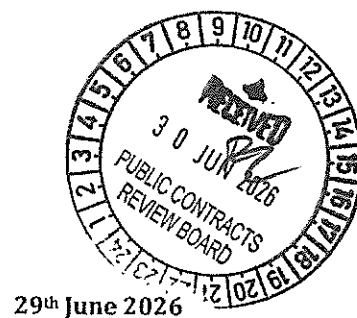


IN THE PUBLIC CONTRACTS REVIEW BOARD



29th June 2026

Re: 682 - Objection - CT2345/2024-CPSU0692-2022 Tender for the Purchase of Qty 2 High-Frequency Jet Ventilator Units for the Medical Imaging Department at Mater Dei Hospital with a Reduced Environmental Impact

Reply of the **Department of Contracts** as the Central Government Authority and **Central Procurement and Supplies Unit (CPSU)** on behalf of the Department of Health as the Contracting authority to the reasoned application lodged by **HospiMalta Limited (the Objector)** on the 19th June 2026, with reference to their bid with identification number TID222471.

On the 14th January 2025, a call for tenders for the purchase of qty 2 high frequency jet ventilator units for the medical imaging and the ENT Departments at Mater Dei Hospital with a reduced environmental impact, was published.

A number of bids were submitted and following an evaluation process, a recommendation was made in favour of the offer submitted by Evolve Ltd (TID: 222381) as the cheapest offer satisfying the administrative and technical criteria.

By means of the letter dated 08th July 2025, the Contracting Authority informed HospiMalta Ltd that the offer with TID222471 was not recommended for award "*since the tender submitted by (the) company was not successful since the criteria for award of this tender was the cheapest priced offer satisfying the administrative and technical criteria.*"

The Objector felt aggrieved and filed its objection based on a number of grievances arguing that the product offered by Evolve Ltd was not technically compliant.

By means of a Decision delivered on the 29th of September 2025 (the first decision) this Honourable Board decided as below:

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 related to Grievance 1 'Non-Compliance with specification 2.8.3 relative to power failure alarm'*
- b) *Upholds the Appellant's Letter of Objection and contentions related to Grievance 2 'Non-Compliance with specification 2.5 Auxiliary Flow'.*
- c) *Revokes the recommendation of award made in favour of the Recommended Bidder;*
- d) *Directs that the evaluation be reviewed and that a proper evaluation process be conducted, orders the reintegration of the Appellant's bid in the re-evaluation process, with a newly composed evaluation board;*

e) Directs that bidders be requested to extend the validity period of their respective bids, if required;

f) Directs that the deposit paid by Appellant to be reimbursed in full.

A re-evaluation was conducted and the new evaluation committee recommended the tender for award to **Evolve Ltd (the recommended bidder)** as the cheapest compliant offer satisfying all administrative and technical criteria.

The Objector's offer was not recommended for award since a cheaper compliant offer of the recommended bidder was recommended.

The Objector filed the present appeal based on 2 Grievances. DOC and CPSU humbly disagree with the objection raised and are filing this reply.

Submissions

On the First Grievance:

1. In its first Grievance the objector states that it has already successfully objected to the same exact bid of the recommended bidder and that the recommendation of this evaluation committee runs counter to the Board's binding decision which is according to the objector a Res Judicata.
2. This grievance is unfounded both in fact and at law for a number of reasons.
3. As the objector well knows, the Public Contracts Review Board (PCRB) never assumed the role of the evaluation committee and whenever it notices or is convinced that the evaluation had not been conducted properly on a particular specification, it orders that a new evaluation is conducted.
4. If the PCRB had the powers, competence and expertise to do the evaluation itself, it would order directly that a contract is awarded to a particular bidder and not order that a new evaluation process is conducted.
5. The PCRB itself in the first decision states that *"The Board must ensure procedural compliance rather than substituting its judgment for that of a properly constituted evaluation committee on purely technical assessments"*
6. The newly composed evaluation committee did the evaluation taking into account the findings of the PCRB in its first decision.
7. The reason for upholding the grievance related to the auxiliary flow in the first decision was the below:

"The Board opines that the absence of manufacturer literature substantiating the 60L/min (or higher) auxiliary flow (despite rectification's explicit ask) amounts to a procedural compliance defect in the evaluation procedure documentation.
8. Since the PCRB in its first decision ordered a re-evaluation, the new evaluation committee posed the same rectification request on auxiliary flow to the

recommended bidder, and during this new evaluation, satisfactory manufacturer's declaration was provided.

9. For this reason the new evaluation committee had no reason to disqualify the recommended bidder and the only legally sound way forward was to recommend that same offer for award.

10. For this reason this grievance ought to be rejected in full.

On the Second Grievance

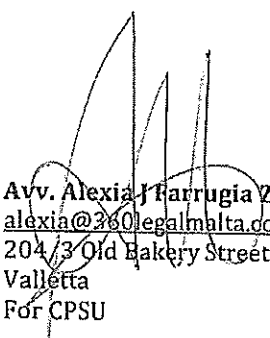
11. DOC and CPSU submit that the documents presented by the recommended bidder were such that the evaluation committee was satisfied that the offer was compliant ab initio substantively, and this without prejudice to the right any bidder to do rectifications in literature.

12. For this reason this grievance ought to be rejected in full.

DOC and CPSU hereby reserve their right to present further evidence and submissions both written and orally to further substantiate their reply in relation to the said objection throughout the hearings.

In view of the above, the objection lodged by the objector ought to be rejected in full, whilst the decision of the evaluation committee confirmed and the deposit forfeited.

DOC and CPSU do not object to the refund of the deposit if the objection is withdrawn prior to the hearing.



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