



Public Contracts Review Board
Department of Contracts
Notre Dame Ravelin
Floriana VLT2000

30 June 2026

Dear Sirs,

RE: REPLY OF EVOLVE LIMITED TO HOSPITALTA'S OBJECTION DATED 19 JUNE 2026 ON CALL FOR TENDERS REF. NO. CT2345/2024 (CPSU0692-2022)

1. We have been instructed by **EVOLVE LIMITED** to reply to the letter of objection filed by HospiMalta Limited in the records of the Public Contracts Review Board on 19 June 2026 with regard to the Call for Tenders Ref. No. CT2345/2024 (CPSU0692-2022) for the purchase of 2 high-frequency jet ventilator units for the Medical Imaging and the ENT Departments at Mater Dei Hospital with a reduced environmental impact (the **Call for Tenders**).
2. The objection was filed against the decision made by the Central Procurement and Supplies Unit (**CPSU**) as a Contracting Authority on 9 June 2026 (the **Contested Decision**) in the Call for Tenders recommending the offer submitted by Evolve Limited (TID 222381) for award.

A. FACTUAL CONTEXT: PREVIOUS PCRB PROCEEDINGS REGARDING THE SAME CALL FOR TENDERS

3. Evolve will not waste this Board's time with needless meandering, but factual context to this objection is necessary. This Board will surely recall, as the appellant points out, that this Call for Tenders for the provision of ventilator units has already been the subject of a previous decision given by the Board on 29 September 2025.
4. By means of its decision, the Board ordered the Contracting Authority to conduct a fresh evaluation process with a newly composed evaluation board.¹ This means that the previous evaluation process

¹ Point (d) of the PCRB decision.

carried out by the previous evaluation committee was annulled and discarded, including any rectification requests and replies that may have been issued and received by that committee.

5. Against this background, Evolve cannot but observe that HospiMalta has once again chosen *not* to appeal against the disqualification of its cheaper-priced offer with TID reference number 222470. This means that the Contracting Authority's decision to disqualify that offer as technically non-compliant has become final and binding, the upshot being that there remain only 2 bids in contention for the award of the public contract subject-matter of this Call for Tenders.
6. The second cheapest priced bid is that tendered by Evolve for €582,885. HospiMalta is now attempting once again to dislodge its one remaining competitor, the sole obstacle standing in the way of an award in favour of its significantly higher offer under TID 222471. HospiMalta's bid carries a price tag of 882,060, making it a staggering 51% higher than the currently recommended bidder.
7. This appeal does *not* fulfil the objective of the Contracting Authority in the issue of this Call for Tenders, which as *Section 6: Criteria for Award* was to select the '*cheapest priced offer satisfying the administrative and technical criteria*'.
8. For these reasons, and others as shall be expounded on in the subsequent sections to this reply, the appeal lodged by HospiMalta on 19 June 2026 should be dismissed by this Board in its entirety, with costs against HospiMalta.

B. REPLY TO THE FIRST GRIEVANCE: THE CONTRACTING AUTHORITY'S DECISION TO RECOMMEND EVOLVE'S BID FOR AWARD AGAIN IMPLEMENTS THE PCRB'S DECISION ON 29 SEPTEMBER 2025

9. By means of its first grievance, the appellant claims that the Contested Decision on 9 June 2026 to recommend Evolve's bid for award once more is allegedly in breach of the Board's ruling on 11 June 2025.
10. Firstly, the Board's decision regarding the first recommendation decision on this Call for Tenders was given on 29 September 2025. No ruling exists on this Call for Tenders which bears the date of 11 June 2025.
11. Secondly, and more importantly, this allegation reveals the appellant's misunderstanding of the PCRB's decision. The Board did *not*, as the appellant vexatiously alleges, declare the product tendered by Evolve to be non-compliant with technical specification 2.5 which read as follows:

2.5	An auxiliary gas flow be present, with flows of between 0 - 60l/min (or better)	N/A	Mandatory
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12. On the contrary, the Board noted that while the manufacturer's representative had confirmed under oath during the sitting that the *Monsoon 4* offered could be adjusted to deliver 60 LPM (litres per minute) or even higher up to 70 LPM, there was no literature to corroborate this statement as was requested in the rectification request by the previous tender evaluation committee.

13. As a result, the Board found that:

in the absence of manufacturer's literature substantiating the 60 L / min (or higher) auxiliary flow (despite the rectification's explicit ask) amounts to a procedural compliance defect in the evaluation procedure documentation.

14. Therefore, the Board did *not* find the Monsoon 4 offered by Evolve to be non-compliant but that the manufacturer's literature submitted in response to the rectification request did not expressly confirm that the Monsoon 4 was capable of delivering on the 60 LPM requirement.

15. On this basis, Evolve submits that this ground of objection should be dismissed forthwith by this Honourable Board without further consideration.

C. REPLY TO THE SECOND GRIEVANCE: THE SECOND GRIEVANCE DOES NOT SATISFY THE THRESHOLD IN REGULATION 270 PPR AND THE CONTRACTING AUTHORITY HAD EVERY RIGHT TO REQUEST RECTIFICATION OR CLARIFICATION ACCORDING TO NOTES TO CLAUSE 5

16. In a clear last-ditch effort, the appellant attempts to prop up its appeal by claiming the general principle that bids must be compliant *ab initio* with the tender requirements without at any point explaining how this assertion relates or applies to the Contested Decision.

17. By way of a preliminary plea, HospiMalta's second grievance fails the legal threshold in Regulation 270 of the Public Procurement Regulations (the **PPR**) to explain "*in a very clear manner the reasons for their complaints*".

18. Failure to do so deprives Evolve of the right to be placed on an equal footing with HospiMalta according to the principle of *audi alteram partem*.

19. Therefore, Evolve submits that the Board should reject this second grievance without further ado.

20. Without prejudice to the preliminary plea, Evolve cannot but observe that once again, the appellant's understanding of procurement law is inherently and ironically incomplete itself and requires perfection.

21. Firstly, the Board's decision on 29 September 2025 did not find issue with the rectification request that was sent to Evolve on the auxiliary flow specification, but rather with the manufacturer's declaration submitted in response which did not expressly address the Monsoon 4's compliance with the tender specification in Clause 2.5 under *Section 3 - Specifications*.
22. Secondly, HospiMalta is selectively ignoring the Contracting Authority's ability to request clarifications and rectifications in line with the law and the rules embedded in the Call for Tenders. The Call for Tenders implemented the standard classification system of Note 2 and Note 3 as per the box entitled 'Notes to Clause 5'.
23. Documents marked as Note 2, including literature, may be clarified or rectified, including the '*submission of any missing documents*'. Documents marked as Note 3 may only be clarified.
24. Therefore, in view of the foregoing, Evolve submits that this second grievance should also be dismissed in its entirety by the Board, with costs against HospiMalta.

THEREFORE, Evolve Limited requests the Public Contracts Review Board to:

- a. reject the letter of objection in its entirety; and
- b. order the deposit paid by HospiMalta Limited not to be refunded,

subject to any declaration or order that it deems fit and opportune.

Yours sincerely,
Ganado Advocates


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