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11 November, 2016

The Public Contracts Review Board
Notre Dame Ditch
Floriana



Attn: The Chairman
The Secretary

Re: CT 2107/2016 – Framework agreement for the construction and maintenance of roads in Malta o.b.o. authority for transport in Malta

Gentlemen,

We write on behalf of Denfar Excavators Limited of Denfar House, Old Valletta Road, Imqabba.


Reference is made to the above tender. Our clients are hereby registering a pre-contractual concern relating to the same tender.

Our clients are hereby objecting to the insertion of a particular clause. Clause 7.1(b)(3) stipulates that “prospective providers submitting their bid to participate under level 3 require that they own or are partners (minimum of 20%) in an asphalt mixing plant”. This is the first time that this clause has been included in a framework agreement tender.

We have been involved in the construction of roads in Malta for the past 27 years. We have never encountered a problem to procure asphalt from local suppliers. We see no reason for the introduction of this clause in this age and era. The only consequence for the inclusion of this clause would be tantamount to automatic disqualification. Our exclusion from participation in the tender award process and prohibiting us and similarly the majority of contractors from carrying out major road works in Malta goes against both the spirit and the letter of a level playing field. It is evident that the rules of fair competition will be totally abolished and would see the introduction of dominant players in this particular field. This would constitute the end of contractors like us. We are both able and willing to participate in these tenders. We have invested time, money, and experience in our companies and will constitute an irremediable prejudice to the livelihood of all those involved in this industry including the families of our employees.

We sincerely hope that this grave concern will be duly considered and such clause be excluded from this tender.

Whilst thanking you in advance for your kind attention and keen cooperation, we await your reply at your earliest convenience and remain at your service.



Dr. Joseph P. Bonnici LL.D