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RECEIVED
17 SEP 2026
PUBLIC CONTRACTS REVIEW BOARD

16th September 2026

The Chairman
Public Contracts Review Board

RE: WSM 203/2026 – Concession for the Provision of Vending Machines for WasteServ Malta Ltd in Malta and Gozo Sites in Two (2) Lots – Lot 1: Malta (the "Tender")

Dear Sir,

I write for and on behalf of **WASTESERV MALTA LIMITED** – C30560 (hereinafter referred to as "the Contracting Authority") with regards to the appeal filed Multivend Services Ltd (hereinafter referred to as "the Appellant") in relation to the aforementioned tender, whereby the Appellant requested that the Board:

a. *Declares that the Contracting Authority's decision of 31 August 2026 recommending the award of Lot 1 of WSM 203/2026 to Vertex Vending Services Ltd is wrong and/or unlawful and, consequently, quashes and/or revokes that decision;*

b. *Declares that the Contracting Authority's decision of 31 August 2026 recommending the award of Lot 1 of WSM 203/2026 to Vertex Vending Services Ltd is wrong and/or unlawful and, consequently, quashes and/or revokes that decision and order the disclosure of the requested information;*

c. *Orders the Contracting Authority to reconsider and/or re-evaluate the financial offers for Lot 1 strictly in accordance with the Tender conditions, including the requirement that the contract be awarded to the highest concession fee offered by a tenderer satisfying the administrative and technical criteria;*

d. *Orders the refund to the Appellant of the deposit paid for the purposes of filing this Appeal; and*

e. *Issues such other declaration or order that it deems fit and opportune.*[1]

The present written reply by the Contracting Authority is in terms of Regulation 276 (c) of Subsidiary Legislation 601.03 of the Laws of Malta.

Preliminary Observations

The appeal is founded, in essence, on a single point of confusion: the recommended bidder inputted the wrong figure on the ePPS, mistakenly inputting the annual concession fee rather than the total three-year concession fee. Having said that, this is by no means evidence of an irregularity. As set out below, the Evaluation Committee was entitled to and did rely on the financial breakdown in reaching its recommendation, and the Appellant's difficulty in reconciling the two figures was, at all times, capable of being resolved by a straightforward request for clarification – a step the Appellant chose not to take before lodging this appeal.

1. **First Ground of Appeal: The award decision is inconsistent with the published financial offers and the express "highest concession fee" award criterion.**

The award criterion of "highest concession fee" was applied by the Evaluation Committee to the concession fee actually offered by each bidder, as disclosed in the substantive financial documentation submitted with each tender. In the case of the recommended bidder, that substantive documentation is the financial breakdown addressed above (annexed and marked as **'Doc A'**), which set out, clearly and without ambiguity, the concession fee being offered.

The inconsistency alleged by the Appellant arises only if the ePPS entry is treated as the recommended bidder's concession fee offer in place of the financial breakdown. Due to a mistake in inputting the right amount, the ePPS entry did not correctly capture the figure the bidder intended to offer, and the Evaluation Committee was entitled to, and did, apply the "highest concession fee" criterion by reference to the breakdown, which is the document that actually discloses what the bidder offered and also the information that ultimately prevails over the figure inputted

[1] Page 5 of the appeal.

in the ePPS as per Section 1 of the Concession Document (extract of which is annexed and marked as **'Doc B'**) and Article 5.5 of the General Rules Governing Tenders.

Measured against the concession fee set out in that breakdown, the recommended bidder's offer was correctly identified as the highest, and the award criterion was applied exactly as published.

2. **Second Ground of Appeal: The recommended bidder's published financial offer and the value stated in the notice of award are inconsistent and require verification on a like-for-like basis.**

The Contracting Authority agrees that any comparison between bidders, and between a bidder's tender and the notice of award, must be conducted on a like-for-like basis — and confirms that it was. The value stated in the notice of award reflects the concession fee set out in the recommended bidder's financial breakdown, which was the document assessed by the Evaluation Committee for every bidder, including the recommended bidder and the Appellant, on an identical basis. For ease of reference, the Appellant's financial breakdown within the offer is also being annexed and marked as **'Doc C'**. The Appellant's financial breakdown unequivocally indicates that the €52,059.00 figure is the total three-year concession fee rather than an annual concession fee, as opposed to the recommended bidder's figure.

The apparent inconsistency identified by the Appellant arises from comparing the ePPS flawed entry, a separate, system-recorded figure, rather than comparing the notice of award against the financial breakdown that the figure in the notice of award actually derives from.

Had the Appellant sought clarification or access to the financial breakdown before lodging this appeal, the correspondence between the notice of award and the recommended bidder's actual offer would have been readily apparent.

3. **Third Ground of Appeal: The contracting authority failed to demonstrate that the minimum annual concession fee requirement was correctly and consistently applied.**

The procurement documentation required the Evaluation Committee to verify that each bidder's offer met the minimum annual concession fee threshold, and that verification was carried out, for every bidder, by reference to the substantive financial documentation each bidder submitted. In the case of the recommended bidder, that documentation is the financial breakdown, which set out the annual concession fee offered and left no doubt as to compliance with the minimum threshold.

In view of the above facts, submissions and any further submissions that the Contracting Authority will affect at the hearing of the present appeal, it respectfully submits that its decision to award the tender to the successful bidder be confirmed without any modifications and thus reject the aforementioned appeal in its entirety as it is unfounded in terms of facts and law.

The Contracting Authority also reserves the right to produce such other evidence and witnesses as may be appropriate during the hearing of these proceedings.

Yours sincerely,

Adv. Luca Zammit

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List of Documents:

Doc A – Financial breakdown of Vertex for Lot 1

Doc B – Extract of the Concession Document showing Section 1

Doc C – Financial breakdown of Multivend for Lot 1

List of Witnesses:

Representatives of the Appellant and the Contracting Authority to confirm facts;

All witnesses produced by the Appellant.

Adv. Luca Zammit

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Doc A

FINANCIAL BID (Note 3) *- LOT 1: MALTA*

Concession Title	CONCESSION FOR THE PROVISION OF VENDING MACHINES FOR WASTESERV MALTA LTD
Lot 1 :	Provision of vending machines: hot, cold beverage and snack vending machines for WasteServ Malta Ltd in Malta sites.
Reference Number	WSM 203/2026

Description of Vending Machine		Fee* for ALL Vending Machines, per year (excl. VAT)	Number of Years (Concesssion Period)	Total Concession fee for ALL vending machines covering three (3) years excl. VAT
1	Cold Beverage	€ 21,563.92	3	€ 64,691.76
2	Hot Beverage			
3	Snack			
GRAND TOTAL inclusive of all applicable taxes, charges, duties, delivery costs, discounts, and any other expenses incurred up to the point of delivery, but exclusive of VAT. CARRIED FORWARD TO FINANCIAL SECTION OF THE ONLINE TENDER RESPONSE FORMAT				€ 64,691.76

The minimum value of the concession fee for Lot 1 - Malta, shall not be less than €13,000 /year excluding VAT.

NB1	The Contract will be awarded to the highest concession fee offered, satisfying the administrative and technical criteria.
NB2	Three decimal points do not exist as currency; therefore such offers cannot be accepted. All amounts quoted in the financial bid are to be submitted up to two decimal points.

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Doc B

	(ii)	A filled-in Financial Bid Form as per Tender Response Format. (Note 3) **In case of any discrepancy the xml tender structure shall prevail.** **This condition shall not apply to financial bid forms constituted of a Bill of Quantities (BoQ), or financial bid forms where the total can be arithmetically worked out and/or corrected if, as, and when necessary / applicable.**

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Doc C

FINANCIAL BID (Note 3) *- LOT 1: MALTA*

Concession Title	CONCESSION FOR THE PROVISION OF VENDING MACHINES FOR WASTESERV MALTA
Lot 1 :	Provision of vending machines: hot, cold beverage and snack vending machines for WasteServ Malta Ltd in Malta sites.
Reference Number	WSM 203/2026

Description of Vending Machine		Fee* for ALL Vending Machines, per year (excl. VAT)	Number of Years (Concesssion Period)	Total Concession fee for ALL vending machines covering three (3) years excl. VAT
1	Cold Beverage	€ 17,353.00	3	€ 52,059.00
2	Hot Beverage			
3	Snack			
GRAND TOTAL inclusive of all applicable taxes, charges, duties, delivery costs, discounts, and any other expenses incurred up to the point of delivery, but exclusive of VAT. CARRIED FORWARD TO FINANCIAL SECTION OF THE ONLINE TENDER RESPONSE FORMAT				€ 52,059.00

The minimum value of the concession fee for Lot 1 - Malta, shall not be less than €13,000 /year excluding VAT.

NB1	The Contract will be awarded to the highest concession fee offered, satisfying the administrative and technical criteria.
NB2	Three decimal points do not exist as currency; therefore such offers cannot be accepted. All amounts quoted in the financial bid are to be submitted up to two decimal points.