IN THE PUBLIC CONTRACTS REVIEW BOARD



OBJECTION No. _____/2026

Tender reference: SPD6/2025/104 – Framework Contract for the Provision of Waste Collection Services using Environmentally Friendly Transportation Services for Transport Malta.

In the names:

SAVIOUR GALEA, JOSEPH GALEA U CHRISTIAN GALEA, IN THEIR OWN NAME AND FOR AND ON BEHALF OF:- GALEA CLEANING SOLUTIONS JV

GALEA CLEANING SOLUTIONS JV

v.

SECTORAL PROCUREMENT DIRECTORATE; DEPARTMENT OF CONTRACTS; AND TRANSPORT MALTA

Letter of objection by SAVIOUR GALEA, JOSEPH GALEA U CHRISTIAN GALEA, in their own name and for and on behalf of:- GALEA CLEANING SOLUTIONS JV *of*, Il-Qiegha Triq Il Kappella Ta Santa Marija, Mghatab Naxxar.

Humbly submits:
Saviour Galea, Joseph Galea u Christian Galea, in their own name and for and on behalf of:- Galea Cleaning Solutions JV (hereinafter referred to either as the "*Objector*" or "*Appellant*"), (Tender ID 000241704) of Il-Qiegha Triq Il Kappella Ta Santa Marija, Mghatab Naxxar, whilst making reference to the above-captioned call for tenders ("the Tender"), hereby submits a formal objection in relation to the same call for tenders. The Objector avails itself of the right granted in virtue of Regulations 270 et seq. of the Public Procurement Regulations (Subsidiary Legislation 601.03 of the Laws of Malta) ("PPR").

1) The Appellant, Galea Cleaning Solutions Joint Venture, constituted by agreement dated 20th November 2023 between Christian Galea (ID 335984M), Saviour Galea (ID 14989M) and Joseph Galea (ID 547986M) (the "Partners"). It submitted a tender in the above procedure under Tender ID 000241704.

2) The Appellant, having no separate legal personality, acts through its Partners.

3) The Cancellation notice was sent to the Objector on 16th October 2026. This Objection is filed within that term and the deposit of €1,024.92 indicated in the Cancellation Notice has been paid, proof of such payment is attached hereto.

The Decisions Objected To

4) Two decisions are impugned: the finding of administrative non-compliance of the Appellant's tender, and the decision to cancel the procedure. The second rests entirely on the first. The grievances below are arranged accordingly: the first three attack the finding of non-compliance and the fourth attacks the cancellation, which falls with the finding in any event.

FACTS

5) The call for tenders SPD6/2025/104 was published on 20th March 2026 by the Sectoral Procurement Directorate of the Department of Contracts. The final beneficiary is Transport Malta ("the Tender"). The estimated procurement value is €204,984 excluding VAT (cl. 1.3). Price is the sole award criterion (cl. 6.1).

6) The Tender Document contains no provision specific to joint ventures. Joint venture requirements are those in the General Rules Governing Tenders ("GRT"), which the Tender Document incorporates. Clause 2.3 GRT provides:

> *"One partner must be appointed lead partner and that appointment confirmed by submission of power of attorney signed by legally empowered signatories representing all the individual partners. The tender must include a preliminary agreement or letter of intent stating that all partners assume joint and several liability for the execution of the contract, that the lead partner is authorised to bind, and receive instructions for and on behalf of, all partners, individually and collectively."*

7) During the evaluation, the Evaluation Committee noted that the Appellant *"could be a Joint Venture"* and, issued a request for clarification/rectification. As recorded in the Authority's letter of 16th October 2026, the Appellant was asked to confirm whether it is registered as a joint venture/consortium and, if so, to provide a duly filled and signed power of attorney appointing the lead partner and a preliminary agreement or letter of intent on joint and several liability and the lead partner's authority.

8) Within the five working days allowed, the Appellant replied and submitted **three** documents, both dated 20th November 2023: (a) the Tender's Power of Attorney form duly completed and signed; (b) a Power of Attorney signed by Saviour Galea and Joseph Galea, *"on our own behalf and on behalf of Galea Cleaning Solutions JV"*, authorising Christian Galea to sign and submit a tender for a different procedure, namely tender PLC/T/2023/03 (street sweeping and cleaning services in Pembroke) and (c) the Galea Cleaning Solutions Joint Venture Agreement signed by all three Partners.

9) The JV Agreement is a general-purpose instrument. Its first recital records that the Partners desire to form a joint venture *"in order to be able to*

*participate in tenders issued from time to time by Maltese authorities and or entities including but not limited to the Government of Malta, **Transport Malta**, the Department of Contracts, Local Councils for the provisions of certain services including street cleaning and bulky refuse collection"*. Clause 1.3 provides that *"the Leader shall be authorised to prepare, sign and submit all tender responses on behalf of the Galea Joint Venture"*. Clause 2 defines the object as the negotiation and conclusion of contracts *"from time to time"* and clause 3.1 provides that the agreement commenced on its date and terminates when the Partners agree. Christian Galea is designated "the Leader" in the opening clause.

10) By letter dated 16th October 2026 the Authority informed the Appellant that its tender was "Not Administratively Compliant". The only reason given for non-compliance is: *"Documentation provided included a Power of Attorney and Joint Venture agreement that both referred to another tender, not related to the Contracting Authority, dated back in 20th November 2023. Offer was deemed administratively noncompliant."* The letter adds that the procedure was recommended for cancellation under Article 18.3(a) GRT, which provides (GRT, p. 20): *"the tender procedure has been unsuccessful, namely where no qualitatively or financially worthwhile tender has been received or there has been no response at all"*. The Cancellation Notice of the same date records the decision as "Cancelled".

11) The letter also opens its list of reasons with the statement "No subcontracting has been indicated." That is not a ground of non-compliance: the Tender Document provides (cl. 5(B)(c)) that *"if the information being requested regarding sub-contracting is left empty, it will be assumed that no sub-contracting will take place (0% subcontracting)"*. The Authority did not rely on it as a ground of exclusion and the Appellant objects to its being invoked now.

FIRST GRIEVANCE – THE REASON GIVEN DOES NOT ESTABLISH NON-COMPLIANCE WITH CLAUSE 2.3 GRT

What Clause 2.3 Requires

12) Clause 2.3 GRT has two components: (i) confirmation of the lead partner's appointment by a power of attorney signed by signatories representing all the individual partners; and (ii) a preliminary agreement or letter of intent on joint and several liability and the lead partner's authority. Neither the GRT nor the Tender Document requires that the power of attorney or the agreement be issued specifically for this tender, nor that it post-date publication of the call. The Authority's ground – that the documents "referred to another tender" – is a requirement that appears in no procurement document.

13) Under Regulation 38(1) of the Public Procurement Regulations (Subsidiary Legislation 601.03 of the Laws of Malta) (the "PPR") procurement documents must be written in clear and unambiguous terms, and under Regulation 39(1) of the PPR the Authority must act equally, transparently and proportionately. A contracting authority cannot exclude a tenderer for failing a requirement that its own documents do not state.

The Appellant Produced What Clause 2.3 Requires

14) The JV Agreement is signed by all three Partners. It constitutes the joint venture, designates Christian Galea as the Leader and, by clause 1.3, authorises the Leader to prepare, sign and submit all tender responses on behalf of the joint venture. It is the written agreement among all partners that clause 2.3 calls for. It identifies the Appellant, each Partner and the lead partner, and its terms are not limited to any single tender.

15) The Authority's finding that the JV Agreement "referred to another tender, not related to the Contracting Authority" is inaccurate. The operative purpose recorded in the first recital extends expressly to tenders issued by "Transport Malta" and "the Department of Contracts", which are respectively the final beneficiary and the contracting body in this procedure. The agreement is of indefinite duration and its object is stated in general terms.

16) The Appellant does not overlook that the third and fourth recitals refer to the Pembroke Local Council tender and that the closing words of clause 1.3 refer to "this tender". Those words describe the occasion on which the joint venture was first constituted. The first recital, clause 1.3 ("**all tender responses**"), clause 2 and clause 3 are operative and general, and an incidental recital cannot cut down operative provisions drafted in general terms.

17) As to the Power of Attorney, the Appellant acknowledges that its terms refer to the Pembroke tender. The document nevertheless evidences, on the face of the bundle, the three elements which clause 2.3 seeks to establish: the existence of the joint venture, the identity of the Partners and the identity of the lead partner authorised to act. The defect is in the stated object of one document. It is not an absence of authority, and the Authority did not find otherwise.

18) The Authority's reason is limited to the reference to "another tender". The Authority did not find that the documents fail to identify the Partners, that the Leader lacks authority, or that joint and several liability is not assumed. The Authority cannot add new reasons at the hearing. In *"Cherubino Limited (C-3677) v. Department of Contracts and CPSU"* (App. 203/17, Court of Appeal, 3 October 2017) the Court of Appeal held that the PCRB erred in allowing the Authority to change its rejection reasons during the hearing. The Appellant reserves the right to reply to any new ground.

SECOND GRIEVANCE - EXCLUSION IS A DISPROPORTIONATE AND FORMALISTIC APPLICATION OF THE RULES

The Principle

19) Regulation 39(1) of the PPR require that the Authority act in accordance with the principles of equal treatment, transparency and proportionality. Clause 16.1 GRT and Note 2 to Clause 5 of the Tender Document give effect to this:

"Tenderers will be requested to either clarify/rectify any incorrect and/or incomplete documentation, and/or submit any missing documents within five (5) working days from notification."

20) The Court of Appeal applied proportionality to the exclusion of a tender in ***"Ballut Blocks Services Limited v. Ministru għar-Riżorsi u l-Affarijiet Rurali et"*** (App. Ċiv. 440/2012/2, Court of Appeal, 4 March 2014 (retrial under Article 811(e) of the Code of Organisation and Civil Procedure, rejecting the request for retrial and thereby leaving in place the judgment of 31 May 2013 reproduced in it)). The tender omitted the price in the tender form, although it was calculable from the bills of quantities. The Court said:

> *"Fil-fehma tal-qorti, għalhekk, mhux biss l-iskwalifika ma kinitx meħtieġa biex jinkisbu l-għanijiet tas-sejħa għal offerti, fosthom il-ħarsien tal-kompetizzjoni ġusta, iżda anzi wasslet biex jista' jintilef il-għan li l-kuntratt jingħata lil min għamel l-orħos offerta. Għal din ir-raġuni l-qorti hija tal-fehma illi l-iskwalifika tal-offerta ta' Ballut ma kinitx miżura proporzjonata."*

21) In the retrial judgment the Court confirmed (p. 14) that *"meta kien jidher li l-izball ta' Ballut Blocks Services Ltd kien ovvju u mhux gravi u l-prezz seta' jigi facilment ikkalkulat a bazi tal-bill of quantities ipprezentati, ma kienx gust li dik il-kumpanija tigi skwalifikata"*. The Court cited *Adia Interim v. Commission* (T-19/95) for the proposition that an authority may correct obvious clerical errors (pp. 15–16) and *Manova* (C-336/12, 10 October 2013) on further information.

Application

22) The same reasoning applies. First, the joint venture, its Partners and the Leader all existed, and were documented, on 20th November 2023, long before the call was published on 20th March 2026. The Appellant satisfied the requirement stated in clause 16.1 GRT that the Evaluation Committee *"must ensure that an economic operator is ab initio eligible to qualify for a tender and must consequently be in possession of all the requirements stipulated in the procurement documents by the closing date for the submission of the same"*. Nothing in the reply created or altered the Appellant's status after the closing date. No other tenderer was disadvantaged and the Appellant obtained no competitive advantage.

23) Second, the error is of the kind recognised in ***"Ballut Blocks"***: the stated object of one document is wrong, while the information needed to assess compliance appears in the file. The Court of Appeal reasoned in the same way in ***"Europharma Limited v. CPSU et"*** (App. Ċiv. 445/2025/1, Court of Appeal, 29 January 2026), where proportionality was applied and a disqualification for blank fields annulled because the information existed elsewhere in the bid; in ***"Krypton Chemists Limited v. CPSU and Cherubino Limited"*** (App. 322/2025/1, Court of Appeal, 13 November 2025), where the Court distinguished clarification from rectification and held disqualification disproportionate where the data was present elsewhere in the offer. In fact the Court stated the following:

> *"35. **Din il-Qorti tqies li l-għan ewlieni wara s-sejħa għall-offerti de quo agitur ma kinitx li l-Awtorità kontraenti toqgħod tfettaq u tfittex ix-***

xagħra fl-għaġina sabiex telimina l-konkorrenza. ... In oltre, il-fatt li l-informazzjoni kienet kontenuta fid-Declaration of Conformity Amendment minflok fit-Technical Offer Form ma kienx jaffetwa s-sustanza tal-offerta ta' Europharma Limited kif ukoll lanqas ma kien jagħti xi vantaġġ lil Europharma Limited fuq l-oblaturi l-oħra. Lanqas ma kellu impatt fuq l-awtorità kontraenti. Fil-fehma ta' din il-Qorti, l-iskwalifika tal-offerta tas-soċjetà appellanta fuq raġuni bħal din, hija miżura sproporzjonata meta wieħed iqis li jekk din tiġi attwata, din tista' twassal biex jintilef l-għan ewlieni tas-sejħa li l-kuntratt jingħata lil min għamel l-orħos offerta. Infatti, il-prezz offrut mis-soċjetà appellanta kien ta' €243,287.44 mentri dak offrut minn Associated Equipment kien ta' €384,321.71."

24) Third, the Authority itself treated the matter as one for rectification under Note 2, and the Appellant replied in time. Excluding a reference to the wrong tender in the object of a power of attorney, when the Partners, the Leader, and their agreement are otherwise established, goes beyond what is necessary to protect fair competition and is therefore disproportionate.

THIRD GRIEVANCE – THE CANCELLATION IS UNFOUNDED

25) The Authority cancelled the procedure on the ground that it was "unsuccessful", which Article 18.3(a) GRT defines as the case where "no qualitatively or financially worthwhile tender has been received or there has been no response at all". The Appellant's tender was not examined on its technical or financial merits. No finding was made that it was not "qualitatively or financially worthwhile".

26) The cancellation is wholly derivative of the finding of non-compliance. If the Board upholds any of the first two grievances, the foundation of the cancellation falls and the procedure must continue with the evaluation of the Appellant's tender. The Authority has not shown that the Article 18.3(a) threshold is met by a tender that was never evaluated on its merits.

CONCLUSIONS

For these reasons, the Appellant respectfully requests that the Public Contracts Review Board:

1. uphold this Objection;
2. revoke and set aside the decision of the Authority communicated by letter dated 16th October 2026 whereby the Appellant's tender was declared "Not Administratively Compliant";
3. revoke and set aside the decision, notified by Cancellation Notice dated 16th October 2026, to cancel the Tender;
4. order the Authority to admit the Appellant's tender and to continue the evaluation of the tenders received;
5. in the alternative and without prejudice to the above, give such directions as the Board considers appropriate so that the Appellant's compliance is assessed on the basis of the documents submitted and the Board's findings;

7. order the refund of the deposit of €1,024.92 to the Appellant; and
8. give any other order or remedy that the Board considers appropriate in the circumstances.

AV. JONATHAN MINTOFF
COR951, LEVEL 2, OFFICE6B,
PJAZZA PRESIDENT J F KENNEDY,
VICTORIA, GOZO

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LIST OF WITNESSES

1. The appellant (including the leader, the partners / joint venturers);
2. The Contracting Authorities involved and their representatives;
3. Members of the Evaluation Committee;
4. The Department of Contracts and its' representatives;
5. Representatives of the Commissioner for Tax and Customs;
6. Representatives of Transport Malta;
7. All other witnesses indicated by the other parties (for examination-in-chief / cross-examination);
8. Other witnesses that are not yet known to the appellants

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BOV
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: Mrs. Charmaine Galea
Printed on: 22/10/2026 - 16:49
Document ID: 30187083

Transaction details

Payee type:	Personal Payee
Is the payee a joint beneficiary:	No
Payee name:	Cashier Malta
Payee surname:	Government
Relation:	Administrative Services
Reason:	Other
Payment details:	SPD6/2025/104
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:	4002247687 6 (EUR)
Charges should be paid by:	Shared - I pay BOV charges; beneficiary pays the beneficiary bank charges
Amount:	EUR 1,024.92
BOV to transfer the money:	as soon as possible
Receiving bank to get the money as:	normal priority payment
FPAD Result:	We couldn't confirm that the name you entered matches the recipient's account. This might happen if the recipient's bank doesn't support name checks yet or if there's a temporary issue. Please double-check that the name and account details are correct before continuing. If any details are wrong, the payment could go to the wrong account or may be fraudulent and may not be recoverable. If you're confident everything is correct, you can go ahead and make the payment.
Saved template:	no

Additional information

Credit amount:	EUR 1,024.92
Debited amount (excluding charges):	EUR 1,024.92
Estimated amount to be withdrawn from account:	EUR 1,028.92
Transaction charge:	EUR 4.00

Transaction result

Status:	Your instructions have been processed successfully.
Transaction ID:	187410256