

Auditor General

Our Ref: NAO 135/2015

Your Ref:

24 March 2021

Hon. Dr Beppe Fenech Adami, LL.D., M.P.
Chair
Public Accounts Committee

Reference is made to the ongoing sittings being held by the Public Accounts Committee regarding the audit titled 'An investigation of matters relating to the contracts awarded to ElectroGas Malta Ltd by Enemalta Corporation'. During the meeting held on 3 March 2021, the witness summoned by the Committee, Mr David Galea read a statement expressing serious reservations on several of the conclusions and findings arrived at by the NAO.

We sincerely do not want to engage in futile polemics or controversies; however, in view of our mandate to provide assurance to Parliament, we felt it was our duty to provide the necessary clarifications or explanations to duly rebut the doubts raised regarding the validity of our Report.

Having reviewed Mr Galea's statement and the report prepared by him following the publication of the NAO's report, that is, 'An Analysis of NAO's Salient Conclusions – PPA & GSA', hereunder is the NAO's reply with respect to that stated by Mr Galea (reproduced in italics for ease of reference):

Makes a number of material statements that are factually incorrect and easily verified by reference to existing documentation.

The NAO contends that all statements referred to in the document prepared by Mr David Galea following the publication of this Office's report classifying the NAO's assertions as factually incorrect and erroneous are merely based on a different interpretation of facts, an incomplete understanding of the points raised by this Office, or different standards in what one ought to expect in terms of good governance, accountability and transparency within a public entity.

Makes a number of statements that go beyond his remit in connection with certain government policy decisions for which he is not qualified to comment on, such that it is immediately apparent that they are not guided by expert advice.

In undertaking this audit, the NAO was guided by the terms of reference set following a request received from the Public Accounts Committee. Matters brought to this Office's attention and consistent with its mandate were comprehensively assessed by means of the audit carried out. The incorrect labelling of key decisions by Government as 'policy' is a common tactic faced by the NAO in attempts made to obstruct the Office from fulfilling its audit function.

Lacks a proper understanding of the real public value that was being sought through the project with cost only being one of several components.

The determination of 'real public value' of this project was not part of the mandate the NAO was tasked with. Notwithstanding this, the NAO sought to provide an element of context to the project by seeking feedback on the procurement options considered by Enemalta. While a post-facto summary of the options discussed was provided, this was severely limited in detail and not documented, and certainly not to the standard required in a project of this scale.

Expresses a number of opinions on the outcome of the competitive process that are based on a simple administrative review as opposed to a real evidence-based assessment of competencies and capabilities of bidders.

The NAO's audit of the procurement process is far from a simple administrative review. This is evidenced in the detailed report that has been published and that now forms the basis of the discussions being held by the Public Accounts Committee. It is pertinent to note that an audit of the evaluation process does not entail the repetition of this process by the audit team, but a verification that the original evaluation was in line with the established procedures and criteria.

Adopts a conflicting approach in which he seeks to first establish certain corporate governance standards and then seeks to assess the approach of our work against those standards.

Reference to recognised standards, practices and benchmarks is a commonly utilised method in determining the level of performance of a particular function. The assessment of corporate governance in this project was no different, here understood as referring to the evaluation of the due diligence carried out in the EoIC and RfP processes. In the absence of any true form of due diligence undertaken throughout these processes, the NAO was left with no alternative but to refer to basic standards of corporate governance and assess this procurement process in this respect.

Adopts an incorrect technical approach in comparing energy costs differentials between the interconnector and the rates paid through the Power Purchase Agreement confusing principles of relevant cash flows, marginal costing and full absorption costing whilst comparing two different commodities that exhibit a completely different risk profile for Enemalta.

Again, the NAO was guided by the terms of reference set by the Public Accounts Committee. This Office was tasked with determining 'Whether the rate at which Government and/or Enemalta agreed to purchase electricity from ElectroGas Ltd was more favourable than that at which Enemalta procured electricity through the interconnector.' The NAO is of the understanding that its analysis addressed the matter brought to its attention.

I trust that this clarifies matters regarding this Office's report.

Yours sincerely,



C. Deguara