

PUBLIC CONTRACTS REVIEW BOARD

Appeal Reference Number 2231
Tender Reference Number MPF/1/2026
Tender Name “Call for Quotations for the Supply of Pepper Gel Pouches to The Malta Police Force”

The Public Contracts Review Board (hereinafter the ‘Board’ or the ‘PCRB’) convened a public hearing on the 20th April, 2026 to hear the appeal as filed by the appellant Malcolm Caruana (hereinafter the ‘Appellant’) on the 26th February, 2026, and after taking cognisance of:

The tender document for the ‘Call for Quotations for the Supply of Pepper Gel Pouches to The Malta Police Force’ (hereinafter referred to as the “Tender Document”);

The minutes of the proceedings dated 20th April, 2026 which are being reproduced hereunder:

“Case 2231 MPF/1/2026 – Call for Quotation for the Supply of Pepper Gel Pouches to The Malta Police Force.

The Tender was issued on the 14th January 2026, and the closing date was 30th January 2026.

The estimated value of the tender, excluding VAT, was €9,900

On 26th February 2025, Uniking International, lodged an appeal against, The Malta Police Force – the Contracting Authority, in accordance with Regulation 270 of the Public Procurement Regulations.

On the 20th April 2026, the Public Contracts Review Board (PCRB), composed of Dr Ana Thomas as Chairperson, Dr Maria Cardona and Mr Lawrence Ancilleri as members, convened a public hearing to consider the appeal.

A deposit of €400 was paid.

There were six bids.

The attendance for this public hearing was as follows:

Appellant – Uniking International

Mr Malcom Caruana – Company Representative.

Contracting Authority – The Malta Police Force

Dr Daniel Inguanez – Legal Representative

Supt. Jurgen Vella – Legal Office

DG Stephania Sgandurra – Head of Contracting Authority

*Mr Clive Borg – Chairperson
Insp. Chantelle Vella Casha – Evaluator
PS 270 Shaun Borg – Evaluator*

Opening Statements

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

Opening Submissions

The Chairperson explained to the appellant, Mr Malcolm Caruana, the procedure to be followed in this appeal, in view of the fact that the appellant is not a lawyer and chose not to be assisted by one. The procedure to be followed is that each party will make initial submissions, then present their evidence, and finally make closing submissions.

The appellant declared that he has no witnesses but wishes to present documented evidence and explain its contents in detail.

Dr Inguanez, on behalf of the Malta Police Force, stated that one of the evaluators is present today and will be called to testify.

The appellant, Mr Malcolm Caruana, presented a document showing a pouch sample marked MC and another document marked MC1, consisting of a set of pictures, totalling two pictures, taken by Mr Caruana prior to the submission of the sample, which sample is the subject of the tender bid. The appellant is also presenting another document marked MC2, representing a diagram of the dimensions of a pouch, prepared by himself, which according to the appellant should have been the dimensions and specifications required to comply with the canister in question.

The appellant declared that, apart from the documents presented, he had no further witnesses.

Witness

Inspector Chantelle Vella Casha was summoned by Dr Daniel Inguanez.

Inspector Vella Casha was one of the evaluators.

Dr Inguanez asked the witness why, according to the tender document, the offer was deemed non-compliant.

Inspector Vella Casha explained that, upon submission of the tender, the documents were correct; however, a sample was requested from each bidder

since the pepper spray canister differs from the one previously used by the Malta Police Force. As this is a new product, a sample was required to verify that the pepper spray canister fits in the pouch.

Dr Thomas asked what was new, and Inspector Vella Casha explained that the pepper spray was a newly introduced product by the Police Force, and therefore a new cover was required. Being a new cover, a call for quotations was issued with the necessary measurements.

They requested a sample of the product from each tender, and four offers were received, with three samples, among them one from Uniking. The depth of the sample pouch produced by the appellant was 3 cm, whereas the specifications required a depth of 3.5 cm, with a tolerance of plus or minus 2 mm, resulting in an acceptable range of 3.3 cm to 3.7 cm.

The end product should be 15cm x 5cm x 3.5cm depth excluding the flaps.

The internal depth of the pouch should be 3.5 cm. The appellant's sample pouch depth measures 3 cm. The witness also inserted the canister and explained that, although the canister fits inside, part of it remains uncovered and the flap does not fully cover it.

Inspector Vella Casha stated that the evaluation concluded that the submission was non-compliant. On the day the sample from Uniking was received, the canister was tested in front of the supplier, and it was found that, due to the measurements not conforming to those specified in the tender document, it did not close adequately. On the same day, the appellant, Mr Malcolm Caruana, owner of Uniking, sent an email stating that he could modify the pouch; however, the witness did not engage with the appellant since she was one of the evaluators.

The witness presented an email, one document marked Document CVC.

She explained that two samples were received from the same bidder. The difference was in the material; one was corduroy 1700 and the other was corduroy 1600, the dimensions and price were the same.

At this stage, the Board read the email sent from Uniking to Ms Chantelle Vella Casha, with Mr Shaun Borg copied, on the 14th of February 2026:

“Good morning, This morning we had submitted the samples for subject quotation, as per attachment.

Please note that the samples are according to your specifications, dimensions and tolerances as detailed under section 3 'Specifications'.

However, should you require any modification/s, please let us know”.

The first document was marked as MC, the photos MC1 and the Diagram as MC2.

The appellant, Mr Malcolm Caruana, declared that he had no questions in cross-examination.

Final Submissions

Final Submissions by Mr Malcolm Caruana (as the appellant)

The pouch is built according to the dimensions in Doc MC, page 4: the holder is 8 cm long, the flap is 18 cm long, the width is 50 cm as per the specifications, and the depth is 3.5 cm. If it is not 3.5 cm, the canister would not fit in the pouch.

It does not make sense that the canister does not go down because it is not 3.5 cm; it would not even fit. The canister is not tapered but has a uniform size from top to bottom.

Referring to page 3, the problem is that the top flap should be 17 cm long, plus or minus one centimetre. A range from 16 cm to 18 cm would be ideal, as shown in MC1, where it measures 17.2 cm. This canister has a safety cap, and the tender measurements indicated do not fit the new canister.

Mr Caruana has been supplying the Police Force for the past eleven years with the old canister. He said that the problem was in the flap and the request was 17cm + or – 1cm. The flap submitted was 17.2. He insisted that as shown in the document MC2, if the pouch had 8cm at the bottom with 35cm width for the cannister, the dimension requested should have been 70+35+70+20cm and the flap should minimally be 20cm, not 17+ or – 1cm.

Since there is 3.5 both at the top and at the bottom, the flap request should have been for a longer flap.

The Chairperson asked about the depth.

Mr Caruana explained that the canister has a safety cap, as it should.

The supplier does not provide standard goods; rather, Mr Caruana supplies the specifications and designs. He also requested better-quality Velcro. These are not off-the-shelf products but are made according to his specifications.

He had two samples, 1600D and 1700D, both of which he submitted for the Police Force to choose from.

Final Submissions Dr Inguanez (for the Contracting Authority)

The Uniking sample had a flap that complied with the tender specifications; however, the depth, instead of being 35 mm, with 2mm + or - , was 3 mm +/- tolerance, which remained the issue. The witness stated that the pouch could not close properly and the canister could not fit properly. To comply, the pouch itself should be 35 mm in depth, excluding the flap.

The only legal point is that the Evaluation Committee adhered to the principle of self-limitation and followed the tender specifications. The evaluators were obliged to comply strictly with the technical requirements of the tender document.

The sample did not match what was indicated in diagram MC2, as it measured 3 mm, and the Evaluation Committee could not request clarification or rectification, as this would effectively mean requesting a new product after the submission deadline.

Replica by Mr Malcolm Caruana

The depth is within the 35 mm +/- 2 mm tolerance. The depth has nothing to do with the pouch not closing. The pouch does not clasp because the flap is too short and should be longer than the measurements indicated/requested.

The Board asked whether any appeals were made before the bids were closed.

Mr Caruana replied in the negative and explained that he received the reply letter mentioning 35 mm, so he understood that 35 mm was required. It was after receiving this letter that he prepared diagram MC2. He stated that all canisters of this type are 35 mm +/- 2 mm, and the flap should have been longer. He expressed surprise at being deemed non-compliant. It could be that the canisters changed because of the range.

Replica by Dr Inguanez

Dr Inguanez stated that everything depends on the depth. The appellant claimed that his sample was 35 mm, whereas their measurement showed it to be 30 mm.

Conclusion of the Hearing

With no further arguments presented, Chairperson Dr Ana Thomas thanked the parties and formally concluded the session."

The written pleadings as filed by Malcolm Caruana on the 26th February, 2026, together with proof of payment of a deposit in the amount of €400, wherein it held as follows:

"We hereby submit this letter as a formal and official objection and consequently also an appeal against the decision of the Malta Police Force, as communicated in its letter dated 19 February 2026 (attached for ease of reference), wherein we were informed that our CFQ submission was unsuccessful on the grounds that it was allegedly "not according to the requested specifications."

We respectfully and categorically disagree with this conclusion.

Our technical submission and accompanying sample were manufactured strictly in accordance with the materials, requirements, dimensions, and tolerances outlined under Section B Art. 3 Scope and Terms & Conditions - Specifications, of the quotation document. We conducted a thorough internal compliance review prior to submission to ensure full adherence to every requirement listed in the CFQ documentation.

In light of the above, we firmly maintain that our offer is fully compliant with the published specifications.

During the hearing, we kindly request that the Malta Police Force clearly identify and substantiate, with reference to the specific clause(s) of the CFQ document, the precise aspect(s) in which our submission is being deemed non-compliant. Without such detailed clarification, we cannot reconcile the stated reason for rejection with the objective requirements as published. Furthermore, we respectfully submit the following considerations to this Honourable Board:

1. Award Criterion - Price

Section C, Article 3 of the CFQ document explicitly states that the award criterion for this call for quotation is the price. Given that our bid is both fully compliant and financially more advantageous than the recommended bidder's higher-priced offer, we submit that the principles of transparency, equal treatment, and sound financial management warrant that the award be granted to us.

2. Consistency of Specifications

Should it transpire that the product effectively required by the Malta Police Force differs from the specifications as formally published in the CFQ document, then the appropriate course of action would be the cancellation and re-issuance of the call with revised and clearly defined specifications. This would ensure fairness and equal opportunity for all economic operators. In such an event, we respectfully request that our deposit be refunded in full.

We trust that this Honourable Board will carefully consider the merits of this appeal in the interest of fairness, transparency, and adherence to the published award criteria.

We reserve the right to present further documentary evidence and oral submissions during the hearing in support of our position."

The written reply as filed by the Malta Police Force on the 8th March, 2026 (hereinafter the 'Contracting Authority') wherein it held as follows:

'Preliminary_

Uniking International (the Appellant) raises the following grievances in relation to call for quotations for the supply of Pepper Gel ouches to the Malta Police Force TID: 000238274

(i) Award Criteria -Price

Section C, Article 3 of the CFQ document explicitly states that the award criterion for this call for quotations is the price. Given that our bid is both fully compliant and financially more advantageous than the recommended bidder's higher-priced offer, we submit that the principles of transparency, equal treatment, and sound financial management warrant the award to be granted to us.

(ii) Consistency of specifications

Should it transpire that the product effectively required by the Malta Police Force differs from the specifications as formally published in the CFQ document, then the appropriate course of action would be the cancellation and re-issuance of the call with revised and clearly defined specifications. This would ensure fairness and equal opportunity for all economic operators. In such an event, we respectfully request our deposit be refunded in full.

The Respondent Contracting Authority is of the view that grievances (i) and (ii), should not be upheld. As to grievance (i) In line with this provision, the Contracting Authority is obliged to recommend the cheapest fully compliant offer from among all bids received. Following the evaluation process, it results that Uni King International submission, was not the cheapest compliant offer. As to grievance (ii) the sample submitted was evaluated against the dimensional requirements outlined in the tender document. The specifications clearly state that the product dimensions must be 15 cm (height) × 5 cm (width) × 3.5 cm (depth) (+/- 2 mm). Upon measurement, the depth of the sample provided was found to be 2.5 cm, which falls outside the permissible tolerance range. As a result, the pouch did not close appropriately when the pepper gel was inserted, confirming that the sample did not meet the required functional and dimensional criteria.

The call for quotations was evaluated based on the cheapest compliant offer, meaning that only bids meeting all mandatory requirements could be considered for award. Where a declaration, proof, list, picture, template, or any other expressly requested information was missing or submitted in a manner not aligned with the stated requirements, the criterion was automatically scored at 0, resulting in disqualification. For mandatory criteria allowing a range of points, evaluators could assign any score between 0 and 100%; however, a score of 0 likewise led to disqualification, in line with the published rules.

UniKing International was awarded a score of 0 on the technical criterion and was therefore disqualified. The Evaluation Board reached this conclusion because the sample submitted did not conform to the required technical specifications. This approach is fully consistent with the BPQR methodology, which permits qualitative assessment so long as the evaluation remains reasonable and within the parameters established by the published criteria.

In view of the above, the Evaluation Board acted correctly and in full conformity with the applicable procurement rules. UniKing International's offer could not be retained for further consideration since the submitted sample failed to meet the mandatory technical specifications, resulting in disqualification of the technical criterion.”

The opening and closing submissions of the Appellant and the Contracting Authority as delivered by the Appellant himself and by the Contracting Authority's legal representative;

The testimony of the witness produced;

Considers;

This Board notes that the Appellant has brought forward one (1) main grievance, that his bid is fully compliant and the cheapest offer made.

A. Full Compliance

In his written pleadings, the Appellant argued that his bid is fully compliant, inviting the Malta Police Force to clearly identify and substantiate the precise aspects in which his submission is deemed non-compliant. The Appellant then moved on to argue that his bid is most advantageous in terms of price, and further that if the product specifications requested from the Contracting Authority are different to those published, then the call should be cancelled.

The Board must immediately express its disappointment at the letter of rejection received by the Appellant, which was far too vague for the Appellant to be able to understand which of the specifications he did not fulfil. The phrase utilised "*it was not according to the requested specifications*" falls short of that expected from a Contracting Authority to share with unsuccessful economic operators. Naturally, with a rejection letter as in this case, the Appellant was placed in a position where he cannot determine whether he should or should not exercise his right of appeal, and in this case the Appellant was constrained in filing an appeal nonetheless and inviting the Malta Police Force to clearly identify and substantiate the precise aspects in which his submission was deemed non-compliant, and this Board understands why. Rejection letters should be clearer, and provide an economic operator a more detailed explanation as to why he did not fulfil the requested specifications, at least an indication as to which one!

This Board, after having seen the Tender Document, determines that the detail as found on Page 4 made it clear that the 3.5cm depth +/- 2mm will be measured from the internal boundary to another. The Appellant argued that his product satisfied this requirement and that the Contracting Authority's issue is having requested too short of a flap. This Board notes the testimony of evaluator Inspector Chantelle Vella Casha who testified that when measured from the internal boundary the Appellant's samples did not satisfy this 3.5cm requirement, so much so, that when the Evaluation Committee tested the sample with the pepper gel in it the pouch could not close properly. This fact established, coupled with the fact that the Appellant brought no evidence to the contrary, leaves this Board no other option but to confirm the Contracting Authority's decision.

Therefore, the Appellant's grievance is being rejected as unfounded.

DECIDE

The Board, in view of the foregoing and on the basis of the considerations as outlined above, declares and decides to reject the appeal as filed by Malcolm Caruana trading as UniKing International, however, and in view of the scant rejection letter, this Board decides to re-imburse the deposit paid by Malcolm Caruana trading as UniKing International.

Dr Ana Thomas
Chairperson

Dr Maria Cardona
Member

Mr Lawrence Ancilleri
Member

Monday 1st June, 2026.