## Case 1244 – CFT 022-1169/18 –Tender for the Service of Vinyl Wall and Floor Covering for Mount Carmel Hospital

## Call for Remedies before the Closing Date for Competition

The publication date of the call for tenders was the 9<sup>th</sup> November 2018 whilst the closing date of the call for tenders was 29<sup>th</sup> November 2018. The estimated value of the tender (exclusive of VAT) was € 143,999.99

On the 28<sup>th</sup> November 2018, de Valier Co Ltd filed a Call for Remedy against the Central Procurement and Supplies Unit as Contracting Authority seeking further details regarding the project literature requested.

On 18<sup>th</sup> December 2018 the Public Contracts Review Board composed of Dr Anthony Cassar as Chairman, Dr Charles Cassar and Mr Lawrence Ancilleri as members convened a public hearing to discuss the objections.

The attendance for this public hearing was as follows:

## Appellants – de Valier Co Ltd

Mr Mario Cassar Representative

## **Contracting Authority – Central Procurement and Supplies Unit**

Dr Stefan Zrinzo Azzopardi	Legal Representative
Ms Ruth Saliba	Representative
Mr Noel Camilleri	Representative

Dr Anthony Cassar, Chairman of the Public Contracts Review Board, welcomed the parties and invited Appellants to make their submissions.

Mr Mario Cassar Representative of de Valier Co Ltd stated that from the tone of the letter of reply from the CPSU he was satisfied that the queries he had raised about the literature will be clarified.

Dr Stefan Zrinzo Azzopardi legal Representative of the CPSU said that clarifications will be issued and care will be taken that clear descriptions will be provided to bidders and the CPSU will follow any directives that the Board may wish to provide in this regard.

The Chairman thanked the parties for their submissions and declared the hearing closed.

This Board,

having noted this Call for Remedy filed by de Valier Company Limited prior to the closing date of competition on 28 November 2018, refers to the contentions made by the same Appellant with regards to the Tender of Reference CFT 022-1169/18 issued by the Central Procurement and Supplies Unit and listed as Case 1244 in the records of the Public Contracts Review Board.

Appearing for the Appellant:	Mr Mario Cassar
Appearing for the Contracting Authority:	Dr Stefan Zrinzo Azzopardi
Whereby, the Appellant contends that:	

a) the project Literature enclosed in the e-tender will give an advantage to other Bidders representing these brands.

This Board has also noted the Contracting Authority's *"Reasoned Letter of Reply"* dated 3 December 2018 and its verbal submissions during the Public Hearing held on 18 December 2018, in that:

a) the Contracting Authority maintains that the document referred to by the Appellant, was intended as an example with regard to design and not to specifications. However, the same Authority will issue the necessary clarification to avoid any advantage which might be given to particular Bidders.

This Board, after having examined the Contracting Authority's "*Reasoned Letter of Reply*" dated 3 December 2018 and heard submissions made by the parties concerned, noted positively that the Central Procurement and Supplies Unit did not intend to give any advantage to any particular Bidder but rather give an example of the design through Literature. It was also established that the Contracting Authority was not dictating technical specifications contained in the literature.

In this regard, this Board:

- a) instructs the Central Procurement and Supplies Unit to issue a clarification note to ensure that no distortion to competition is affected;
- b) instructs the same Contracting Authority to resume the tendering process without further delay.

Dr Anthony Cassar Chairman Dr Charles Cassar Member Mr Lawrence Ancilleri Member

27<sup>th</sup> December 2019