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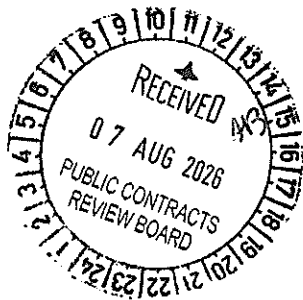
THE PUBLIC CONTRACTS REVIEW BOARD

NOTICE OF OBJECTION / APPEAL

TENDER REFERENCE: CPSU 00127/26

TENDER TITLE: Call for Quotes for the Supply and Installation and Commissioning of Hot Water Calorifier at Mount Carmel Hospital – MHS

TENDER ID: 243612



A.FALZON ENERGY PROJECTS LTD
(C-37651 / A.Falzon Energy Projects Ltd, ATL
Business Centre, 89, Triq il-Kanun, St Venera
SVR 9035, Malta)
(hereinafter referred to as the “Appellant”)

VERSUS

**CENTRAL PROCUREMENT &
SUPPLIES UNIT (CPSU)**
(Office of the Deputy Prime Minister and
Ministry for Health, 22, Level 2, Tower Road,
Swatar BKR 4012, Malta)
*(hereinafter referred to as the “Contracting
Authority”)*

1. PRELIMINARY

1.1. This Notice of Objection is being formally lodged against the decision of the Contracting Authority dated 31st July 2026, whereby the procurement proposal submitted by the Appellant under Tender ID 243612 was rejected as alleged “non-technically compliant” and the tender was recommended for award to Proenergy Solutions Limited for the amount of €7,443.63 (excl. VAT).

1.2. The Appellant submits that its Offer (Tender ID 243612) was for the total sum of **€6,996.00 (excl. VAT)**, making it the cheapest offer submitted for the call.



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1.3. This appeal is being filed prior to the deadline of Monday, 10th August 2026 (noon), and is accompanied by the payment of the requisite appeal deposit in terms of the Public Procurement Regulations.

2. STATEMENT OF FACTS

2.1. The Contracting Authority issued a Call for Quotes bearing reference **CPSU 00127/26** for the *"Supply, Installation and Commissioning of Hot Water Calorifier at Mount Carmel Hospital - MHS"*.

2.2. In response to the call, the Appellant submitted its offer(s) via the electronic procurement portal prior to the designated deadline. Specifically, under Tender ID 243612 (Offer 1), the Appellant submitted a fully compliant, detailed Bill of Quantities for the supply and installation of a direct replacement Fiorini calorifier tank and associated works for a total financial consideration of **€6,996.00 (excl. VAT)**.

2.3. The Appellant, as the sole agent of Fiorini in Malta, provided an optimized, fully compliant technical proposal together with a 5-year guarantee.

2.4. By letter dated 31st July 2026, the Contracting Authority notified the Appellant that its offer was deemed non-compliant. The sole reason cited in the rejection letter was a generic quote of Article 3.1 of the General Rules Governing Tenders, followed by the blanket statement:

"Non-abidance to Articles 3.1, 3.2, 3.3 and 3.4 by Economic Operators in their composition and submissions shall lead to the outright disqualification of all of the bids in question."

2.5. Consequently, the Contracting Authority recommended the contract for award to Messrs Proenergy Solutions Limited at €7,443.63 (excl. VAT)—a price higher by **€447.63** than the Appellant's offer.

2.6 The Appellant felt severely aggrieved but said decision and it filing this appeal based on the following grievances.

3. GROUNDS OF APPEAL



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FIRST GROUND OF APPEAL: ERRONEOUS APPLICATION AND MISINTERPRETATION OF ARTICLE 3 OF THE GENERAL RULES GOVERNING TENDERS

3.1. The Contracting Authority erroneously disqualified the Appellant's offer by citing non-compliance with Articles 3.1, 3.2, 3.3, and 3.4 of the General Rules Governing Tenders.

3.2. Article 3.1 of the General Rules Governing Tenders explicitly provides:

"Bidders may submit up to three (3) multiple bids which should all be non-identical (technically and financially) for a tender. In cases where bidders submit more than three (3) non-identical bids, the evaluation board will only consider the first three (3) cheapest offers submitted - irrespective of their administrative, technical and financial compliance..."

3.3. The Appellant acted strictly within the clear parameters of Article 3.1. The Appellant submitted two (2) separate, non-identical offers (Tender ID 243612 and Tender ID 243613), which is well below the maximum limit of three (3) multiple bids permitted by the tender rules.

3.4. Both offers were distinct, non-identical, and fully differentiated financially and technically. The Contracting Authority failed to demonstrate how or in what manner the submission of two non-identical offers violated Article 3. Disqualifying a tenderer for exercising a right explicitly conferred by Article 3.1 constitutes a manifest error of law and fact.

SECOND GROUND OF APPEAL: BREACH OF THE PRINCIPLES OF EQUAL TREATMENT, TRANSPARENCY, AND PROPORTIONALITY (REGULATION 39 OF S.L. 601.03)

4.1. In terms of Regulation 39(1) of the Public Procurement Regulations (S.L. 601.03), Contracting Authorities are under a legal obligation to treat economic operators equally and without discrimination, and to act in a transparent and proportionate manner.

4.2. Disqualifying the lowest priced compliant offer (€6,996.00 excl. VAT) on an erroneous, misapplied administrative interpretation of the multiple-bidding rule violates the principle of proportionality and leads to an unjustified distortion of competition.



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4.3. By penalizing the Appellant for utilizing a submission feature expressly permitted under the procurement rules, the Contracting Authority acted arbitrarily, breaching the Appellant's legitimate expectation of fair evaluation.

THIRD GROUND OF APPEAL: BREACH OF PUBLIC INTEREST AND MANIFEST FAILURE TO ENSURE BEST VALUE FOR PUBLIC FUNDS

5.1. Public procurement legislation is designed to ensure the sound management of public funds by selecting the most economically advantageous tender among compliant offers.

5.2. The Appellant's bid (Tender ID 243612) is the cheapest offer submitted. It provides a direct, high-specification replacement by the sole local agent of the original manufacturer (Fiorini), complete with a 5-year guarantee.

5.3. The decision to reject this offer in favor of a substantially higher bid (€7,443.63 excl. VAT) without a valid legal or technical basis imposes an unnecessary financial burden on public funds and runs counter to the objectives of public procurement.

FOURTH GROUND OF APPEAL: FAILURE TO PROVIDE SUFFICIENT AND ADEQUATE REASONS FOR REJECTION

6.1. The rejection letter issued by the Contracting Authority merely quotes the text of Article 3.1 and asserts a general conclusion without detailing any specific factual breach committed by the Appellant.

6.2. A Contracting Authority is legally bound to provide clear, specific, and reasoned justifications when rejecting a tender. A generic citation of a rule that expressly permits up to three bids does not satisfy the legal requirement for adequate reasoning, severely prejudicing the Appellant's rights of defense.

REMEDIES SOUGHT

7. In light of the above facts and legal arguments, the Appellant respectfully requests that the Public Contracts Review Board:

- I. **CANCEL and ANNUL** the decision of the Contracting Authority / Evaluation Board decision declaring the Appellant's offer under Tender ID 243612 non-compliant.



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- II. **REVOKE and CANCEL** the recommendation for award of Tender CPSU 00127/26 in favour of Proenergy Solutions Limited.
- III. **ORDER** that the Appellant's offer (Tender ID 243612), being the cheapest technically and administratively compliant bid, be fully evaluated and/or recommended for award. Alternatively, send the acts of this tender back to the Contracting Authority / Evaluation Board for re-evaluation of the tender in respect of the decision taken by this board.
- IV. **ORDER** the full refund of the appeal deposit paid by the Appellant in accordance with S.L. 601.03.

The Appellant reserves the right to present oral arguments, submit witness testimony, and file further documentation or written submissions during the proceedings before the Public Contracts Review Board.

SUBMITTED BY:



Dr. Maurice Meli
Advocate for the Appellant
A.Falzon Energy Projects Ltd

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Tel: +356 21470265 / Email: info@energyprojectsmalta.com



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Bank of Valletta

Bank of Valletta p.l.c
Registration Number: C 2833
Registered Office: 58 Zachary Street, Valletta VLT 1130 - Malta

Pay third party

Printed by: Mr. Anthony Falzon
Printed on: 06/08/2026 - 17:38
Document ID: 29325782

Transaction details

Payer's name: A FALZON ENERGY PROJECTS LTD

Payee type: Personal Payee

Is the payee a joint beneficiary: No

Payee name: Cashier

Payee surname: Malta Government

Relation: Technical Services

Reason: Purchase of Services

Payment details: Petition ref CPSU00127.26 tender ID 243612

Currency: EUR - Euro

Beneficiary IBAN/Account: MT55MALT011000040001EURCMG5001H

Beneficiary IBAN/Account type: Valid IBAN of country - Malta

Bank name: Other bank

Bank address / Bank's BIC: Let the bank apply the beneficiary bank BIC

Beneficiary address: No

From account: Overdraft (EUR) 4002013918 6

Charges should be paid by: Shared - I pay BOV charges; pays the beneficiary bank charges

Amount: EUR 699.60

BOV to transfer the money: as soon as possible

Receiving bank to get the money as: normal priority payment

FPAD Result: The name you entered is very similar to our records: CASHIER MALTA GOVERNMENT CALL ACCOUNT - GENERAL. If you continue without correcting it, the payment may be sent to the wrong person, and recovery may not be possible as it could result in fraud. This Verification of Payee check will not block the payment, but it is simply providing additional security. Please verify the payment details with the recipient before proceeding.

Saved template: no

Additional information

Credit amount: EUR 699.60

Debited amount (excluding charges): EUR 699.60

Estimated amount to be withdrawn from account: EUR 700.60

Transaction charge: EUR 1.00

Transaction result

Status: Your instructions have been processed successfully.

Transaction ID: 183411160