidding stage, the Evaluation Committee could not, without breaching the principle of equal treatment, accept a late completion of the file once the rectification phase had closed or extend the rectification process indefinitely. The Appellant was required to be in possession of all required qualifications by the closing date for the submission of tenders; the fact that a Key Expert's certificate was still pending issuance at the time of bidding and during the rectification period demonstrates that this condition was not met. Other economic operators structured and submitted their offers in full conformity with the tender timetable and rectification rules; allowing Eunoia to regularise a key eligibility element after the fact, or to benefit from repeated clarifications on the same deficiency, would in practice amount to granting it a second (or third) opportunity that was not available to its competitors.

- f) The Board is satisfied that the Contracting Authority acted proportionately and within the parameters of the public procurement regulations. The Committee correctly distinguished between rectifiable irregularities and substantive requirements that must be satisfied within the time-limits laid down by the tender, and it provided the Appellant with a fair chance to correct the non-compliant aspect of its bid. Once the Appellant failed to avail itself of that opportunity in time, the Contracting Authority was entitled – indeed obliged – to consider the offer non-compliant and exclude it from further consideration.
- g) The Appellant further submitted during the hearing that it has been deprived of a fair hearing and placed at a commercial disadvantage by the cancellation of the tender, particularly given that it was allegedly the only bidder and that its pricing is now in the public domain. The Board does not accept this line of argument for several reasons. First, the record shows that this tender procedure attracted three (3) economic operators, including the Appellant, and not one. Second, the recommendation to cancel the tender arose only after the Evaluation Committee determined that all three participating operators were non-compliant with the tender requirements for various reasons; in such circumstances, cancellation was not only a viable option but the only lawful course of action open to the Contracting Authority under Article 18.3(a) of the general rules governing tenders, which permits cancellation where no qualitatively or financially worthwhile tender has been received. Third, the rejection letter issued by the Contracting Authority on 1 December 2025 explained in clear and specific terms why Eunoia's bid was deemed non-compliant and set out the legal basis for the cancellation decision; the Appellant was therefore afforded full transparency as to the reasons for both the rejection and the cancellation, and cannot validly claim that it was denied procedural fairness.
- h) Upholding the appeal in these circumstances would not only undermine the requirement of *ab initio* compliance, as expressly set out in regulation 62(1), but would also run counter to the principle of equal treatment of economic operators who participated in this procedure on the basis of the same rules and deadlines. For these reasons, the Board finds that the grievance raised by Eunoia Limited is unfounded and upholds the decision of the Contracting Authority in its entirety, including the decision to cancel the tender procedure in light of the non-compliance of all participating bids.

**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 for the cancellation of the tender,
- c) Directs that the deposit paid by Appellant to **not be reimbursed**.

**Mr Kenneth Swain**  
Chairman

**Mr Keith Victor Grech**  
Member

**Mr Lawrence Ancilleri**  
Member