



ADVOCATES
DEGUARA FARRUGIA



13th March 2024

The Secretary
Public Contracts Review Board
Notre Dame Ravelin
Floriana, FRN1601

Reasoned Letter of Reply

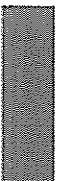
Re: 427 - Objection CT 4005/2023- Leasing of Office Premises for Project Green

Dear Sir,

1. We have been instructed by Project Green Agency (the “**Contracting Authority**”) to file this reasoned reply.
2. This reasoned reply relates to the objection filed on the 4th March 2024 by Gerada Quality Construction Ltd (the “**Complainant**”) with the Public Contracts Review Board (the “**Board**”) in connection with the tender subject in caption (the “**Objection**”).
3. The Contracting Authority considers the Objection to be unfounded, both in fact and at law, and is setting out hereunder its reasoned replies to the Objection.

Facts of the Case

4. The Department of Contracts issued a Tender on behalf of the Contracting Authority which was published on 3rd August 2023 for the Leasing of office premises for Project Green with tender reference number CT4005/2023 (the “**Tender**”).





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5. A Tender Procurement Document outlining the terms and conditions of the Tender was issued by the Contracting Authority (the “**Tender Procurement Document**”), a copy of which is hereby attached and marked as ‘**Doc A**’.
6. The Complainant, along with the other bidders, submitted its response for the Tender (the “**Submission**”).
7. Prior to the completion of the evaluation process by the Evaluation Committee and thus prior to the identification of any preferred bidder, it resulted to the Contracting Authority that the economic and technical parameters of the project as originally envisaged in the Tender Procurement Document required a significant alteration in order to meet the Contracting Authority’s requirements.
8. The Contracting Authority cancelled the Tender and notified such cancellation to the Complainant, as well as all other bidders, by means of a letter dated 24th February 2024 (the “**Cancellation Letter**”) which reads as follows:

“Thank you for participating in the above mentioned procurement procedure.

However, I regret to inform you that this tendering procedure is being cancelled in line with Article 18.3 (b) of the General Rules Governing Tendering where it is stated that:

“The economic or technical parameters of the project have been altered”

9. The Complainant requested the Director of Contracts to further clarify the reason behind the cancellation and the Contracting Authority provided further clarification on the 29th of February 2024 (the “**Clarification**”) as follows:





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“The above is being substantiated by the following:

- 1. A New organisational structure coupled with a capacity building programme rendered the originally planned premises unsuitable in the context of the new vision.*
- 2. Project Green is opting for a serviced facility given that such office environment offers more opportunities for the efficient use of space and collaboration.*
- 3. The Infrastructure and services usually available within a services facility are designed to be managed and maintained centrally, ensuring ongoing maintenance and servicing, hence allowing Project Green to be more effective and resourceful, focusing on its core business.*
- 4. Technical parameters of leased services premises would also include 24/7 security systems, common reception areas, rentable meeting rooms, board rooms and conference apart from energy efficient technologies which reduce the overall environmental impact.”*

10. The Complainant felt aggrieved by this decision and filed the present appeal to which this Reasoned Letter of Reply is being presented.

First Ground of Appeal: Documentation not applicable to this procurement procedure.

11. The Complainant’s first ground of appeal on the basis of which it objected to the decision to cancel the Tender is that the document referred to in the Cancellation Letter, that is the General Rules Governing Tendering, were not applicable to this Tender and in breach of the self-limitation doctrine.
12. However, the Complainant failed to note that in the xml structure completed by all bidders, which was published, reference is clearly made to the General Rules Governing Tendering. Copy of the pertinent sections are being hereby attached and marked as ‘Doc B’.





13. Additionally, and without prejudice to the above, the Tender Procurement Document, namely article 11 of Section 4 on General rules Governing Tendering, clearly state that the Contracting Authority reserves its right to cancel the Tender as follows:

“11. Evaluation of Tenders

...

11.4. The CA is not bound to accept any of the submitted offers and has the right to refuse in part or in full any or all the submissions, even the most advantageous.

11.5. The Central Government Authority/ Contracting Authority reserves the right to accept or reject any tender and/or to cancel the whole tender procedure before and after the closing established for the submission of the tenders, including instances where the financial offer submitted exceeds the estimated value for the tender, and/or reject all tenders. The Central Government Authority/Contracting Authority reserves the right to initiate a new invitation to tender.

11.6. In the event of a tender procedures' cancellation, tenderers will be notified by the Central Government Authority/Contracting Authority. Cancellation may occur where:

(a) 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;

(b) the economic or technical parameters of the project have been altered;

(c) exceptional circumstances or force majeure render normal performance of the project impossible;

(d) where there is a discrepancy in the tender document;





(e) there have been irregularities in the procedure, in particular where these have prevented fair competition;

(f) the only administratively and technically compliant offer is deemed to be an abnormally low tender.”

14. This Board has consistently emphasised that a tender document constituted a contract between the contracting authority and any interested persons, and the resulting requirement that each of them abides by what is stated therein. Reference is made to:

Case 1117¹, where the Board held that:

“This Board had always endorsed the principle that the Tender Document is a contract and that any party to the contract must strictly abide by the conditions as laid out in the Tender Document”.

Case 1107², where the Board held that:

“In considering this issue, this Board would like to refer to the importance of the Tender Dossier and its contents, Apart from the basic fact that the Tender Document is a contract, the Bidder should also appreciate and accept that each clause and condition contained in the document must be strictly adhered to throughout the Tender Period, yet at the same instance, the Local Council must ensure that, throughout the Evaluation Process, same clauses and conditions are respected so that the Evaluation Committee is obliged to safeguard all the conditions dictated in the Tender Document during their deliberations”.

¹ Case 1117 of 2017 - WSM 51/223/2017 – Tender for the supply and delivery of Diesel (EN 590) to various Wasteserv Sites.

² Case 1107 – LLC T 01/2017 – Service for the Collection of Mixed Household Waste for the Hal Lija Local Council in an Environmentally Friendly Manner.



15. Therefore, it is evident that not only the General Rules Governing Tendering do in fact apply to this Tender, but the prerogative of the Contracting Authority to cancel the Tender also emerges from the Tender Procurement Document itself which is a contract between the Contracting Authority and the Complainant.

Second Ground of Appeal: Cancellation – a right which should not be abused.

16. The Complainant's second ground of appeal on the basis of which it objected to the decision to cancel the Tender is that, while confirming that the Contracting Authority has the prerogative to cancel a procurement procedure, such right is not absolute and should only be availed in determine situations are indicated in the Objection.

17. The discretion of the Contracting Authority in cancelling the call for tenders has been used diligently and the Complainant may not impose the requirements for the procurement by the Contracting Authority especially considering that the Contracting Authority reserved the right to make changes in the tender document in a number of instances.

18. At the time that the tender offer procedure was being held in August of the year 2023, the new requirements were not foreseen and envisaged by the Contracting Authority and therefore a rethinking of the specifications was required and such requirements could only be addressed through the cancellation of the call for tenders.

19. In terms of regulation 562 of the Code of Organisation and Civil Procedure, Chapter 12 of the Laws of Malta, the Complainant is duty bound to prove that there were no change in technical parameters.

20. Additionally, the Contracting Authority does not agree with the Complainant's assertion that the right to cancel a procurement procedure is not absolute, given this right emerges from the Tender Procurement Document as cited and explained above.





21. Furthermore, the Complainant asserts “*it is clear from the tender document that all of the above requirements and functions [mentioned in the Clarification] are and can be fulfilled through the tender currently under review*”. While the Complainant did not explain how this is clear, the Contracting Authority confirms that the project envisaged in the Tender Procurement Document had changed as explained in the specific reasons enlisted in the Clarification, making the Tender Procurement Document completely unfit for the new and revised exigencies of the Contracting Authority.
22. The Complainant also relied on the possibility of negotiations of certain criteria as indicated in article 13, Section 1 of the Tender Procurement Document. However, such negotiations may be held between the Contracting Authority and the preferred bidder. In the case under review, there was no preferred bidder given that the Tender was cancelled before the tender procedure reached such stage, and therefore no negotiations could have been entered into.
23. In addition, and without prejudice to the above, article 13 envisages negotiations about “*details in relation to the necessary alterations and improvements and other cosmetic works to be completed*”. Therefore, negotiations are required to be entered into only when the details to be changed are minor and practical, such as changing the layout of furniture.
24. Therefore, not only could the requirements and functions indicated in the Clarification not be fulfilled through the Tender in question, but by no means did the Contracting Authority abuse of the right to cancel a procurement procedure, as all rights exercised emerge from the Tender Procurement Document itself.

Third Ground of Appeal: Cancellation – a last resort.

25. The Complainant’s third ground of appeal on the basis of which it objected to the decision to cancel the Tender is that, while once again confirming that the Contracting Authority has the prerogative to cancel a procurement procedure, such right is a right of last resort without harming competition objectives.



33. The principle that the deposit lodged is refunded or otherwise depends on the discretion afforded to Board in line with the principle that whosoever is the winner in the call for tenders, does not bear the expenses related to the proceedings.
34. In the judgment of E.C.Municipals Limited vs Dipartiment tal-Kuntratti³ it had been decided that the Contracting Authority is entitled to cancel call for tenders where there is no option left to pursue:

“din il-Qorti ma tarax li, darba li s-socjeta` rikorrenti tilfet il-każ, kienet irragonevoli d-deċiżjoni li jintilef ukoll id-depożitu. Ma jeżistu ebda ċirkostanzi speċjali li kienu jiġġustifikaw ir-radd lura tad-depożitu”

Conclusion

1. In view of the above, the Contracting Authority respectfully requests the Board to:
 - i. Reject the Complainant’s request to revoke the Cancellation Letter dated 23th February 2024;
 - ii. Reject the Complainant’s request to re-instate the Complainant in the procurement procedure and through a newly composed evaluation committee re-evaluate the tenders;
 - iii. Reject the Complainant’s request to refund the deposit paid in its entirety;
 - iv. Confirm the Contracting Authority’s decision to cancel the Tender.

³ E.C. Municipals Limited (C 62598) vs Dipartiment tal-Kuntratti et, Court of Appeal, application 420/2019, 27th March 2020

2. Without prejudice to any further submissions that the Contracting Authority may be allowed to make during the proceedings relating to the appeal forming the subject-matter of the Objection.

Yours Sincerely,



Av. Jonathan Thompson

Av. Kristina Friggieri

List of Documents

- i) Doc A – Tender document**
- ii) Doc B – Xml structure of the tender document**

**CT4005/2023 -
LEASING OF OFFICE PREMISES FOR PROJECT GREEN**

Date Published: Thursday 3rd August 2023

Deadline for Submission: Tuesday 5th September 2023 at 09:30am CEST

Tender Opening: Tuesday 5th September 2023 at 10:00am CEST

IMPORTANT:

- No Bid Bond is requested for this tender.

DEPARTMENT OF CONTRACTS

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Malta

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SECTION 1 – INSTRUCTIONS TO TENDERERS

In submitting their tenders, tenderers must respect all instructions, forms, Terms of reference, contract provisions and specifications contained in this tender dossier. Failure to submit a tender containing all the required information and documentation within the deadline specified may lead to the rejection of the tender.

1. General Instructions

- 1.1 In submitting a tender, the tenderer accepts in full and in its entirety, the content of this tender document, including subsequent Clarifications issued by the Department of Contracts being the Central Government Authority (CGA) or the Contracting Authority (CA), whatever the economic operator's own corresponding conditions may be, which through the submission of the tender is waived. Tenderers are expected to examine carefully and comply with all instructions, forms, contract provisions and specifications contained in this tender documentation.

No account can be taken of any reservation in the tender in respect of the procurement documents; any disagreement, contradiction, alteration or deviation shall lead to the tender offer not being considered any further. Prospective tenderers must submit their response to this tender by completing the necessary documentation and by submitting through the ePPS.

Note:

Where in this tender document a standard is quoted, it is to be understood that the Central Government Authority/Contracting Authority will accept equivalent standards. However, it will be the responsibility of the respective bidders to prove that the standards they quoted are equivalent to the standards requested by the Central Government Authority/Contracting Authority.

- 1.2 The subject of this call is a tender for the leasing of complete office space for Project Green.
- 1.3 The lease period that is for five (5) years shall commence following the preparation period that is sixty (60) days from the date of signature of the contract. The lease period can be further extended by a period of five (5) years following agreement with the lessor, and in line with the contract.
- 1.4 This Procurement procedure is regulated by L.N. 163 of 2020 PUBLIC FINANCE MANAGEMENT ACT (CAP. 601) Procurement of Property Regulations, 2020 (S.L. 601.12).
- 1.5 The Contracting Authority (CA) for this tender is Project Green.
- 1.6 The Estimated Procurement Value for this Call has been based on comprehensive research including appropriate financial analysis. In the context of this procurement, the Estimated Procurement Value

(including 5 years di fermo and another 5 years di rispetto), based on market research, is that of €4,094,000 excluding VAT. Therefore, the estimated value of the first five years *di fermo* is €2,047,000 excluding VAT.

The purpose of this value shall be the guidance of prospective bidders when submitting their offer and is not to be considered as a binding capping price.

Therefore, the published Estimated Procurement Value is not restrictive and final on the Contracting Authority. Economic Operators are free to submit financial offers above or below the Estimated Procurement Value. However, the Contracting Authority reserves the right to accept or reject Financial Offers exceeding the Estimated Procurement Value.

2. Timetable

	DATE	TIME
Deadline for request for any additional information from the Central Government Authority/Contracting Authority	21.08.2023	23.45pm
Clarifications by registered users to be sent online through the ePPS		
Last date on which additional information can be issued by the Central Government Authority/Contracting Authority	25.08.2023	23.45pm
Deadline for Submission of Tenders	05.09.2023	9.30am
Tender Opening Session	05.09.2023	10.00am

All times Central European Summer Time (CEST)

3. Lots

- 3.1 This tender is not divided into lots, and tenders must be for the properties being requested. Incomplete offers will not be accepted.

4. Financing

- 4.1 The lease shall be financed by local funds.

5. Workshop/Clarification Meeting

- 5.1 A clarification meeting will be held on the date and time indicated in Clause 2. The meeting will be held via Microsoft Teams (the link will be provided prior the meeting) to answer any questions on the tender document which have been forwarded through the ePPS or raised during the same meeting. Minutes will be taken during the meeting, and these (together with any clarifications in response to written requests which are not addressed during the meeting) shall be posted online as a clarification note on the website of the Contracting Authority/Central Government Authority.

Meetings between economic operators and the Contracting Authority, other than that provided in this clause during the tendering period are not permitted.

6. Selection and Award Requirements

In order to be considered eligible for the award of the contract, economic operators must provide evidence that they meet or exceed certain minimum criteria described hereunder.

(A) Eligibility Criteria

- (i) No Bid Bond is required. ^(Note 1)
- (ii) Power of Attorney (if applicable). ^(Note 2)
- (iii) Exclusion and Blacklisting Criteria ^(Note 2)

(B) As part of the selection criteria requirements, the bidder shall provide evidence of the following:

- i) A report including information on ownership covering the Premises showing the condition certificate and legal title by a Perit confirming, proving and warranting that the bidder is empowered to dispose of the property which is the subject of the tender and that the property in question is free and clear of all encumbrances, except for the easements. ^(Note 2)

(C) Technical Specifications

- (i) Tenderer's Technical Offer in response to specifications to be submitted.^(Note 3)
- (ii) **Literature** as per Form marked 'Literature List' to be submitted with the Technical offer at tendering stage.^(Note 2)

(D) Financial Offer

- (i) A financial offer as per the financial bid form.^(Note 3)

Notes to Clause 6:

- 1. Tenderers will be requested to clarify/rectify, within five (5) working days from notification, the tender guarantee only in the following four circumstances: incorrect validity date, and/or incorrect value, and/or incorrect addressee and incorrect name of the bidder. Rectification in respect of the Tender Guarantee (Bid Bond) is free of charge.*
- 2. Tenderers will be requested to either clarify/rectify any incorrect and/or incomplete Central Government documentation, and/or submit any missing documents within five (5) working days from notification.
All Rectifications are free of charge.*
- 3. No rectification shall be allowed. Only clarifications on the submitted information may be requested.*

7. Tender Guarantee (Bid Bond)

- 7.1 No tender guarantee (bid bond) is required.

8. Period during which tenders are binding

Tenderers are bound by their tenders for 90 days after the deadline for the submission of tenders. In exceptional cases and prior to the expiry of the original tender validity period, the Central Government Authority/Contracting Authority/may ask tenderers in writing to extend this period. Tenderers that agree to do so will not be permitted to modify their tenders. If they refuse, their participation in the tender procedure will be terminated.

The selected tenderer must maintain its tender for a further 60 days from the date of notification that its tender has been recommended for the award.

9. Costs for preparing tenders

No costs incurred by the tenderer in preparing and submitting the tender shall be reimbursable. All such costs shall be borne by the tenderer, even if the Contracting Authority cancels the tender.

10. Ownership of tenders

The Central Government Authority/Contracting Authority retains ownership of all tenders received under this tendering procedure. Consequently, tenderers have no right to have their tenders returned to them.

11. Ethics clauses / Corruptive practices

- a) Any attempt by a tenderer to obtain confidential information, enter into unlawful agreements with competitors or influence the Evaluation Committee or the Central Government Authority/Contracting Authority during the process of examining, clarifying, evaluating and comparing tenders will lead to the rejection of its tender and may result in administrative penalties.
- b) The tenderer must not be affected by any potential conflict of interest and shall have no particular link with other tenderers or parties involved in the project.
- c) The Director of Contracts reserves the right to suspend or cancel project financing if corrupt practices of any kind are discovered at any stage of the award process or during the implementation of a contract. For the purposes of this provision, "corrupt practices" are the offer of a bribe, gift, gratuity or commission to any person as an inducement or reward for performing or refraining from any act relating to the award of a contract or implementation of a contract already concluded with the Central Government Authority.

12. Notification of award and signing of contract(s)

Before the period of validity of tenders expires, the Central Government Authority/Contracting Authority will notify the successful tenderer in writing that its tender has been successful as well simultaneously in writing informing the unsuccessful tenderers.

The notification to the successful tenderer implies that the validity of its tender is extended for a period of 60 days from the date of notification of award of the contract. Unless there is challenge of the award decision by any of the unsuccessful tenderers within 10 calendar days from the date of the award notification, the Central Government Authority/Contracting Authority will send the contract to the tenderer for signature.

Within 15 calendar days of receipt of the contract the lessor shall return the signed contract to the Central Government Authority/Contracting Authority. together with a copy of the Energy Performance Certificate (EPC) as regulated by S.L. 513.01. Failure of the selected tenderer to comply with this requirement may constitute grounds for the annulment of the decision to award the contract. In such a case, the Central Government Authority/Contracting Authority may award the tender to another tenderer or cancel the tender procedure.

The unsuccessful tenderers will be informed in detail on the grounds by which their tenders were not accepted, by means of a standard letter, which includes an indication of the relative shortcomings of their tender – which could not be rectified.

13. Criteria subject to negotiations and Criteria for Award

- 13.1 The Contracting Authority shall negotiate with the preferred bidder any details in relation to the necessary alterations and improvements and other cosmetic works to be completed by the preferred bidder on the premises to be leased, if such premises are not ready to move into in terms of the technical requirements established in this Tender. Provided that such matters which are subject to negotiation shall be limited to works that are still to be carried out by the preferred bidder on the premises and can include both technical as well as contractual requirements but shall not affect any substantive characteristics of the premises to be leased and which are already compliant with the technical specifications.

Matters which may be negotiated include, but are not limited to, inter alia:

- a) Cosmetic elements such as paint colours to be used on walls and doors;
- b) Removal, Installation, or Positioning of partitioning of office spaces.
- c) Layout of furniture, in the event that the preferred bidder is offering the premises as partially or fully furnished
- d) Location of Network and Electricity points
- e) Necessary Signages

- 13.2 The contract will be awarded to the tenderer submitting the best offer in line with the following criteria:

Each technical offer will be evaluated in accordance with the award criteria and the associated weighting as detailed in the evaluation grid of this procurement document. No other award criteria will be used. The award criteria will be examined in accordance with the requirements as indicated in the Technical Specifications.

The (BPQR) is established by weighing technical quality against price on a 70/30 basis respectively. This is done by multiplying:

- the technical scores awarded to the offers by 0.70
- the financial scores awarded to the offers by 0.30

- 13.3 The evaluation process

At this step of the evaluation process, the Evaluation Committee will analyse the administratively compliant tenders' technical conformity in relation to the published Specifications.

Tenderers must achieve an average technical score of (50)%. The average technical score is arrived at by adding the individual weighted scores of each evaluator divided by the number of evaluators. Those tenderers that do not obtain the minimum set average technical score will be eliminated.

The offer achieving the highest technical score will be awarded 100% of the technical weight. The other offers will be awarded scores in proportion to the offer with the highest technical score as per below formula;

Technical score =

$$\frac{\text{Average Technical Score of the Respective Offer} \times \text{Technical Weight}}{\text{Highest Average Technical Score}}$$

The financial offers for tenders which were not eliminated during the technical evaluation (i.e., those which have achieved an average technical score of (50)% or more and/or those which have achieved the set threshold for individual criterion/sub-criterion) will be evaluated. The Evaluation Committee will also check that the financial offers contain no arithmetical errors.

The offer with the lowest price will be awarded 100% of the financial weight. The other offers will be awarded scores in proportion to the offer with the lowest price as per below formula;

Financial score =

$$\frac{\text{Lowest Priced Offer}}{\text{Financial Offer of the Tender Being Considered}} \times \text{Financial Weight}$$

The tender will be awarded to the offer that has obtained the highest score after adding the respective technical and financial scores

Technical Spec Ref	Criteria - Specification	Marks	Mandatory/Add-on
3.1	Location	Max 10 marks	
	Within a radius of less than 350m from indicated geographical co-ordinates	10	Add-on
	Within a radius of between 350m and less than 700m from indicated geographical co-ordinates	6	Add-on
	Within a radius of between 700m and 1km from indicated geographical co-ordinates	3	Mandatory
	More than 1km from indicated geographical co-ordinates	0	Disqualified
3.3.4	Office Space	Max 10 marks	
	Over 1500 sqm	10	Add-on
	Between 1400 sqm to 1500 sqm	8	Mandatory
	Less than 1400 sqm	0	Disqualified
3.3.4	Office – Floors allocation	Max 5 marks	
	Floor/s allocated to Project Green are directly atop of, or on same floor (ground floor) as the reception area with no floor/s in between occupied by third parties.	5	Add-on
	All floor/s allocated to Project Green (except for the reception area) are situated one directly above the other with no floor/s in between occupied by third parties.	3	Add-on
	Floors allocated to Project Green are not all (except for the reception area) one directly atop the other but there are floors in between that are occupied by third parties.	1	Add-on
3.3.4.2	Accessibility	Max 5 marks	
	Existing premises fully accessible as per CRPD requirements	5	Add-on
	Alterations required to be fully compliant with CRPD requirements	3	Mandatory
	Premises cannot be fully compliant with CRPD requirements	0	Disqualified

		Max 5 marks	
3.3.11	Heating & Cooling system		
	Heating and Cooling facilities in all offices	5	Mandatory
	No Heating and Cooling facilities in all offices	0	Disqualified
3.3.5	Parking Facilities within the footprint of the premises (internal) housing the offices	Max 10 marks	
	Premises offer more than 40 vehicle parking spaces.	10	Add-on
	Premises offer between 30 and 39 vehicle parking spaces (39 included).	6	Add-on
	Premises offer between 20 and 29 vehicle parking spaces (29 included).	3	Mandatory
	Premises offer less than 20 vehicle parking spaces	0	Disqualified
3.3.18	Security System	Max 5 marks	
	Burglar Alarm & CCTV System installed with all entry/exist points	5	Add-on
	CCTV System installed with all entry/exist points	3	Add-on
	No Security System installed	1	Add-on
3.3.8	Fire Detection & Fire Fighting System	Max 5 marks	
	Fire Detection & Fire Fighting System already installed	5	Add-on
	Fire Detection & Fire Fighting System can be installed within the timeframes stipulated within the technical specifications	3	Mandatory
	No Fire Detection & Fire Fighting System can be installed within the timeframes stipulated within the technical specifications	0	Disqualified
3.3.13	Local Area Network	Max 5 marks	
	Passive network infrastructure including IT hub room/s accessible only by the lessee	5	Mandatory
	No passive network infrastructure including IT hub room/s accessible only by the lessee	0	Disqualified

3.3.7	Exposed Walls (including third party walls) detail	Max 10 marks	
	Wall construction detail with a U Value of less than 0.5W/sq.mK	10	Add-on
	Wall construction detail with a U Value of less than 1W/sq.mK but more than 0.5W/sq.mK	5	Add-on
	Wall construction detail with a U Value of less than or equal to 1.57W/sq.mK but more than 1W/sq.mK	2	Mandatory
	Wall construction detail with a U Value of more than 1.57W/sq.mK	0	Disqualified
3.3.2b	Roof Construction detail	Max 10 marks	
	Roof construction detail with a U Value of less than 0.2W/sq.mK	10	Add-on
	Roof construction detail with a U Value of less than 0.35W/sq.mK but more than 0.2W/sq.mK	5	Add-on
	Roof construction detail with a U Value of less than or equal to 0.59W/sq.mK but more than 0.35W/sq.mK	2	Mandatory
	Roof construction detail with a U Value of more than 0.59W/sq.mK	0	Disqualified
3.3.2b	Glazed Apertures	Max 10 marks	
	Glazed Aperture construction detail with a U Value of less than 2.5W/sq.mK	10	Add-on
	Glazed Aperture construction detail with a U Value of less than 4W/sq.mK but more than 2.5W/sq.mK	5	Add-on
	Glazed Aperture construction detail with a U Value of less than or equal to 5.8W/sq.mK but more than 4W/sq.mK	2	Mandatory
	Glazed Aperture construction detail with a U Value of more than 5.8W/sq.mK	0	Disqualified

3.3.2b	EPC Certificate	Max 10 marks
	EPC Rating of A+	Add-on
	EPC Rating of A	Add-on
	EPC Rating of B	Add-on
	EPC Rating of C	Mandatory
	EPC Rating lower than C	Disqualified

Minimum Mandatory Criteria - Not meeting the **Minimum Mandatory** requirements outlined in the table above will disqualify the submission. The bidder shall be awarded marks in accordance with the BPQR table for meeting the Minimum Mandatory requirements or beyond.
Add-on Criteria - For any Add-ons provided over and above the Minimum Mandatory requirements, the bidder shall be awarded marks in accordance with the BPQR table. Not meeting such the marks allotment shall be as per gradation in the same table for the respective criteria and thus the bid will not be disqualified.

The Contracting Authority reserves the right to conduct a site visit to the proposed premises so as to verify the technical offer's compliance with all relevant technical specifications and conditions.

Section 2 – Extracts from the Public Procurement Regulations

Regulation 58 and 59 – L.N. 163/2020

Remedies before Closing Date of a Call for Competition – S.L.601.03

262. (1) *Prospective candidates and tenderers may, prior to the closing date of a call for competition, file a reasoned application before the Public Contracts Review Board:*

(a) to set aside or ensure the setting aside of decisions including clauses contained in the procurement document and clarification notes taken unlawfully at this stage or which are proven to be impossible to perform; or

(b) to determine issues relating to the submission of an offer through the government's e-procurement platform; or

(c) to remove discriminatory technical, economic or financial specifications which are present in the call for competition, in the contract documents, in clarifications notes or in any other document relating to the contract award procedure; or

(d) to correct errors or to remove ambiguities of a particular term or clause included in a call for competition, in the contract documents, in clarifications notes or in any other document relating to the contract award procedure; or

(e) to cancel the call for competition on the basis that the call for competition is in violation of any law or is likely to violate a particular law if it is continued.

(2) The application shall only be valid if accompanied by a deposit equivalent to zero point five per cent (0.50%) of the estimated value set by the contracting authority of the whole tender or if the tender is divided into lots according to the estimated value of the tender set by the contracting authority for each lot submitted by the tenderer, provided that in no case shall the deposit be more than fifty thousand euro (€50,000) which may be refunded as the Public Contracts Review Board may decide in its decision.

Appeals from decisions taken after the closing date for the submissions of an offer

270. *Where the estimated value of the public contract meets or exceeds five thousand euro (€5,000) any tenderer or candidate concerned, or any person, having or having had an interest or who has been harmed or risks being harmed by an alleged infringement or by any decision taken including a proposed award in obtaining a contract, a rejection of a tender or a cancellation of a call for tender after the lapse of the publication period, may file an appeal by means of an objection before the Public Contracts Review Board, which shall contain in a very clear manner the reasons for their complaints.*

271. *The objection shall be filed within ten (10) calendar days following the date on which the Central Government Authority/Contracting Authority or the authority responsible for the tendering process has by fax or other electronic means sent its proposed award decision or the rejection of a tender or the cancellation of the call for tenders after the lapse of the publication period.*

272. *The communication to each tenderer or candidate concerned of the proposed award or of the cancellation of the call for tenders shall be accompanied by a summary of the relevant reasons relating to the rejection of the tender as set out in regulation 242 or the reasons why the call for tenders is being cancelled after the lapse of the publication period, and by a precise statement of the exact standstill period.*

273. *The objection shall only be valid if accompanied by a deposit equivalent to 0.50 per cent of the estimated value set by the Central Government Authority/Contracting Authority of the whole tender or if the tender is divided into lots according to the estimated value of the tender set by the Central Government Authority/Contracting Authority for each lot submitted by the tenderer, provided that in no case shall the deposit be less than four hundred euro (€400) or more than fifty thousand euro (€50,000) which may be refunded as the Public Contracts Review Board may decide in its decision.*

274. *The Secretary of the Public Contracts Review Board shall immediately notify the Director, the Ministerial Procurement Unit and, or the Central Government Authority/Contracting Authority, as the case may be, that an objection had been filed with his authority thereby immediately suspending the award procedure.*

275. *The Department of Contracts or the Contracting Authority involved, as the case may be, shall be precluded from concluding the contract during the period of ten (10) calendar days allowed for the submission of appeals. The award process shall be completely suspended if an appeal is eventually submitted.*

276. *The procedure to be followed in submitting and determining appeals as well as the conditions under which such appeals may be filed shall be the following:*

(a) any decision by the General Contracts Committee, or the Special Contracts Committee or by the Central Government Authority/Contracting Authority, shall be made public by affixing it to the notice-board of the Department of Contracts or of the office of the Contracting Authority, as the case may be, or by uploading it

on government's e-procurement platform prior to the award of the contract if the call for tenders is administered by the Department of Contracts;

(b) the appeal of the complainant shall also be affixed to the notice-board of the Public Contracts Review Board and shall be communicated by fax or by other electronic means to all participating tenderers;

(c) the Central Government Authority/Contracting Authority and any interested party may, within ten (10) calendar days from the day on which the appeal is affixed to the notice board of the Review Board and uploaded where applicable on the government's e-procurement platform, file a written reply to the appeal. These replies shall also be affixed to the notice board of the Review Board and where applicable they shall also be uploaded on the government's eProcurement platform;

(d) the authority responsible for the tendering process shall within ten (10) days forward to the chairman of the Public Contracts Review Board all Central Government Authority. Documentation pertaining to the call for tenders in question including files and tenders submitted;

(e) the secretary of the Review Board shall inform all the participants of the call for tenders, the Department of Contracts and the Contracting Authority of the date or dates, as the case may be, when the appeal will be heard;

(f) when the oral hearing is concluded, the Public Contracts Review Board, if it does not deliver the decision on the same day, shall reserve decision for the earliest possible date to be fixed for the purpose, but not later than six (6) weeks from the day of the oral hearing;

Provided that for serious and justified reasons expressed in writing by means of an order notified to all the parties, the Public Contracts Review Board may postpone the judgment for a later period;

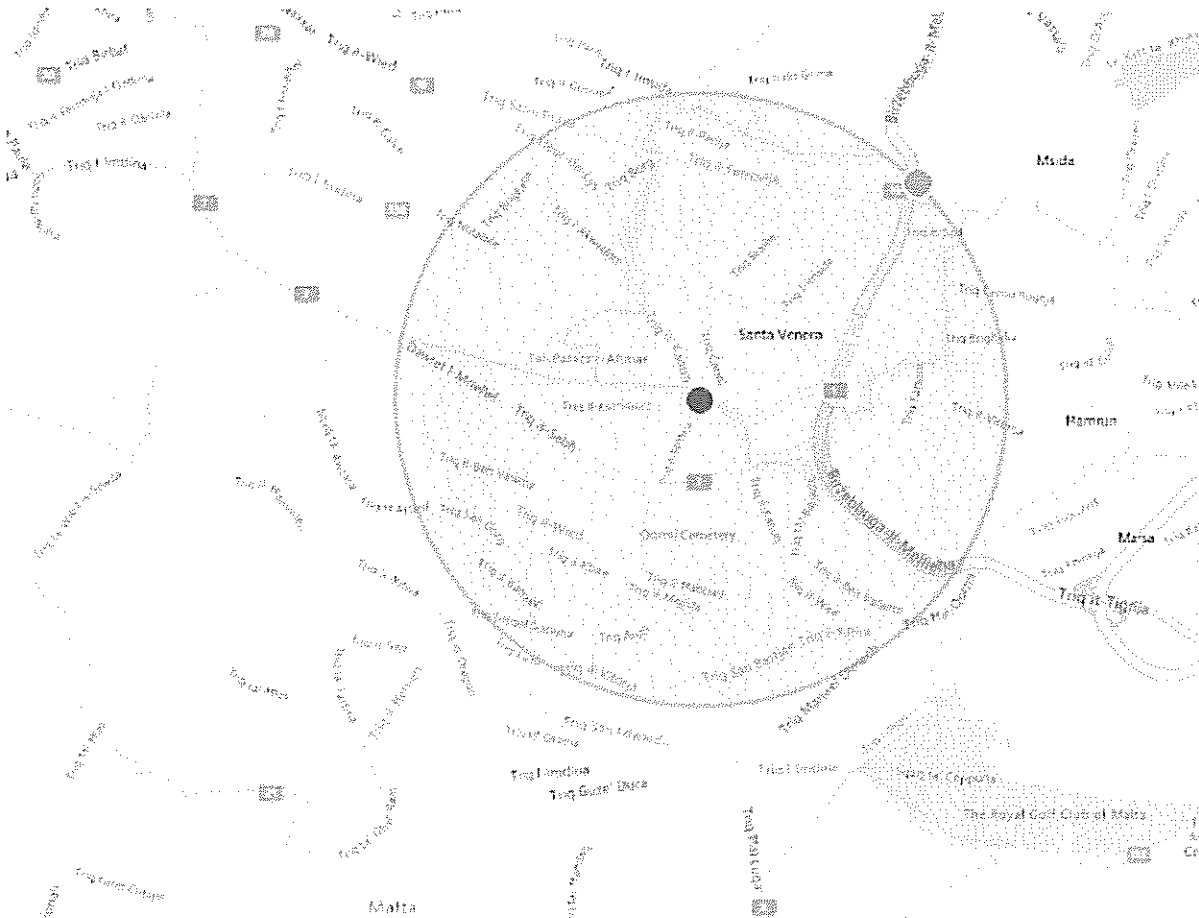
(g) the secretary of the Review Board shall keep a record of the grounds of each adjournment and of everything done in each sitting;

(h) after evaluating all the evidence and after considering all submissions put forward by the parties, the Public Contracts Review Board shall decide whether to accede or reject the appeal or even cancel the call if it appears to it that this is best in the circumstances of the case.

Section 3: Specifications

3.1 Scope

Through this tender, the Contracting Authority (CA) intends to rent from the Lessor modern premises to be used as offices, of not less than one thousand and four hundred square meters (1,400 sqm) in size and within a radius of 1km from Qormi Road Junction with coordinates 35.88639N 14.47543E so as to enable Project Green to operate within a centralized area as shown in Figure 1 below.



3.2 Mandatory Responsibilities of Lessor

Refer to Lease Agreement (Special Conditions) document of this procurement document.

3.3 Mandatory Premises Requirements

3.3.1 It is intended that the premises must be ready for use in accordance with all the requirements by not later than sixty days (60 days) from the last date of contract signing or an earlier date agreed to between the lessor and the lessee.

3.3.2 The premises must portray an image of environmental stewardship, sustainability and accessibility and must comply with all local legislation and in particular but not limited to:

- a) It must be constructed in accordance with the latest permits as approved by the Planning Authority, and in a finished state;
- b) Energy Performance of Building Regulations 2018;

Bidder is requested to provide an Energy Performance Certificate showing that the performance of the office building is grade C or better. A lower rating will be disqualified.

The below table shows the minimum acceptable values for different building components:

Wall construction detail	U Value of less than or equal to 1.57W/sq.mK
Roof construction detail	U Value of less than or equal to 0.59W/sq.mK
Glazed Apertures construction detail	U Value of less than or equal to 5.8W/sq.mK

Bidder is requested to provide a technical document from a warranted engineer showing the U-Values of the above mentioned components.

- c) General Provisions for Health and Safety at Workplaces Regulation 2003 Cap 424 and the Occupational Health and Safety Legislation and Sanitary Legislation;
- d) Building development legislation, Planning Authority Regulations – licensed for Commercial Use and listed as Class 4A [Financial, Professional and other Offices] in accordance with Legal Notice 74 of 2014 Subsidiary Legislation 552. 15 – Development Planning (Uses Classes);
- e) Equal Opportunities (Persons with Disabilities) Act and the accessibility to premises shall be in line with local regulatory requirements of the Commission for the Rights of Persons with Disabilities (CRPD).

3.3.3 The premises required must be located within a radius of 1km from Qormi Road Junction with coordinates 35.88639N 14.47543E as per map above.

3.3.4 Office Space incl. Reception Area

- a) The Office space must have a minimum floor area of not less than 1400 sqm including the reception area and other amenities such as the kitchenette and toilets but parking spaces;
- b) The premises shall have an independent entrance at street level or a common entrance which, however, the entrance leads to a reception area that shall be fully accessible at all times;
- c) The reception area must have a seating capacity for two (2) persons that caters to one (1) receptionist and one (1) driver.
- d) The reception area shall ideally be at ground level with a minimum area between 4 sqm and 5 sqm.
- e) The office space (incl. reception and other amenities such as kitchenette and toilets) must be located at ground level or other levels above street level. **A semi-basement or basement level is not acceptable**, except for the vehicle parking and/or stores which may be situated below street level, subject that there is no dampness, and services are accessible by an access ramp for all parking and storage spaces;
- f) The minimum internal height of office space should respect the minimum requirement of sanitary laws and regulations;
- g) Open plans shall be deemed acceptable, however office layouts will be discussed upon award and in all cases, all costs associated with any alteration works, services, improvements partitioning, interior decoration, fixtures, systems, and building services installations and all finishes shall be at the expense of the successful tenderer/s;
- h) The office space (including receptions and other amenities such as kitchenette and toilets), stores and parking shall be safe from flash-flood risk, excessive fumes, excessive noise, and access obstructions;
- i) The overall office space shall incorporate all the following areas and be designed to form one cohesive organisation. The minimum floor area for each space is shown in Table 1 below:

Description	Quantity	Area (sq.m)	Total Area (sq.m)
Chief Executive Office	1	50	50
Chief Officer Office	3	30	90
Head of Department Office	10	16	160
Board room	1	45	45
Common Area/Kitchen	2	50	100
Meeting Room	3	15	45
Waiting/reception Area	3	16	48

Open Plan for 5-8 officers	9	60	540
Design Workshop	1	30	30
Archives	1	12	12
Cleaners Room	1	12	12
Storage	2	12	24
Server Room/s	1 or more	20	20
WCs	9	4	36
			1212
Adding Circulation space circa +20%			1400

Table 1: Office floor space – minimum requirements

- j) Variations in room sizing indicated in the table above shall be accepted by the Contracting Authority subject that the minimum overall office space is provided;
- k) All spaces listed should be clearly divided into designated room areas. Formation of rooms can be provided by either masonry concrete blockwork, gypsum partitioning (minimum 120mm thickness) for offices with natural light and glass partitioning (minimum 10mm thickness) for office spaces without natural light;
- l) Any internal doors provided shall have a minimum 30mm thickness (if solid-core or hollow-core wood) or a minimum 10mm thickness (if glass partitioning);
- m) Inter-relation between spaces should allow for minimal movement and efficient workflow;
- n) Suitable spaces for corridors, circulation spaces and transitional areas are to be accommodated with sufficient floor area being allowed to achieve a desirable level of comfort;
- o) The office space as a minimum shall have a mix of artificial and natural lighting;
- p) The entrance and exit to the proposed office space and the rooms within such office space shall be equipped with a standard lock and key system for each respective door but the Contracting Authority reserves the right to install an access control system with RFID tags for its employees, at the cost of the Contracting Authority.

3.3.4.1 Project Boardroom

The facilities are to also include the exclusive use of a boardroom capable of accommodating up to ten (10) people at any one time. The boardroom shall be suitably ventilated with windows that can be opened and closed or an HVAC system and shall have sufficient lighting to accommodate use at any time of day.

3.3.4.2 Sanitary Facilities

All the necessary sanitary facilities are to be provided to accommodate all personnel operating from the premises. Minimum WC requirements are to satisfy Table 2 below:

	Minimum Requirements
W.C	6 Male WCs, 6 Female WCs, and 3 Access for all WC
Wash basins	1 wash basin for every 1 WCs provided
Cleaner's Quarter	1 cleaner's sink

Table 2: Sanitary facilities – minimum requirements

The access for all sanitary facility is to comply with the requirements of the National Commission Persons with Disability's (KNPD) **Access for All** (2011) Design Guidelines. Additionally, the WCs required are to cater to the exclusive use of the lessee.

If various floors are offered, there must be sanitary facilities calculated in accordance to reflect the number of staff that will be using that particular floor.

All areas designated as sanitary facilities have to be readily and duly connected with the premises' main sewer system.

3.3.4.3 Emergency Exit

The premises are to be equipped with an alternate emergency exit for staff and clients that will lead to a safe outdoor area.

3.3.4.4 Floors

If the proposed premises shall be laid out on various floors, the allocated floors are to be interconnected to each other by means of stairs and lifts.

3.3.5 Private Parking Facilities

- a) The office space must also provide private parking facilities: minimum of twenty (20) parking spaces shall be provided within the same office building.
- b) The parking lots are to include electrical charging points in place for a minimum 10 cars. Bids will be disqualified if the parking facility does not have electrical charging points in place. In the future, the Contracting Authority may request permission from the lessor to install further electrical charging points, at the cost of the Contracting Authority.
- c) If the parking allocated will also be used by third parties, the lessor shall make necessary arrangements to ensure that parking spaces allocated to the lessee can only be accessed solely by duly authorized lessee officials.

3.3.6 Layout of Office and Facilities

- a) If premises are not located at ground floor level, the office space must be served with a fully accessible lift which shall be certified by a relevant engineer at least every six months.
- b) Bidders are to indicate the floor on which the proposed property is located within the building.

3.3.7 Finishing Requirements and Apertures

- a) All areas listed in Table 1 and Table 2 above shall be suitably finished to an appropriate standard to cater to its intended use as a modern and harmonious.
- b) The premises shall be finished to an acceptable level. Necessary approval from the Architect-in-charge will be sought. As a minimum, the following level of finishes are expected:
 - i. All external walls (where applicable) are to be suitably plastered with a waterproof rendering and painted in accordance with relevant Planning Authority requirements;
 - ii. All internal walls (where applicable) are to suitably be plastered and painted;
 - iii. In the case of curtain walling, the necessary shading requirements are to be provided to prevent glare/excessive heat being generated on the relevant workspace. All internal gypsum partitions shall have suitable sound insulation consisting of rockwool or similar as directed by Architect- in-charge;
 - iv. The Contracting Authority reserves the right to change the existing layout plan of the premises being leased and the right to install division walls (partitions) according to its exigencies;
 - v. Flooring is to be either raised flooring, ceramic tiles or parquet finished;
 - vi. All ceilings are to consist of suspended tiles ceilings (regular or similar) and shall be suitably soundproof. The minimum internal height of the premises being offered should respect the minimum requirement of sanitary laws and regulations unless otherwise accepted by the Contracting Authority;

- vii. Sanitary facilities (including Accessible WCs) should consist of facilities at minimum as listed in Table 3 above;
- viii. The premises shall come with apertures installed.

3.3.8 Fire Detection and Fire Fighting Systems

- a) The premises shall be equipped with a fire detection system to ensure complete safety from fire, smoke, and fumes. Any LPG systems shall be equipped with gas leak detection equipment to ensure shutoff occurs in case of any leaks.
- b) The building must also have a fire and safety report covering all areas of the building including the common areas and parking facilities.
- c) All fire detection and firefighting systems, shall be in accordance with the engineer's report (if requested in Planning documents), installed in a professional manner, ascertaining that all areas are monitored with fire safety detection to BS9999 and to Design Guidelines on Fire Safety for Buildings in Malta issued by the Building Construction Industry Department.
- d) The report and final certification clearly indicating how the required fire detection and firefighting systems have been attained shall be included in the submitted offer.

3.3.9 Ventilation

- a) The building must have a certified mechanical engineer's report clearly stating that the building is suitably ventilated in line with national or recognised international standards with regards to ventilation in office buildings including kitchenette and sanitary facilities.
- b) The ventilation report (if requested during Planning) must clearly indicate that any remedial actions or mitigation measures have been implemented and attained.
- c) The report and final certification clearly indicating how the required ventilation has been attained must be included in the offer.

3.3.10 Water

- a) As indicated earlier in document the building is to include a small kitchenette and sanitary facilities. The kitchenette is to have direct mains water in the tap whilst the property must have a water storage tank and a hot water heater supplying all the amenities above including the kitchenette.
- b) Minimum pressure in pipework 1.5 Bar.
- c) The bidder shall also include in the offer the billing method for water and electricity.

3.3.11 Heating and Cooling

- a) The bidder is to clearly state the type and kind of heating and cooling systems present in the building.
- b) In the event of individual split units, the bidder is to submit a list of units present in each room, clearly indicating the BTU/KW rating of each unit in terms of cooling & heating capacity.
- c) In the event of a centralised system that is shared with other tenants in the building, the bidder is also to include the cooling and heating capacity of the indoor units per room/area.
- d) Any annual/monthly maintenance costs for the system shall be borne by the lessor.
- e) The IT hub room must be equipped with a separate air conditioning unit to ensure a constant temperature of 20 degrees Celsius 24/7.

3.3.12 Lifts

- a) If the premises offered shall be on various levels, passenger lifts are to be incorporated in the offer. Such lifts must be installed, certified and functional to accommodate the traveling of staff/clients from one floor to the other. The lessor's engineer is to calculate the number of passenger lifts required according to CIBSE Guide D: Transportation systems in buildings (or equivalent).
- b) The offer shall include the type and size (number of persons) of lifts present in the building including accessibility for special needs and if the lifts also lead to the garage.
- c) All lifts are to be certified by a qualified engineer as requested by the Laws of Malta and a certificate is to be presented to the Contracting Authority as requested by Law.
- d) The lessor shall be responsible for all the preventive maintenance and is to include an emergency call-out service. All expenses related to such maintenance and call-out service shall be borne by the lessor.

All costs for the replacement of parts resulting from the breakdown of the vertical lifts shall be borne by the lessor.

3.3.13 Local Area Network

- a) The premises shall carry a partially or fully Wire LAN using Cat 6e or better wiring terminated in RJ45 socket outlets and
- b) Each person indicated in Table 1 should have access to a minimum of 2x data points.

- c) There should be a closed space area to cater to the IT hub room. The room should be a squarish layout of not less than 6 sqm.
- d) A cable certification test should be provided, certifying that all network ports/points are properly terminated. A data drawing layout shall also be provided to show all the plan area.

3.3.14 Accessibility

Premises must be fully accessible at no additional cost to the Contracting Authority.

3.3.15 Annual Maintenance

Where the offices offered are part of a larger complex or stand-alone, any maintenance schedule of common areas, common lifts, the public areas, upkeep of green areas, external windows (if the latter are not accessible from the inside) and any other items of relevance to the upkeep of the premises shall be borne by the lessor. Internal cleaning except for the cleaning of the premises before they are handed over to the lessee will be the responsibility of the lessee.

3.3.16 Furnishing

If the lessor provides the property fully furnished it must cover all the offices and officials indicated in the Table 1. Bids will not be disqualified if the property does not come with furniture in place.

3.3.17 Natural lighting

The property must be well lit and offices must minimum have a mixture of both artificial and natural lighting

3.3.18 Security System

If the property comes with a security system and/or burglar alarm system, the lessor must provide training and access to such systems to the lessee. Both systems must only be accessible by the lessee throughout the term of the lease. If maintenance is required, the lessor must inform the Contracting Authority at least one (1) week in advance. Bids will not be disqualified if the property does not come with a security system equipment in place.

Section 4: General Rules Governing Tendering

1. Law

1.1 By submitting their tenders, tenderers are accepting that this procedure is regulated by Maltese Law, and are deemed to know all relevant laws, acts and regulations of Malta that may in any way affect or govern the operations and activities covered by the tender and the resulting contract.

1.2 Particular attention is drawn to the conditions concerning the employment of labour in Malta and the obligation to comply with all regulations, rules or instructions concerning the conditions of employment of any class of employee.

2. Multiple Tenders

2.1 An Economic Operator may submit multiple tender offers/different options. In such instances, the same Bid Bond (Tender Guarantee) may be uploaded for each respective offer, as applicable.

2.2 An Economic Operator may not, however, tender for a given contract both individually and as a partner in a joint venture/consortium.

2.3 An Economic Operator may not tender for a given contract both individually/partner in a joint venture/consortium, and at the same time be nominated as a subcontractor by any another tenderer, or joint venture/consortium.

2.4 An Economic Operator may act as a subcontractor for any number of tenderers, and joint ventures/consortia, provided that it does not participate individually or as part of a joint venture/consortium, and that the nominations do not lead to a conflict of interest, collusion, or improper practice.

2.5 The Central Government Authority and or the Contracting Authority is to ask an economic operator to replace the sub-contractor within 5 working days, if during the evaluation process it transpires that a sub-contractor is either black-listed or does not satisfy the exclusion-criteria listed under PART VI of the Public Procurement Regulations.

2.6 If the Economic operator does not comply with the request made by the Central Government Authority and or the Contracting Authority under clause 3.5 his offer shall be rejected unless he proves that the sub-contractor should not be excluded under PART VI of the Public Procurement Regulations.

3. Discrepancy between the procurement documents/offer and the tender response format

3.1 In case of any discrepancy the ePPS shall prevail, excluding where constituting of a Bill of Quantities (BoQ) or financial bid forms where the total can be arithmetically worked out and/or corrected if necessary and when applicable.

4. Late Tenders

4.1 Economic Operators will not be able to upload a tender offer once the deadline for submission of tenders has expired.

4.2 No liability can be accepted for delays or technical difficulties (as per Terms of Use and Manual for Economic Operators of the Government e-Procurement Platform) that preclude tender offers from being submitted in time.

5. Correction of Arithmetical offers

5.1 Admissible tenders will be checked for arithmetical errors by the Evaluation Committee. Without prejudice to other arithmetical errors which may be identified, the following errors will be corrected as follows:

- (a) where there is a discrepancy between amounts in figures and in words, the amount in words will prevail;
- (b) where there is a discrepancy between a unit price and the total amount derived from the multiplication of the unit price and the quantity, the unit price as quoted will prevail;
- € where no rate or price has been entered, but a total has been provided, the rate is to be established by dividing the total against the quantity published;
- (d) where a rate or price has been entered, but no total has been inputted, the rate is to be multiplied by the quantity published to derive the total;
- (e) where there is an error in addition in the Grand Total, the evaluation committee will adjust with the correct amount.

5.2 Where no rate, price and total are entered against an item in the bill of quantities/financial offer, a confirmation request will be issued wherein the bidder is requested to confirm that the said item is included in the Grand Total and therefore the value of that item shall be calculated as being equivalent to '0'. Such confirmation shall denote that the specific item is absorbed in the grand total and will remain zero-rated in case of potential modifications. Therefore - in the exceptional eventuality that a modification shall be required wherein the said item needs to be procured, such item shall be provided free of charge. Failure on the part of the bidder to accept that the item is valued at '0' and/or submission of a fresh rate for that particular item would constitute a change in financial bid, thus rendering bid financially non-compliant.

5.3 The amount stated in the tender will be adjusted by the Evaluation Committee in the event of error, and the tenderer will be bound by that adjusted amount. In this regard, the Evaluation Committee shall communicate the revised price to the tenderer through a confirmation request via the ePPS. If the tenderer does not accept the adjustment within five (5) working days, his/her tender will be rejected and his tender guarantee forfeited (if applicable).

5.4 The final tender price, will be determined after adjusting it on the basis of Clause 5.3 above.

5.5 Where the financial offers submitted by any of the Economic Operators are the same, the Central Government Authority/Contracting Authority may request Economic Operators whose bid is administratively and technically compliant to propose a revised financial offer, without altering in any way

the technical offer submitted. This request will be forwarded to the Economic Operators through e-mail and the response is to be submitted through the tender box until the date and time indicated in the same request. All the documentation shall be uploaded in the restricted area of the CfT for audit purposes. The Economic Operator, who is both administratively and technically compliant, and that submits the cheapest offer shall be awarded the contract. If no reply by the Economic Operator is submitted – providing a revised financial offer – the financial offer originally submitted shall be considered in the final financial ranking.

6. Proposal Format

- 6.1. Bidders are to submit their proposal using the format defined in Tenderer's Technical Offer and the Tender Structure on ePPS.
- 6.2. Full specifications of the premises being offered and illustrated literature are to accompany the proposal. All documents must be in the English language.

7. Request for Clarifications

- 7.1. Bidders may submit any written requests for clarification concerning this request for Tenders through the ePPS tender structure until the deadline stipulated in the timetable (Article 2 of the ITT), specifying the publication reference and the title of this request. Any requests after this date will not be accepted.
- 7.2. Any clarifications from the CA in response to any requests for clarification will be addressed and sent before the deadline stipulated in the timetable in the ITT.

Bidders are advised that any interpretations, correction or changes to the procurement documents will be notified via the ePPS. It is the responsibility of the bidders to be aware of the latest information published on the ePPS prior to submitting the offer. Interpretations, corrections or changes made in any other manner will not be valid, and prospective bidders shall not rely upon such interpretations, corrections and changes

7.3. .

8. Submission of Tenders

- 8.1. All tenders must be submitted through the tender response format on the ePPS by not later than the stipulated deadline on the timetable in the ITT.
- 8.2. The price(s) offered shall be quoted in Euro.
- 8.3. In submitting their tenders, bidders will be submitting their final offer. Bidders are deemed to have taken account of all that is required for the submission, including its correctness and completeness and that they have included all charges in their price offer. Tenders must comply with the requirements as stated in this request.
- 8.4. Tenders shall be opened in public session at the place and on the date and time indicated in the timetable on the CfT workspace of the ePPS (or as otherwise modified in accordance with these General Rules Governing Tendering).
- 8.5. The Summary of Tenders received will be immediately available to view on www.etenders.gov.mt. At the tender opening session, the tenderers' names, the tender ID, and where applicable the tendered price will be published.

9. Validity of Tenders

9.1. Tenders shall remain valid for a period of 90 days from the closing date for the submission of the tenders stipulated in the timetable as stipulated in the ITT section.

10. Cancellation of the Request for Tenders Procedure

10.1 The CA shall have the option to cancel any published request for Tenders prior to its closing date stipulated in the timetable and will not be held liable for any expenses incurred by the potential bidder in the preparation of this tender submission.

10.2. Bidders are advised that any cancellation to the request for Tenders will be notified via a letter sent to the bidders as well as a recommendation for cancellation on the ePPS. It is the responsibility of the bidders to be informed on any updates through the ePPS and be aware of the latest information published on prior to submitting the proposal.

11. Evaluation of Tenders

11.1 The entire evaluation procedure is confidential. The Evaluation Committee's decisions are collective and its deliberations are held in closed session. The members of the Evaluation Committee are bound to secrecy.

11.2. In the interest of transparency and equal treatment and without being able to modify the submitted proposal, the bidder may be required, at the sole written request of the CA to provide clarifications through the ePPS.

11.3. The CA will be conducting an inspection on premises, where this is deemed necessary, as part of the evaluation process.

11.4. The CA is not bound to accept any of the submitted offers and has the right to refuse in part or in full any or all the submissions, even the most advantageous.

11.5. The Central Government Authority/ Contracting Authority reserves the right to accept or reject any tender and/or to cancel the whole tender procedure before and after the closing established for the submission of the tenders, including instances where the financial offer submitted exceeds the estimated value for the tender, and/or reject all tenders. The Central Government Authority/Contracting Authority reserves the right to initiate a new invitation to tender.

11.6. In the event of a tender procedures' cancellation, tenderers will be notified by the Central Government Authority/Contracting Authority. Cancellation may occur where:

- (a) 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;
- (b) the economic or technical parameters of the project have been altered;
- (c) exceptional circumstances or force majeure render normal performance of the project impossible;

- (d) where there is a discrepancy in the tender document;
- (e) there have been irregularities in the procedure, in particular where these have prevented fair competition;
- (f) the only administratively and technically compliant offer is deemed to be an abnormally low tender.

12. Data Protection and Freedom of Information

12.1 Any personal data submitted in the tenders shall be processed pursuant to the Data Protection Act (laws of Malta). It shall be processed solely for the purposes of the performance, management and follow-up by the Contracting Authority without prejudice to possible transmission to the bodies charged with a monitoring or inspection task in conformity with National and/or Community law.

12.2. The provisions of this proposal are without prejudice to the obligations of the Contracting Authority in terms of the Freedom of Information Act (Laws of Malta). The Contracting Authority, prior to disclosure of any information to a third party in relation to any provisions of this proposal which have not yet been made public, shall consult the bidder in accordance with the provisions of the said Act, pertinent subsidiary legislation and the Code of Practice issued pursuant to the Act. Such consultation shall in no way prejudice the obligations of the Contracting Authority in terms of the Act.

13. General Conditions

13.1. The General Conditions for the leasing of premises that may be found through the Resources Section on the ePPS are applicable for this tender and are accompanying the lease agreement (which includes the Special Conditions).

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  candidates or other parties in the tender procedure at the time of the submission of this application. We have no interest of any nature whatsoever in any other tender in this
  procedure. We recognise that our tender may be excluded if we propose key experts who have been involved in preparing this project or engage such personnel as advisors in the
  preparation of our tender.</label>
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  invitation to tender and that it reserves the right to cancel or award only part of the tender. The right is also reserved to initiate a new invitation to tender. It will incur no
  liability towards the Contracting Authority should it do so. ]]>
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