

COSYRA LEGAL

The Brokerage, Level 4, Santa Martha Street, Victoria VCT 2550 Gozo, Malta.

19th May 2026

The Chairman
Public Contracts Review Board
Notre Dame Ditch
Floriana
Malta



Objection - NLC/04/2025 - Tender for the Cleaning and Clearing of Non-Urban Roads and Sites in Naxxar using Environmentally Friendly Products and Practices

Dear Chairman,

I write on behalf of the Naxxar Local Council in reply to the objection filed by AgriBrands Ltd in respect of the above-captioned tender.

At the outset, the Contracting Authority maintains that the evaluation process was carried out in good faith and in accordance with the tender dossier and the information available to the Evaluation Committee at the relevant stage of the procedure.

The objection filed by AgriBrands Ltd is principally based on the allegation that the recommended bidder, Green Ivy Cleaning Services, did not possess a valid employment licence issued in terms of the Employment Agencies Regulations, S.L. 452.130, and/or that it failed to submit the relative self-declaration required under Section 5(A) of the tender document.

In this regard, the Contracting Authority respectfully submits that the tender dossier draws a distinction between the licence itself and the self-declaration to be submitted at tendering stage. While the tender document requires the economic operator to submit a self-declaration confirming that, should it be recommended for award, it shall be in possession of a valid or conditional licence prior to contract signing, the actual copy of the licence is expressly required to accompany the signed and dated contract agreement. The tender document further provides that the Contracting Authority shall not endorse the contract agreement if such licence is not submitted.

Accordingly, the mere fact that the recommended bidder may not have held or submitted the said licence at tender-submission stage does not, in itself, necessarily render the offer technically or administratively non-compliant, provided that the tenderer had complied with the self-declaration requirement and subsequently submits the required licence within the applicable timeframe prior to contract endorsement.

Without prejudice to the foregoing, the Contracting Authority has noted the objection raised with respect to the self-declaration itself. In this respect, and in the spirit of transparency, procedural fairness and equal treatment between economic operators, the Contracting Authority does not oppose that the matter be remitted for the limited purpose of verifying whether the required self-declaration was duly submitted and, where applicable, whether the tender dossier permits clarification or rectification in accordance with the notes to Clause 5 of the tender document.

The Contracting Authority however respectfully objects to the objector's request that the tender be awarded directly to AgriBrands Ltd. and any such conclusion would be premature. Should the Board consider that any aspect of the evaluation requires further verification, the appropriate remedy would be to remit the matter back to the Evaluation Committee for reconsideration in accordance with the tender conditions and the applicable procurement rules,



rather than to substitute the evaluation process or automatically award the tender to the objector.

For these reasons, the Contracting Authority respectfully requests this Honourable Board to:

1. reject the objection insofar as it is premised on the assertion that the recommended bidder was required to possess and submit the employment licence itself at tender-submission stage;
2. alternatively, and without prejudice, remit the matter to the Evaluation Committee solely for the purpose of verifying the administrative compliance of the recommended bidder's submission in relation to the self-declaration and any applicable clarification or rectification mechanism;
3. reject the objector's request that the tender be awarded directly to AgriBrands Ltd; and
4. give such further directions as this Honourable Board may deem appropriate in the circumstances.

The Contracting Authority reserves the right to make further submissions and to produce such documentation as may be required during the hearing of the objection.

Yours faithfully,



Dr. Larry Formosa

