— ADVOCATES —



Public Contracts Review Board
Notre Dame Ravelin
Floriana
Malta

Today, 14th of October 2026

To the Secretary,

I am writing to you directly at the behest of our client the Local Enforcement Systems Agency (LESA) (hereinafter referred to as the "Contracting Agency"), with reference to the objection concerning the tender entitled "CT2047/2026 – Call for Tenders for the leasing of fixed radar speed meters and data processing applications at various sites in Malta for the Local Enforcement Systems Agency."

At the outset, the Contracting Agency categorically rejects any and all allegations raised in the appeal filed by the appellant company Securital Solutions Limited (hereinafter referred to as the "Appellant") as being unfounded both in fact and in law. The Contracting Agency submits that the procurement procedure was conducted in accordance with the published tender conditions and the applicable Public Procurement Regulations, Subsidiary Legislation 601.03. The decision to recommend the award to Engine SPA was based on the evaluation of the tenders submitted, the published Best Price Quality Ratio ("BPQR") award mechanism and the results recorded in the Evaluation Report.

The Contracting Agency shall address the relevant grounds of appeal as follows;

A. Background and evaluation of the tenders

The tender concerned the leasing and replacement of fixed radar speed meters and data-processing applications at various sites in Malta for LESA. The estimated procurement value was €2,400,000, excluding VAT, for the initial five-year contractual period. Clause 1.3 of Section 1 of the tender document expressly provides that the estimated procurement value is intended to guide prospective tenderers and is not a binding maximum price. Economic operators were expressly permitted to submit financial offers either above or below that estimate. Moreover, clause 6 of Section 1 established the EPQR award mechanism. The published methodology allocated a weighting of 70% to the technical component and 30% to the financial component. The award was to be made to the tenderer obtaining the highest combined score in accordance with that methodology.

That, following the administrative, technical and financial evaluation, Engine SPA, Tender ID 243652, obtained an overall score of 100.00 and was ranked first. The Appellant, in respect of Tender ID 243655, obtained an overall score of 84.67 and was ranked third. The Evaluation Report records the following relevant results:

I. Engine SPA: financial offer of €1,131,000 excluding VAT; overall score of 100.00; first place.

II. Alberta Fire and Security Equipment Limited, Tender ID 243660: financial offer of €2,013,912.60 excluding VAT; overall score of 86.85; second place.

III. Securital Solutions Limited, Tender ID 243655: financial offer of €2,312,490 excluding VAT; overall score of 84.67; third place.

IV. Securital Solutions Limited, Tender ID 243654: financial offer of €2,402,558 excluding VAT; overall score of 84.12; fourth place.

The ranking therefore followed the published scoring methodology. The Appellant's third-place position resulted from the comparison of the compliant offers under the prescribed BPQR mechanism, rather than from any unpublished award criterion.

B. The alleged failure to disclose information

That, the Contracting Agency recognises that transparency is an essential principle of public procurement and that tenderers must be able to understand the outcome of a procurement procedure and exercise their available rights of review effectively. Nevertheless, any allegation of failure to disclose information must be assessed by reference to the precise information requested, the applicable disclosure obligations, the nature of the information concerned and any legitimate confidentiality restrictions applicable to it.

The Contracting Agency submits that the award decision was communicated to the Appellant on 29 September 2026. Subsequently, on 6 October 2026 at 15:45, the Appellant requested various information and documentation, requiring a response by 17:30 on 7 October 2026, notwithstanding that the objection period was due to expire on 9 October 2026.

The timeframe afforded was insufficient to enable the Contracting Agency to undertake a proper review of the requested documentation, particularly in view of the need to assess the confidentiality of information relating to the financial and commercial interests of another tenderer. The information was not withheld; rather, it has since been reviewed and is being submitted with the present reply, subject to applicable confidentiality requirements.

Accordingly, the Contracting Agency respectfully submits that the Appellant's allegation must be assessed in light of the circumstances and timing of its request and the fact that the requested documentation is now being provided.

C. The financial offer submitted by Engine SPA

The Appellant challenges the financial offer submitted by Engine SPA, particularly in view of the difference between the recommended offer of €1,131,000 excluding VAT and the estimated procurement value of €2,400,000 excluding VAT.

The Contracting Agency submits that the tender document itself expressly permitted financial offers above or below the estimated procurement value. Clause 1.3 stated that the estimate was not a binding capping price and was not restrictive or final upon the Contracting Authority. The fact that Engine SPA submitted an offer substantially below the estimate was therefore not, in itself, a ground for automatic rejection. The relevant issue was whether the offer could meet the requirements of the tender and whether the applicable procedure for examining a potentially abnormally low offer was followed.

In this regard, the Evaluation Report records that the Evaluation Committee requested a financial justification from Engine SPA pursuant to Regulation 243 of the Public Procurement Regulations, S.L. 601.03. The request gave the tenderer an opportunity to explain the proposed price and provide a rationale for the amount offered. Following consideration of this confirmation, the Committee deemed the offer financially compliant and fair and reasonable, recommending its award under the published BPQR mechanism. Accordingly, the price difference alone does not establish that the offer was incapable of performance or that the evaluation procedure was unlawful.

The Contracting Agency therefore submits that the evaluation did not proceed on the basis of the price difference alone. A financial confirmation was sought from the recommended tenderer, and the outcome of that process was recorded in the Evaluation Report. The Appellant's reliance on the difference between the estimated procurement value and Engine SPA's offer does not, without further evidence, establish that the offer was incapable of performance or that the evaluation procedure was necessarily unlawful. The relevant assessment must take account of the tender requirements, the explanation sought and received, and the evaluation record.

Concluding remarks

Therefore, and in light of the above, The Contracting Agency submits that the evaluation and award recommendation were based on the tender documentation and the published BPQR mechanism. The Evaluation Committee addressed the discrepancy in Engine SPA's financial submission and requested confirmation that its offer covered all tender requirements. Engine SPA achieved the highest overall score and was ranked first, while the Appellant ranked third. Accordingly, the Contracting Agency submits that the Appellant has not established that the award recommendation was unlawful and respectfully requests that the Board reject the unsubstantiated grounds of appeal and uphold the recommendation to award the tender to Engine SPA, subject to compliance with the applicable legal and tender requirements.

All rights of the Contracting Agency LESA are hereby reserved.

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