

PUBLIC CONTRACTS REVIEW BOARD

Case 2242 – MIV/05/2025/CFQ – Call for Quotations for the Provision of Social Media Management, Content Creation and Media Management

18th May 2026

The Board,

Having noted the letter of objection filed by Mr Nathan Abela on behalf of Revo, (hereinafter referred to as the appellant) filed on the 17th April 2026;

Having also noted the letter of reply filed by Dr Leon Chetcuti acting for and on behalf of Ministry for Inclusion and the Voluntary Sector (hereinafter referred to as the Contracting Authority) filed on the 27th April 2026;

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 12th May 2026 hereunder-reproduced.

Minutes

Case 2242 – 667 -- Objection – MIV/05/2025/CFQ – Call for Quotations for the Provision of Social Media Management Content Creation and Media Management.

The Tender was issued on the 22nd of December 2025, and the closing date was 6th of January 2026.

The estimated value of the tender, excluding VAT, was €9,600

On 17th of April 2026, Revo Studio Ltd, lodged an appeal against The Ministry for Inclusion and Voluntary Sector– the Contracting Authority, in accordance with Regulation 270 of the Public Procurement Regulations.

On the 12th of May 2026, the Public Contracts Review Board (PCRB), composed of Mr Kenneth Swain as Chairman, Dr Ing. Damien Gatt and Mr Lawrence Ancilleri as members, convened a public hearing to consider the appeal.

A deposit of €850 was paid.

There were Ten bids.

The attendance for this public hearing was as follows:

Appellant – Revo Studio Ltd.

Dr Robert Spiteri – Legal Representative

Mr Nathan Abela – Company Representative

Contracting Authority – The Ministry for Inclusion and Voluntary Sector.

Dr Leon Chetcuti – Legal Representative

Mr Daniel Cauchi – Chairperson

Ms Sandra Hili – Evaluator

Mr Joseph Bartolo – Evaluator

Dr Maria Vassallo – Secretary

Recommended Bidder – Dconsultancy

Formally declined invitation

Opening Statements

The Chairman welcomed the parties present and formally opened Case Number 2242 in the records of the PCRB. The Chairman identified the Appellant as Revo Studio Ltd., the Contracting Authority as The Ministry for Inclusion and Voluntary Sector.

The Chairman, Mr Kenneth Swain, informed both parties that the recommended Bidder was invited for the hearing, but declined the invitation, he also informed the parties that Dr Ing. Damien Gatt, a member of the PCRB, was participating online. Dr Robert Spiteri for Revo Studio Ltd. and Dr Leon Chetcuti for The Ministry for Inclusion and Voluntary Sector, the Contracting Authority both raised no objection.

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

Initial Submissions

Initial Submissions by Dr Robert Spiteri (for the appellant)

Dr Robert Spiteri noted that the submission by Revo Studio Ltd. was rejected as technically non-compliant. The question was whether the qualifications satisfied the criteria. It is not clear whether this particular section refers to Note 2 or Note 3.

In both instances, Mr Nathan Abela of Revo Studio Ltd. should have been notified and asked for clarification if there were any doubts. Furthermore, note 2 could have been rectified. This did not happen. The bid submitted by Revo Studio Ltd. was the cheapest bid, and the documents submitted complied with the requests. An MQF Level 5 certification was provided as requested. The Committee gave its decision without any communication with the appellant.

Initial Submissions by Dr Leon Chetcuti (for the Contracting Authority)

Dr Chetcuti noted that the appellant was no longer considered once the Committee determined that he was non-compliant. The Evaluation Board could not conclude that the appellant possessed the qualifications required under the CFQ. There was a lack of documents submitted by the appellant. If he had additional evidence, he should have submitted it to the Evaluation Committee.

Since both parties had no witnesses to present, the hearing proceeded to the Final Submissions.

Final Submissions

Final Submissions by Dr Robert Spiteri (for the appellant)

Dr Spiteri insisted that they had no new evidence, as all documentation had already been submitted with the bid. The Contracting Authority cannot claim that the appellant was attempting to justify a lack of documents at the tendering stage. The documents provided clearly showed that Revo Studio Ltd. held an MQF Level 5 qualification.

They were technically compliant and should have proceeded with the tender. The Contracting Authority excluded Mr Nathan Abela without requesting any form of clarification and awarded the contract to a third party. Referring to the tender document, Page 5, Section 2A, it is not clear whether it refers to Note 2 or Note 3. Dr Spiteri insisted that their submissions were clear. This Board should overturn the decision of the Contracting Authority.

Final Submissions by Dr Leon Chetcuti (for the Contracting Authority)

Dr Chetcuti noted that they were present to explain their reasons. The Contracting Authority was not obliged to request any type of clarification. Today, the appellant presented new information stating that they were compliant, but this had not been submitted with the tender. Only a score breakdown had been presented. The appellant cannot claim that they possessed all the required qualifications while failing to present them at this stage.

Replica by Dr Robert Spiteri

Dr Spiteri noted that the key expert forms included in the package fell under Note 2. This was evidenced by the documents submitted by the Contracting Authority and was followed by the bidder when submitting the bid.

Replica by Dr Leon Chetcuti

Dr Chetcuti referred to Section C, Paragraph 2.

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 12th May 2026.

Having noted the objection filed by Mr Nathan Abela on behalf of Revo Studio Ltd. (hereinafter referred to as the Appellant) on 17th April 2026, refers to the claims made by the same Appellant with regards to the tender of reference MIV/05/2025/CFQ listed as case No. 2242 in the records of the Public Contracts Review Board.

Appearing for the Appellant: Dr Robert Spiteri

Appearing for the Contracting Authority: Dr Leon Chetcuti

Whereby, the Appellant contends that:

- a) I am writing to formally raise an objection regarding the outcome of Call for Quotations MIV/05/2025/CFQ, specifically in relation to the determination that my submission was technically non-compliant.
- b) The Evaluation Committee stated that my qualifications did not meet the requirement of a minimum MQF Level 5 qualification in Marketing or an equivalent recognised qualification. In this regard, I would like to clarify that the certification I submitted from the Digital Marketing Institute, namely the DMI 9.5 Professional Diploma in Digital Marketing is aligned with MQF Level 5 (and equivalent EQF Level 5 frameworks).
- c) This qualification is internationally recognised and specifically structured around core marketing disciplines, including strategy, consumer behaviour, market research, digital marketing channels, and performance analytics. As such, it directly satisfies the requirement outlined in the CfQ for a qualification in Marketing or an equivalent recognised certification. Please see attached.
- d) Furthermore, I would like to highlight a procedural concern. At no stage during the evaluation process was any clarification requested by the Evaluation Committee in relation to the qualifications submitted. In line with standard public procurement principles - particularly transparency, proportionality, and equal treatment it is expected that where there is any ambiguity or uncertainty, contracting authorities seek clarification before deeming a submission non-compliant. This step was not undertaken.

This Board also noted the Contracting Authority's Reasoned Letter of Reply filed on 27th April 2026 and its verbal submission during the hearing held on 12th May 2026, in that:

a) ***The Qualification Requirement -***

In support of his bid, the Appellant submitted:

- a Bachelor of Fine Arts in Digital Arts;
- a document issued by the University of Bolzano in connection with that degree; and
- documentation relating to a "Certified Digital Marketing Professional v9.5".

Notwithstanding this, the Appellant declared that he held a "Professional Diploma in Digital Marketing." The EC identified a clear inconsistency between the qualification claimed and the documentation provided. While the issuing body appears to be the same, the qualification itself is not. The documentation submitted refers to a certification linked to an examination (Certified Digital Marketing Professional v9.5") and does not evidence the attainment of a "Professional Diploma in Digital Marketing" as required by the CfQ. The distinction is not merely a question of wording nor a minor discrepancy. The EC is bound to assess what has been submitted, not what may have been intended or implied. In the absence of clear and unambiguous proof of the required qualification, the EC had no option but to conclude that this requirement had not been satisfied.

The CA adds that Section C, Paragraph 2 of the Call for Quotations is not accompanied by a Note 2 provision. In the absence of such a provision, the requirement must be treated as a strict mandatory condition, and the Contracting Authority was under no obligation to seek clarifications or request the submission of additional information. Accordingly, any failure on the part of the bidder to comply with this requirement at submission stage could not be remedied afterwards.

b) ***Documentation Submitted at Objection Stage -***

At objection stage, the Appellant produced an assessment relating to a "Professional Diploma in Digital Marketing" issued by the National Commission for Further and Higher Education. This document, however, does not remedy the shortcoming identified during evaluation. It makes no reference to the "Certified Digital Marketing Professional v9.5" previously submitted, nor does it establish that the certification relied upon at submission stage is equivalent to, or forms part of, the diploma now being invoked. In effect, the Appellant is seeking to cure a substantive deficiency in his bid by introducing new material after the closing date. This is not permissible, it is not just. It is well established that mandatory requirements must be satisfied at the time of submission and cannot be regularised after the fact.

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.

Preliminary Observations

Before addressing the specific grievances, the Board finds it necessary to make an observation regarding a material drafting omission in the Call for Quotations.

The CfQ document defines the applicable notes as follows. Note 2 provides that *"Tenderers will be requested to either clarify/rectify any incorrect and/or incomplete documentation, and/or submit any missing documents within five (5) working days from notification."* Note 3 provides that *"No rectifications 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."*

A review of Section C reveals that sub-section 1: *"Declaration concerning Selection Criteria"* is expressly annotated with Note 2. Section C (3) *"Response Format and Award Criteria"* and Section E *"Financial Bid Form"* are each annotated with Note 3. However, Section C (2) *"Specific Project Overview"* and its sub-sections, including sub-section (a) *"Required Level of Qualification"*, which stipulates that *"The service provider must hold a minimum of MQF Level 5 qualification in Marketing or an equivalent qualification recognized by a relevant authority"*, carry no Note annotation whatsoever.

The Board therefore observes that the Contracting Authority assigned a Note to every other operative section of the CfQ but omitted to do so for the qualification requirement in Section C(2)(a). This constitutes a failure to comply with the obligation under Regulation 38(1) of the Public Procurement Regulations (S.L. 601.03), which requires that *"the procurement document shall be written in clear and unambiguous terms so as to enable all interested parties to understand properly the terms and conditions of the process."* The consequences of this omission are addressed in the context of Grievance 2 below.

Grievance 1: The Evaluation Committee Incorrectly Determined that the Appellant Did Not Meet the Qualification Requirement

- The Appellant contends that the *"Certified Digital Marketing Professional v9.5"* submitted with his bid satisfies the mandatory requirement under Section C(2)(a) of the CfQ, namely *"a minimum of MQF Level 5 qualification in Marketing or an equivalent qualification recognized by a relevant authority."*
- During the hearing of 12th May 2026, Dr Robert Spiteri submitted that the documentation provided clearly demonstrated that Revo Studio Ltd. held an MQF Level 5 qualification and that the bid was therefore technically compliant. Dr Leon Chetcuti, for the Contracting Authority, maintained that the Evaluation Committee could not conclude that the Appellant possessed the required qualification, given the inconsistency between what was declared and what was documented.
- The Board has examined the documentation submitted at the tendering stage. The certification submitted by the Appellant from the Digital Marketing Institute, namely the *"Certified Digital Marketing Professional v9.5"*, bears a direct and discernible link to the requirement in Section C(2)(a). However, it does not, on its face, explicitly state the recognised MQF level, giving rise to the very ambiguity that, in the Board's view, warranted clarification before any finding of non-compliance could properly be made.
- As to whether the NCFHE assessment letter produced at objection stage is sufficient to establish compliance, the Board does not consider it appropriate to determine this question at the present stage. To do so would pre-empt and substitute the judgment of a properly constituted Evaluation Committee. The Board further notes that documentation produced for the first time at objection stage falls outside the scope of the official tender submission and cannot be taken into consideration for the purposes of tender evaluation. The evaluation must be conducted on the basis of the documentation submitted by the closing date or, where applicable, during any clarification or rectification process conducted in accordance with the Note framework as provided for in the procurement document, and any assessment of compliance must be made by a newly constituted Evaluation Committee in the context of the re-evaluation directed herein.
- In the circumstances, this grievance is premature and cannot be definitively adjudicated until the clarification and re-evaluation directed herein have been completed.

Therefore, the Board finds Grievance 1 premature, pending the re-evaluation directed herein.

Grievance 2: Failure to Seek Clarification Before Declaring the Bid Technically Non-Compliant

- The Appellant contends that the Evaluation Committee was obliged, in accordance with the principles of transparency, proportionality, and equal treatment, to seek clarification before declaring his bid technically non-compliant.
- During the hearing, Dr Robert Spiteri submitted that the *Declaration concerning Selection Criteria* under Section C(1) of the CfQ was expressly governed by Note 2, and that the same procedural safeguards should therefore have applied to the qualification requirement under Section C(2). He further submitted that the Appellant's bid, the cheapest of the ten bids received, was excluded without any communication whatsoever. In his replica, Dr Spiteri specifically referred to the absence of any Note designation in Section C(2) as demonstrating that the Evaluation Committee was not absolved of its duty to seek clarification.
- Dr Leon Chetcuti, for the Contracting Authority, maintained that the Contracting Authority was under no obligation to request any clarification and referred specifically to Section C, Paragraph 2 of the CfQ in support of that position.
- The Board, having re-examined the CfQ document, finds that Section C(2)(a), the precise provision under which the Appellant was found non-compliant, carries no Note annotation. As observed in the Preliminary Observation above, the Contracting Authority applied Note 2 to Section C(1) and Note 3 to Section C(3) and Section E but omitted any designation from the qualification requirement. The Board rejects the Contracting Authority's submission that this omission operates in its favour. The absence of a Note from Section C(2)(a) is a drafting deficiency on the part of the Contracting Authority and cannot be relied upon to deprive the Appellant of the procedural safeguards that the Note framework is designed to provide.
- The Board holds that where a submitted document bears a prima facie link to a tender requirement and the procurement document itself fails to specify the applicable Note, in breach of Regulation 38(1) of the PPR, the Evaluation Committee must apply, at minimum, the lesser mechanism available, that is, Note 3, which permits clarification of submitted information within five working days from notification. The failure to avail itself of this mechanism before proceeding to a finding of technical non-compliance was disproportionate and constitutes a procedural deficiency in breach of the principle of proportionality enshrined in Regulation 39 of the Public Procurement Regulations (S.L. 601.03).

Therefore, the Board upholds Grievance 2.

The Board,

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

- a) The Board finds Grievance 1 premature, pending the required clarification and re-evaluation directed herein.
- b) To uphold the Appellant's second grievance.
- c) To revoke the Letter of Rejection issued to the Appellant.
- d) To order the Ministry for Inclusion and the Voluntary Sector, to reinstate the offer of the appellant and to re-evaluate the bid by a newly constituted Evaluation Committee taking into consideration the Board's findings and to do anything else which is conducive and necessary for the proper execution of the above orders;
- e) Directs that the deposit paid by Appellant be fully reimbursed.

Mr Kenneth Swain
Chairman

Mr Lawrence Ancilleri
Member

Dr Ing. Damien Gatt
Member