

PUBLIC CONTRACTS REVIEW BOARD

Case 2204 – CT2360/2024 – Services Framework Contract for the Provision of Cleaning Services for the Malta Police Force using Environmentally Friendly Products

19th January 2026

The Board,

Having noted the letter of objection filed Dr Franco Galea and Dr Daniel Cutajar for and on behalf of Simply Clean Limited, (hereinafter referred to as the appellant) filed on the 6th August 2025;

Having also noted the letter of reply filed by Dr Jurgen Vella and Dr Miguel Degabriele acting for and on behalf of the Malta Police Force (hereinafter referred to as the Contracting Authority) filed on the 20th August 2025;

Having heard and evaluated the testimony of the witness of Inspector David Bugeja (ID No. 49088M), summoned by Dr Franco Galea, acting for Simply Clean Limited, the appellant;

Having heard and evaluated the testimony of the witness of Mr Dalziel Bugeja (ID No. 26493M), summoned by Dr Franco Galea, acting for Simply Clean Limited, the appellant;

Having heard and evaluated the testimony of the witness of Mr Melchior Dimech (ID No. 119582M), summoned by Dr Franco Galea, acting for Simply Clean Limited, the appellant;

Having taken cognisance and evaluated all the acts and documentation filed, as well as the submissions made by representatives of the parties;

Having noted and evaluated the minutes of the Board sitting of the 12th January 2026 hereunder reproduced.

Minutes

Case 2204 – Contract CT2360/2024 – Services Framework Contract for the Provision of Cleaning Services for the Malta Police Force using Environmentally Friendly Products.

The tender was issued on the 5th of January 2025, and the closing date was the 6th of February 2025.

The estimated value of the tender, excluding VAT, was € 1,771,904

On the 6th of August 2025 Simply Clean Limited lodged an appeal against Malta Police Force, the Contracting Authority in accordance with Regulation 270 of the Public Procurement Regulations (PPR).

On the 12th of January 2026, the Public Contracts Review Board (PCRB), composed of Mr. Kenneth Swain as Chairman, Dr Maria Cardona and Dr Ing. Damien Gatt, as members, convened a public hearing to consider the appeal.

A deposit of € 8,860 was paid.

There were two bids.

The attendance for this public hearing was as follows:

Appellant – Simply Clean Ltd. (MT 2907 0603)

Dr Daniel Cutajar – Legal Representative

Dr Franco Galea – Legal representative

Mr Melchior Dimech – Company Representative

Contracting Authority – Malta Police Force

Superintendent Dr Jurgen Vella – Legal Representative

Dr Daniel Inguanez – Legal Representative

Dr Miguel Degabriele – Legal Representative

Ms Stephania Sgandurra – Director General

Inspector David Bugeja – Chairperson

Sergeant Isaac Farrugia – Secretary

Mr Brandon Agius – Evaluator

Mr Kevin Perry – Evaluator

Mr Clive Borg – Evaluator

Recommended Bidder – AGV HR Management Ltd. (MT 3095 1625).

Dr. Zack Esmail -- Legal Representative

Ms. Gillian Seymour -- Company Representative

Department of Contracts.

Dr Audrey Marlene Buttigieg Vella

Opening Statements

Mr. Kenneth Swain, Chairman of the Public Contracts Review Board, formally welcomed all parties in attendance, including the Appellant, Simply Clean Ltd.; the Contracting Authority, Malta Police Force; and the Preferred Bidder, AGV HR Management Ltd.

Initial Submissions

Initial Submissions by Dr Franco Galea (for the Appellant)

Dr Galea stated that the appeal concerned the allocation of points during the evaluation process. The tender was awarded on a best price quality ratio (BPQR) basis, with mandatory documents and written submissions evaluated for points. There was agreement on one of the points concerning the "Insurance Policy". However, with regard to the remaining points, the opposing party relied on the argument that the assessment was subjective and that they had discretion to allocate points as they deemed appropriate.

Initial Submissions by Dr Daniel Inguanez (for the Contracting Authority)

Dr Inguanez confirmed that the points relating to the Insurance Policy had been incorrectly allocated. However, he maintained that the points for the remaining criteria were correctly awarded. He emphasised reliance on court jurisprudence and stated that both the Court and the Board should exercise caution when intervening in technical evaluations, as these fall within the remit of the Evaluation Committee. The Board may intervene only if the allocation of points is unreasonable or arbitrary. The Contracting Authority maintains that the explanations provided under the Best Price Quality Ratio (BPQR) demonstrate that the allocation of points to all tenders was not arbitrary.

Witness Testimony

Inspector David Bugeja (ID No. 49088M), summoned by Dr Franco Galea for the appellant

Inspector David Bugeja stated that the Evaluation Committee consisted of Mr Perry, Mr Clive Borg, Sergeant Isaac Farrugia as Secretary, and himself as Chairperson. Mr Brandon Agius replaced Massimo, who had passed away.

Mr Bugeja explained that his role involved ensuring that points were awarded in accordance with the BPQR, that the final scores were uploaded on ePPs, and that the final report was submitted on ePPs. He was not involved in the actual allocation of points, although he had the authority to approve or reject the report. In this case, there was no reason to reject it. The points were allocated by Mr Perry, Mr Borg, and Mr Brandon Agius, who acted as evaluators.

Mr Dalziel Bugeja (ID No. 26493M), summoned by Dr Franco Galea for the appellant

Mr Bugeja of RND Services Ltd. stated that Simply Clean Ltd. had engaged his company to assist with the preparation of tender documentation. The write-ups were prepared following discussions with the client.

Referring to criterion 1.4, Dr Galea quoted:

“The economic operator is to submit a write-up report of approximately 200 to 300 words for each of the below sub-criteria, outlining a list of measures as detailed below as per Terms or Reference Article 8.1.2. Timekeeping with respect to the schedule provided by the CA for each site”.

Dr Galea noted that the Evaluation Committee awarded Simply Clean Ltd. 1.67 points out of 5.0 for this criterion, quoting:

“The Submission lacks sufficient and relevant information concerning timekeeping. It fails to provide clear or tangible measures and appears to deviate from the required focus of the task”.

The witness explained that the write-up proposed a Cotag system or any other system used by the Contracting Authority, meaning that while a new system was suggested, the bidder also agreed to use the Contracting Authority’s system.

Referring to Article 7.1.1 of the Terms of Reference, the witness stated that the winning bidder was required to present time sheets or a logbook to be completed by employees, indicating that no specific system was mandated by the Contracting Authority. He questioned why the bidder was penalised for proposing a system.

He further stated that the requirement for a 200–300-word report limited the bidders' ability to elaborate adequately. The Cotag system refers to attendance tracking, which may be carried out via mobile phone or recording device, where employees register their arrival and departure.

Referring to criterion 1.5, Dr Galea quoted:

“An adequate level of service is provided as per Article 8.1.1 of the Terms of Reference”.

He noted that the appellant received a score of 1.67 out of 5 and quoted:

“The submission refers to only one supervisor being responsible for overseeing multiple sites across Malta and Gozo. This raises concerns about the feasibility of effectively fulfilling all supervisory duties within the specified timeframes indicating a potential shortfall in the level of service required under Article 8.1.1”.

The witness stated that one supervisor was proposed because this was the requirement in the tender.

Referring to criterion 1.8, Dr Galea quoted:

“The economic operator shall submit a writeup of about 300 words about the plans to make sure that the cleaners carry out the tasks as outlined in Article 4.2.1 of the Terms of Reference”.

Dr Galea noted that the appellant obtained 4 out of 5 points and quoted:

“While several measures were outlined to ensure task compliance as per Article 4.2.1, the submission lacks sufficient details regarding the actual cleaning tasks. Additionally, reliance on a single supervisor to manage all operational aspects – including monitoring, performance reviews, and inspections – raises concerns about the feasibility and alignment with the required service standards”.

The witness indicated that their submission replicated the requirements outlined in the tender, including the appointment of one cleaning supervisor. However, upon learning that the recommended bidder also proposed one supervisor, he observed that although the appellant was penalised, the recommended (preferred) bidder nevertheless received full marks for this criterion.

Dr Galea referred to the health and safety resources criterion, where Simply Clean Ltd. scored 3.67 out of 4, quoting:

“Although reference was made to health and safety policies as well as chemical handling, storage and disposal procedures, these documents were not included with the submission. As a result, the write-up lacked the necessary level of detail”.

The witness stated that the tender requested a write-up report and that the actual documented policies had been submitted.

Mr Dalziel Bugeja stated that the only eligibility requirement was experience between 2022 and 2024 with a €400,000 threshold, which Simply Clean Ltd. satisfied. However, the preferred bidder, AGV HR Management Ltd., was incorporated in April 2024, raising doubts as to how it could have completed works worth €400,000 by the end of 2024.

Cross-Examination by Dr Daniel Inguanez

Mr Bugeja argued that all tender criteria were satisfied. Dr Inguanez questioned what research had been conducted in preparing the write-ups. The witness stated that discussions were held with the client and that the information provided was elaborated upon.

Regarding Clause 1.5, the witness reiterated that one supervisor was requested and submitted. On criterion 1.8 concerning planning and resource application, Dr Inguanez asked whether the witness had verified that Simply Clean Ltd. could deliver what was being offered or exceed the required service quality. The witness replied that he relied on the information provided by Simply Clean Ltd. and was satisfied that it met the tender criteria.

Mr Melchior Dimech (ID No. 119582M), summoned by Dr Franco Galea

Mr Melchior Dimech, representing Simply Clean Ltd., stated that the company has held ISO 9001 (Quality Management), ISO 14001 (Environmental Management), and ISO 45001 (Occupational Health and Safety Management) certifications since 2003. These certifications were not required by the tender, nor did the Contracting Authority request any clarifications regarding them. He added that the company was capable of providing more than one supervisor if necessary.

Mr Dimech further explained that Simply Clean Ltd. is wholly owned by him, and that he is currently servicing the Malta Police Force as a sole trader in his personal capacity. *Cross-Examination by Dr Daniel Inguanez*

Dr Inguanez referred to the ISO certification and asked whether the Cotag system offered was used elsewhere.

The witness replied that the system was in use by both public and private clients.

Cross-Examination by Dr Miguel Degabriele

Dr Degabriele stated that the Cotag system was not explained in the tender submission.

Mr Dimech replied that anyone could search for the Cotag system online to understand how it works and that no further detail was provided due to the 200-word limit. He stated that he could not recall the exact wording of the write-up, as it had been written a year earlier, but confirmed that the Board had a copy.

Final Submissions

Final Submissions by Dr Franco Galea (for the Appellant)

Dr Galea stated that the tender was based on a BPQR and a level playing field, requiring all bidders to comply strictly with the tender requirements. Mandatory requirements not submitted would result in zero points, documents not corresponding with the request would receive one point, and write-ups would be graded progressively.

The evaluation should reflect what each bidder submitted independently, rather than being compared against other bidders. The issue of one supervisor applied to all bidders, yet despite this, the tender explicitly requested one supervisor.

Regarding criterion 1.5, both bidders proposed one supervisor, yet the recommended bidder received 3 out of 5 points while Simply Clean Ltd. received 1.67. Identical shortcomings should have resulted in identical scoring.

Dr Galea stated that his client held ISO certification and that, since all documents were referenced in Note 3, the Evaluation Committee could have requested clarifications. He reiterated that a 200-word report restricted the ability to explain the Cotag system. While the recommended bidder submitted a punch clock system using timesheets, the tender itself referenced a rudimentary timesheet system.

He insisted that all tender requirements were met and that full points should have been awarded. The submissions should not have been matched or compared against each other. All BPQR requirements were satisfied, and zero points were never warranted.

Dr Galea also referred to an email included in the acts. Inspector Bugeja, who oversaw the process, stated in an email during the evaluation stage that superiors should not worry as another tenderer was being evaluated. This, he argued, indicated bias from the evaluation stage.

Although his client had submitted the (previous) tender in his personal name, he was the same ultimate beneficial owner. In these circumstances, Mr Bugeja should not have interfered in the evaluation process.

Inspector Bugeja also exhibited a photograph of one of the appellant's clients at the Malta Police Quarters. There was nothing improper in the appellant being present at the Police Depot while servicing an existing tender. Dr Galea argued that this demonstrated a retaliatory attitude, particularly when viewed considering the exhibited email. If the Chairperson had preconceived opinions, he should have recused himself, especially given his role in overseeing the points and uploading the report on ePPs.

Final Submissions by Dr Daniel Inguanez (for the Contracting Authority)

Dr Inguanez stated that the appellant treated the tender criteria as strict specifications. While Simply Clean Ltd. satisfied all criteria, the BPQR required bidders not only to declare availability but also to elaborate on their plans and solutions.

Minimum conditions, such as the provision of one supervisor, were met; failure to meet them would have resulted in zero points. However, the evaluation table required further qualitative assessment. Reduced points reflected qualitative shortcomings.

The Evaluation Committee awarded points based on the most tangible and detailed explanations. The appellant could have included ISO standards or provided further explanation of the Cotag system but chose not to. This affected the scoring.

Regarding alleged bias, Dr Inguanez stated that incumbency bias can exist in either direction. However, the Evaluation Committee adhered strictly to the criteria, and discretion was exercised appropriately. Mr Bugeja, as Chairperson, did not allocate points but only approved or vetoed the report. Points were awarded by evaluators and averaged. Policy notes require internal employees to sit on evaluation committees due to their operational knowledge.

The photograph of Mr Dimech did not demonstrate retaliation. Being present at the Depot due to an existing contract does not preclude awarding a tender to a new bidder.

Final Submissions by Dr Miguel Degabriele

Dr Degabriele stated that the photograph was not exhibited as retaliation. The hearing date was 15 December 2025, when a request to change the date had been made due to travel plans, and on that same day the appellant attended the Depot in connection with an existing tender.

Final Submissions by Dr Zack Esmail (for the Recommended Bidder)

Dr Esmail addressed the allegations of conflict of interest and retaliation, stating that no evidence had been presented that could affect the Board's decision. Regarding the write-ups, he relied on the submissions made by his colleague.

Replica By Dr Franco Galea (for the Appellant)

Dr Galea reiterated that the tender requested one supervisor, not multiple supervisors. He also stated that his client provided services throughout Malta. He emphasised that the Chairperson of the Evaluation Committee had expressed a preconceived opinion prior to the evaluation, resulting in marginal differences in scoring.

Conclusion of the Hearing

With no further arguments presented, Chairman Mr Kenneth Swain thanked the parties and formally concluded the session.

End of Minutes

Hereby resolves:

The Board refers to the minutes of the Board sitting of the 12th January 2026.

Having noted the objection filed by Simply Clean Limited (hereinafter referred to as the Appellant) on 6th August 2025, refers to the claims made by the same Appellant with regard to the tender of reference CT2360/2024 listed as case No. 2204 in the records of the Public Contracts Review Board.

Appearing for the Appellant: Dr Franco Galea & Dr Daniel Cutajar

Appearing for the Contracting Authority: Dr Jurgen Vella, Dr Miguel Degabriele
& Dr Daniel Inguanez

Whereby, the Appellant contends that:

- a) ***1st grievance - Criterion 1.4 - The Economic Operator is to submit a write-up report of approximately 200 to 300 words for each of the below sub-criteria, outlining a list of measures as detailed below as per Terms or Reference Article 8.1.2.***

Timekeeping with respect to the schedules provided by the CA for each site.

The Appellant obtained 1.67 out of the possible score of 5, with the reason being that:

“The submission lacks sufficient and relevant information concerning timekeeping. It fails to provide clear or tangible measures and appears to deviate from the required focus of the task.”

On the other hand, the recommended tenderer obtained the full score of 5 out of 5, with the justification that:

“A very detailed timekeeping plan was provided, including the use of a punch clock system made available by the contractor.”

Firstly, the Appellant humbly submits that the tender document, and more specifically, the Organisation and Methodology document do not specify any particular format or detail for timekeeping measures. The only reference is under Article 8.1.2 of the Terms of Reference, which provides a general requirement that "The Contractor shall also ensure that ensure timekeeping and an adequate level of service". Notwithstanding this, the evaluation of the Appellant's submission under the timekeeping criterion does not accurately reflect the sufficiency of the information provided in the tender process.

If the Board were to look at the Appellant's submission, it is evident that the submission includes clear and tangible measures to ensure proper time management, task completion within allocated periods, and the overall effective delivery of services. Specifically, the submission refers to the use of the access Cotag system (or any system used by the Contracting Authority) for registering both arrival and departure times of the workers. This mechanism is comparable in functionality to a punch clock system. Therefore, the assertion that the Appellant's submission lacks clear timekeeping measures is unfounded.

In addition, the Appellant's submission outlines a comprehensive time control structure involving both planning and supervision. Staff are required to arrive at least 15 minutes prior to their shift; task-specific checklists are provided to staff and must be returned to the supervisor at the end of each shift, ensuring accountability; cleaning tasks are assigned maximum time limits; and breaks are clearly regulated to ensure they do not infringe on cleaning time.

Moreover, the submission describes the critical role of the supervisor in monitoring adherence to schedules, verifying time records, and conducting weekly inspections. These inspections are documented through reports that cover task compliance, irregularities, and remedial actions. The system is further reinforced by fortnightly inspections by the contractor or supervisor, supported by detailed reporting requirements, including monthly hours worked, incidents, complaints, and inspection outcomes. This framework ensures that time-tracking is not only recorded but actively managed, audited, and improved when necessary.

It is pertinent to note that the preferred bidder was praised for providing a timekeeping plan that included a punch clock system. However, the core function of such a system, to reliably track staff presence, is already addressed in the submission via the Cotag system and supervisor-reviewed time records. The systems are functionally equivalent, and the difference lies merely in the terminology used. Accordingly, the judgment that the Appellant's submission lacked clarity or deviated from the focus of the task seems to stem from a misinterpretation of its content rather than an actual deficiency.

In conclusion, the measures described in the Appellant's submission comprehensively address the requirements of the timekeeping criterion, keeping in mind the word limit imposed on the tenderers.

Given the above, the Appellant respectfully requests a reconsideration of the marks awarded under this section and submits that full points would have been a more accurate and fair reflection of the submission's content.

b) ***2nd grievance - Criterion 1.5. - An adequate level of service is provided as per Article 8.1.1 of the Terms of Reference.***

The Appellant obtained 1.67 out of the possible score of 5, with the justification being that:

The submission refers to only one supervisor being responsible for overseeing multiple sites across Malta and Gozo, This raises concerns about the feasibility of effectively fulfilling all supervisory duties within the specified timeframes, indicating a potential shortfall in the level of service required under Article 8.1.1.

The preferred bidder obtained 3 out of the possible score of 5, with the reason being that:

While a solid methodology for supervision was presented, the consistent reference to a single supervisor raises concerns about the feasibility of managing all outlined duties within the required timeframes.

At first glance, the Appellant cannot but question how, notwithstanding the same shortcoming indicated by the evaluation committee in relation to the number of supervisors proposed by both economic operators, the preferred contractor was given 3 out of 5, whilst the Appellant was given a score of 1.67 out of 5.

Apart from this, the Appellant notes that throughout the tender document, there is reference to the requirement of one supervisor. More specifically, the Appellant refers to Article 6.1.1 the Terms of Reference of the tender document clearly stating that:

One Supervisor is to be employed by the Company in order to ensure that the cleaning requirements being asked for in this tender are met by the responsible staff. The contact number of the Cleaners' Supervisor must be made available to the Malta Police Force following award of contract. The Contractor shall provide a good standard of supervision of his/ her employees. The Cleaners' Supervisor shall liaise with the Project Manager to ensure that the cleaning requirements being asked for in this tender are met.

In light of the above, the Appellant's submission clearly complies as *"A supervisor shall be assigned to act as the main point of contact. The supervisor's role is to ensure that the service provided meets the client's standards. The supervisor shall supervise the works and monitor all tasks to maintain a high quality of service."*

The evaluation committee's interpretation appears to rely on Article 8.1.1. of the Terms of Reference, which is ironic as this sub-article refers to the requirement of the appointment of "supervisors for spot checks" rather than a "supervisor" as is stipulated in the rest of the tender

documentation. Besides this point, it must be noted that the Appellant's submission catered for the requirements of this Article.

The evaluation committee's interpretation of this requirement together with the requirement of "supervisors" under Article 8.1.1. of the Terms of Reference present a contradiction with the rest of the tender itself and considering this lack of clarity, the Appellant's adherence to the explicit instruction in Article 6.1.1 and the other tender documents where the requirement of one supervisor is repeated, should not be penalized.

Apart from this, the Appellant submits that while it is correct that the submission refers to a single supervisor overseeing the contract, the Appellant clearly outlined a structured and proactive approach to supervision that aligns with the requirements of the Terms of Reference. Article 8.1.1 requires supervisors to carry out spot checks at least once every two weeks, and the Appellant committed to this, with each inspection followed by a formal report detailing findings, irregularities, and any remedial actions taken.

The role of the supervisor, as described in the submission, extends well beyond basic inspections. It includes regular contact with the Contracting Authority, ongoing monitoring of cleaning staff, responding to complaints, managing stock levels, verifying timesheets, and ensuring adequate cover for absences. These are standard duties for a supervisor managing multiple sites, and the Appellant has proposed a system of structured checklists, end-of-shift reports, and clear communication channels to support the delivery of these tasks efficiently.

Furthermore, the Organisation and Methodology and the Terms of Reference did not require the level of specificity being requested by the evaluation committee, and the submission was tailored accordingly. Had this been requested, the Appellant would have been able to provide further clarification. As it stands, the submission in this regard demonstrates a compliant approach to supervision, and the Appellant respectfully requests that the score awarded under this criterion be reconsidered and that the full score is awarded.

- c) ***3rd grievance - Criterion 1.8. - The Economic Operator shall submit a writeup of about 300 words about the plans to make sure that the cleaners carry out the tasks as outlined in Article 4.2.1 of the Terms of Reference.***

The Appellant obtained 4 out of the possible score of 5, with the justification being that:

While several measures were outlined to ensure task compliance as per Article 4.2.1, the submission lacks sufficient detail regarding the actual cleaning tasks, Additionally, reliance on a single supervisor to manage all operational aspects — including monitoring, performance reviews, and inspections—raises concerns about the feasibility and alignment with the required service standards. On the other hand, the preferred tenderer obtained the full score.

The Appellant objects to the penalisation under Criterion 1.8 (Methodology) with respect to both grounds listed under this heading. With respect to the first ground, the tender does not specify how cleaning tasks are to be achieved, only stating that "The Cleaning Services shall generally

include the following" (Article 4.2.1), indicating merely a general outline. The Appellant's submission provides several measures to ensure task compliance, in line with this guidance, with the help of the sample checklist in Annex A.

The other concern, about relying on a single supervisor, was already addressed under Criterion 1.5. As previously noted, the tender explicitly calls for "one Supervisor" (Article 6.1), and the Appellant's proposal complies accordingly. It must be noted that the preferred tenderer obtained full points in this section, notwithstanding the fact that in their submission they catered for one supervisor. Penalizing this point shows once again, conflicting interpretations of the tender requirements and discrimination in the manner the points are awarded between the different tenderers. In light of the above, the Appellant requests a reconsideration in the score provided under this criterion, and that the full score should have been awarded.

- d) ***4th grievance - Criterion 1.18. - Proof that the employees are provided with an insurance cover in case of injury during work. Economic Operators are to provide proof that they provide insurance to their employees, thus a copy of the Employer's Liability Cover is to be submitted.***

The Appellant obtained 1 out of the possible score of 4, with the reason being that:

The insurance coverage submitted is limited to the contractor's own premises and does not extend to the sites where cleaning services will be performed, which does not meet the expected coverage requirements

The stated justification is simply incorrect. The Organisation and Methodology document outlines that the Appellant was bound to provide:

Proof that the employees are provided with an insurance cover in case of injury during work. Economic Operators are to provide proof that they provide insurance to their employees, thus a copy of the Employer's Liability Cover is to be submitted. For this criterion, full marks are given if the Tenderer submits proof of employees' insurance cover. A score of "1" shall be given if the Tenderer does not submit this proof.

It seems that the evaluation committee failed to take note of page 17 of the submitted insurance policy which confirms a Work Away Extension, ensuring that employees are covered while performing duties at any site, including temporary or client-owned premises. The tender requires proof of employee insurance coverage, not a specific format or wording. Therefore, in light of this clause in the policy submitted, the Appellant has satisfied the criterion in question. In light of the above, the Appellant humbly submits that the full score should have been awarded for this requirement.

- e) ***5th grievance - Criterion 1.21. - Health and Safety resources (Quality assurance systems employed by the contractor to ascertain a safe working environment, eg. via provision of appropriate signage for wet floors, provision of necessary implements such as gloves, etc.)***

Economic Operators are to submit a report in the form of a write-up of approximately 200 words outlining the resources to be provided.

The Appellant obtained 3.67 out of the possible score of 4, with the reason being that:

Although reference was made to health and safety policies as well as chemical handling, storage, and disposal procedures, these documents were not included with the submission. As a result, the write-up lacked the necessary level of detail

The Appellant submits that the tender and the Organisation and Methodology document required a *write-up report*, not the submission of full policy documents. The Appellant's submission complied with this requirement and provided adequate reference to health and safety measures, including chemical handling, storage, and disposal. Moreover, the evaluation committee itself acknowledged that adequate reference was made to the relevant requirements. Penalizing the absence of full documents, when these were not requested, imposes an additional requirement not stated in the tender, and as a result, the Appellant should have been given the full score.

This Board also noted the Contracting Authority's Reasoned Letter of Reply filed on 20th August 2025 and its verbal submission during the hearing held on 12th January 2025, in that:

a) ***Ground 1 - Criterion 1.4 (Timekeeping aligned to CA schedules;)***

The Appellant was not failed on this criterion. Rather, the three evaluators independently assigned 2, 1, and 2 points out of 5, leading to a partial-credit score due to insufficient and non-specific information on timekeeping and its implementation.

The recommended tenderer earned marks because it identified a specific punch-clock solution, explained how it operates, and furnished Appendix-level evidence (including a software-generated timesheet) demonstrating current, actual use. In contrast, the Appellant mentioned the "Cotag" system in passing but did not: (i) explain how it would function in the MPF context; (ii) state what infrastructure/setup is required; or (iii) present any sample outputs or deployment particulars. The Board's remark—that the Appellant's write-up "lacked sufficient and relevant information concerning timekeeping"—accurately reflects this deficit.

In a BPQR evaluation, marks reward specificity and proof. Several bidders (including the recommended one) who supplied detailed, standard-exceeding methods and verifiable evidence were rightly awarded top marks; it would be unfair and distortive to level scores where the submissions are not equivalent in detail and substantiation. The Appellant's contention that "the difference lies merely in terminology" is misplaced: the difference in marks lies in the degree of operational detail and evidential backing provided. This calibrated marking is fully consistent with the recognised discretion ("leeway") afforded to evaluation committees in BPOR quality scoring, which review bodies should not disturb where the assessment is reasonable.

b) ***Ground 2- Criterion 1.5 (Adequate level of service / supervision;)***

The Appellant argues that both it and the preferred bidder proposed one supervisor, yet different scores were awarded. This misapprehends the criterion and the Board's holistic assessment. First, the Board expressly noted for both operators that reliance on a single supervisor is a potential shortfall, given the MPF's operational footprint—approximately 85 sites across Malta and Gozo, plus 30 sentry boxes, with the Police General Headquarters alone comprising over 100 offices. For completeness, both bidders did not receive full marks on this criterion precisely because they proposed a single supervisor;. While the ToR state "One Supervisor is to be employed by the Company in order to ensure that the cleaning requirements being asked for in this tender are met by the responsible staff., nothing precludes bidders from allocating additional supervisors to meet the operational realities of the MPF estate and the requirement for regular inspections across all sites (on at least a fortnightly cycle). Bidders that committed additional supervisory capacity—and explained how this would ensure coverage and timely inspections— appropriately received higher marks. This is consistent with a holistic BPQR assessment of "adequate level of service," not a binary headcount check, and squarely within the evaluation committee's recognised discretionary leeway in qualitative.

Secondly, the criterion tests "adequate level of service" overall, not a single headcount data-point. The recommended bidder still merited higher (not full) marks because, despite the same supervisor remark, it submitted a robust supervision and service framework, clear reporting lines, documented inspection cycles, complaints handling, and backed its system with independent certifications (including ISO 9001:2015), thereby demonstrating mature process controls. By contrast, the Appellant's statements (e.g., "tasks shall be monitored and supervised" or "we provide checklists") remained generic and unaccompanied by evidence or concrete operating detail. This qualitative differentiation justifies the score differential and falls within the Board's accepted evaluative discretion in BPQR allocations.

c) ***Ground 3- Criterion 1.8 (Methodology to ensure tasks are carried out;)***

The Appellant scored 4/5 (not the maximum) because the write-up leaned predominantly on the single-supervisor model and reproduced high-level statements (e.g., "established KPIs") without defining the KPIs or demonstrating their measurement and enforcement. The recommended bidder obtained 5/5 by providing operational specificity-how supplies are sourced and stored, how stock levels are maintained, how tools are deployed on-site, how inspections/escalations/audits are conducted, and worked methods for tasks (eg» grass cutting, manual sweeping, dust removal, floor washing-explicitly reflecting the Two-Bucket Method required under the ToR) along those lines, with appendices/evidence.

The one-point gap reflects the relative strength of submissions and is entirely consistent with BOR's comparative, evidence-weighted scoring.

d) ***Ground 4- Criterion 1.18 (Employer's Liability Insurance - proof of cover)***

Upon re-checking the Appellant's 17-page policy, the Board acknowledges that the "Work Away Extension" was present and does cover client sites beyond the contractor's premises. The earlier observation was an oversight. The Contracting Authority concurs that the criterion is satisfied and the score should be corrected to 4/4. This is being stated without prejudice to the final request of the appellant as described in his reasoned letter insofar that such point does not affect the overall fairness and reasonableness of the decision of the contracting authority. This is also being stated insofar that the correction being conceded does not affect the overall result and that the PCRB is to act as guided by the principle of reasonableness over detail!

e) ***Ground 5 - Criterion 1.21 (Health & Safety resources)***

The Appellant was awarded 3.67/4 (individual marks: 3, 4, 4). The slight deduction followed from the generic nature of certain statements (eg, "we have developed and implemented an H&s policy applicable to all sites"; "a quality assurance regimen shall be employed", without further explanation or evidence (policy extracts, organisational charts, resourcing tables, or control plans).

By contrast, the recommended bidder (scored 4/4) presented comprehensive particulars and supported them with certification (including ISO 45001:2018 for Occupational Health & Safety Management), thereby evidencing embedded practice. A 0.33-point delta is therefore proportionate and within the Board's discretion in a BPQR appraisal.

f) ***Ground 6 - Allegation of conflict of interest / bias***

The Contracting Authority categorically rejects any allegation of conflict or bias. The Board carried out a thorough, consistent, and fair evaluation across all bidders, applying the published criteria and awarding marks commensurate with the quality and evidential strength of each submission. The Contracting Authority reserves the right to present counter-evidence during the sitting to substantiate this allegation.

This Board, after having examined the relevant documentation to this appeal and heard submissions made by all the interested parties including the testimony of the witnesses duly summoned, will now consider Appellant's grievances.

Grievance 6: Allegation of Conflict of Interest and Bias

- The Appellant alleges that the Evaluation Committee Chairperson, Inspector David Bugeja, exhibited bias during the evaluation process.
- The Board notes from witness testimony that Inspector David Bugeja (ID No. 49088M) served as Chairperson but did not personally allocate points. Points were awarded independently by three evaluators: Mr Kevin Perry, Mr Clive Borg, and Mr Brandon Agius. Inspector Bugeja's role involved ensuring points were awarded according to BPQR methodology, uploading final scores on ePPS, and approving or rejecting the final report.

- The Board observes that the individual scoring decisions made by the three evaluators on Grievances 1, 2, 3, and 5 reflect reasonable application of BPQR comparative principles without evidence of arbitrary or biased assessment. The technical deductions were proportionate and within the evaluators' discretionary authority (refer to consideration of grievances 1, 2, 3, and 5 below.)
- However, the Appellant presented documentary evidence of an email sent by Inspector Bugeja on 7th February 2025 at 15:40, during the active evaluation period (partially replicated below):

From: Bugeja David at POLICE

Sent: 07 February 2025 15:40

To: Vella Robert at POLICE; Demicoli Duncan at POLICE

Subject: Re: Cleaners at Mosta Station

"Yes Sir, we have a huge problem with current contractor. We are changing it soon, tender is in evaluation. We should also be doubling the number of hours at each station."

- The statement "*We are changing it soon, tender is in evaluation*" demonstrates that the Chairperson had formed and communicated a predetermined view regarding the contract outcome while the evaluation was still in progress.
- The Board notes established jurisprudence that impartiality requires not only actual fairness but the appearance of fairness. The principle of *nemo iudex in causa sua* demands that any reasonable observer should not harbour legitimate doubts regarding a decision-maker's impartiality.
- While the Chairperson (of the evaluation committee) did not allocate points directly, his authority to approve or reject the final evaluation report is not merely administrative but carries supervisory weight over the evaluation outcome.
- The email constitutes objective evidence that the Chairperson expressed a predetermined conclusion regarding contract award during the evaluation period, creating a reasonable apprehension of bias that undermines confidence in the integrity of the overall process.

Therefore, the Board upholds the Appellant's grievance on this point.

Procedural Observation: Duty to Decide All Grievances

- Notwithstanding the Board's finding of conflict of interest in Grievance 6, which necessitates a re-evaluation by a newly constituted Evaluation Committee, the Board must proceed to consider and decide all remaining grievances raised by the Appellant.

- The Court of Appeal in *Support Services Limited v. Aġenzija Sapport et* (Appeal No. 191/2023/1, 12th July 2023) established the jurisprudence that this Board is bound to hear and decide appeals in their entirety within a single final decision. The Court stated:

"Minn kif taraba din il-Qorti, ladarba l-liġi tispeċifika terminu qasir hafna li fih il-Bord ta' Reviżjoni għandu jagħti s-sentenza tiegħu, allura l-Bord ma jistax jaqbad u jiddeċiedi li jisma' u jiddeċiedi biss punt preliminari tal-appell. Mod ieħor, il-Bord għandu d-dmir li jisma' l-appell fuq kollox u jagħti sentenza wabda finali."

- Accordingly, notwithstanding that the finding of conflict of interest requires a re-evaluation, the Board will proceed to determine the merits of all remaining technical grievances (Grievances 1, 2, 3, 4, and 5) in order to provide comprehensive guidance to the newly constituted Evaluation Committee and to fulfil its statutory duty to render a complete and final decision on the appeal, also in light that it is the opinion of the Board that the 3 voting members were impartial in their evaluation without evidence of arbitrary or biased assessment, as elaborated in the sections that follow.

Grievance 1: Criterion 1.4 – Timekeeping with respect to schedules

- The Appellant obtained 1.67 out of 5 points. The Evaluation Committee noted: "*the submission lacks sufficient and relevant information concerning timekeeping.*"
- The Appellant contended during the hearing that the 200-300 word limitation constrained the ability to provide detailed explanations. The Board notes that where an economic operator considers tender requirements unduly restrictive, the proper remedy lies in PPR Regulation 262 ("*Remedies before Closing Date of a Call for Competitions*"). Once a tender is submitted, the bidder acquiesces to all published requirements and cannot subsequently challenge them as grounds for higher scores.
- Mr Dalziel Bugeja (ID No. 26493M) testified that the Appellant proposed "*a Cotag system or any other system used by the Contracting Authority.*" The submission referenced staff arriving 15 minutes early, task checklists, time limits, regulated breaks, and supervisor monitoring with weekly and fortnightly inspections.
- The Recommended Bidder identified a specific proprietary solution (Spektrum HR and Employee Management Software), provided a mobile punch clock backup for sites without physical infrastructure, outlined an eight-step reconciliation workflow between rosters, attendance sheets and punch clock reports, and submitted appendix documentation including software-generated timesheet templates demonstrating current operational use.

- Dr Galea submitted that *"the evaluation should reflect what each bidder submitted independently, rather than being compared against other bidders."* This submission fundamentally misapprehends the nature of BPQR evaluation methodology.
- The tender explicitly stated at Section 6.1 that award would be on BPQR basis with 60% technical quality weighting. Unlike a "cheapest technically compliant" award criterion operating on pass/fail binary assessment, BPQR inherently requires comparative qualitative evaluation to differentiate between compliant submissions and award marks proportionate to demonstrated quality, detail, and evidential strength.
- The Board refers to the Court of Appeal decision in *General Cleaners Co. Ltd v. Heritage Malta et* (Appeal No. 159/2022/1, 10th October 2022), which upheld PCRB Case 1583 decision, PCRB Case 1583 decision states:

"It must be noted that the evaluation and eventual award of such tender was to be based on the BPQR method of evaluation. In this method of evaluation, the evaluation committee is to be 'afforded' an element of 'leeway' in the way it proceeds with its business of evaluation... this element of 'leeway' needs to be exercised 'in a professional, detailed and meticulous manner and always within the remit of the Public Procurement Regulations and the specific tender document in question'."
- Furthermore, PCRB Case 1583 decision highlights that BPQR evaluation fundamentally differs from a *"cheapest technically compliant bidder"* award criterion:

"If other bidders were more specific in their submissions, it is the true nature of BPQR evaluation that bids meeting the minimum criteria are not awarded the most points on technical matters."
- The Court of Appeal also affirmed in *Executive Security Services Ltd v. Aġenzija Servizzi, Gov*, Case 205/21/1 :

"Dan iġisser li jeżiżti element ta' suġġettività mogħti lill-kumitat evalwattiv mid-dokument tas-sejba għall-offerti stess. Din il-qorti ma tara xejn irragonevoli fid-deċiżjoni... u din il-qorti ma tarax li għandha tiddisturba d-diskreżżjoni kif użata mill-kumitat evalwattiv f'dan il-każ."
- Under BPQR, it is not only permissible but necessary to compare submissions and award differentiated marks based on relative quality. To do otherwise would render the BPQR methodology meaningless and reduce evaluation to binary pass/fail assessment.
- The differential scoring reflects reasonable comparative assessment within the evaluators' recognized discretionary leeway. The Board will not disturb such assessment where it is reasonable and within the confines of published criteria.

Therefore, the Board does not uphold the Appellant's grievance on this point.

Grievance 2: Criterion 1.5 – Adequate Level of Service (Supervision)

- The Appellant obtained 1.67 out of 5 points; the Recommended Bidder obtained 3 out of 5. Both received comments regarding a single supervisor overseeing approximately 85 sites across Malta and Gozo plus 30 sentry boxes.
- Dr Galea argued that "*identical shortcomings should have resulted in identical scoring.*" Mr Melchior Dimech (ID No. 119582M) testified that the company could provide more than one supervisor but did not include such commitment in the submission.
- Article 6.1.1 states "*One Supervisor is to be employed*" as a minimum requirement. The criterion evaluates whether "*an adequate level of service is provided as per Article 8.1.1,*" requiring holistic BPQR qualitative assessment, not binary compliance checking.
- The Board refers to PCRB Case 1818 and the jurisprudence established in *General Cleaners Co. Ltd v. Heritage Malta et*, which confirmed that under BPQR methodology (as distinct from cheapest technically compliant criteria), evaluation committees possess discretionary leeway to award differentiated marks based on relative quality, even where minimum requirements are met by multiple bidders.
- The Recommended Bidder supported its proposal with documented inspection templates (Appendices 2 and 3), formal biannual appraisal mechanisms, visual inspection protocols, and ISO 9001:2015 Quality Management certification providing independent validation of embedded process controls.
- The Appellant provided statements such as "*tasks shall be monitored*" and "*we provide checklists*" without documentary templates, sample reports, or independent certification.
- Mr Dimech testified that Simply Clean Ltd held ISO 9001 and 14001 certifications since 2003. However, these were not referenced in the Criterion 1.5 write-up nor submitted as supporting evidence. In BPQR evaluation, as established in *General Cleaners*, marks are awarded based on what is submitted and evidenced, not on capabilities that exist but remain undocumented.
- The qualitative differentiation in evidential strength justifies the score differential under comparative BPQR assessment, consistent with the evaluation committee's discretionary leeway recognized in PCRB Cases 1577 and 1583.

Therefore, the Board does not uphold the Appellant's grievance on this point.

Grievance 3: Criterion 1.8 – Methodology to ensure cleaners carry out tasks

- The Appellant obtained 4 out of 5 points. The Evaluation Committee noted "*the submission lacks sufficient detail regarding the actual cleaning tasks.*"
- Mr Dalziel Bugeja testified that the Appellant "*replicated what was requested*" but noted the Recommended Bidder also proposed one supervisor yet obtained full marks.
- The Appellant's submission listed required tasks, referenced "established KPIs," and included job sheets, training, performance reviews, and fortnightly inspections with a sample checklist. However, it did not define the KPIs, measurement methods, target thresholds, or enforcement mechanisms.
- The Recommended Bidder provided operational specificity: supply chain logistics (local/foreign sourcing, minimum stock levels), equipment maintenance protocols with a "Defects Report" template, task-specific methodologies, explicit reference to the Two-Bucket Method required in the Terms of Reference and supporting appendix documentation.
- PCRB case 1815, upheld by the Appeals Court in *General Cleaners Co. Ltd v. Heritage Malta et* (10 October 2022), clarified that BPQR evaluation focuses on quality assessment rather than just compliance.

"This board notes that the award criterion for this tender is the BPQR method, i.e. quality matters! The appellant company was comprehensive in its submission, but the methodology provided was lacking in specifics. When submitted [recte, submitting] a bid which is being awarded by BPQR, it is essential to be specific."

- The one-point differential reflects calibrated comparative assessment. Both proposals were compliant, but under BPQR methodology (unlike cheapest technically compliant criteria), differentiated marks based on operational detail and supporting evidence are appropriate and necessary, as confirmed in PCRB Cases 1577, 1583, and 1818.
- The fact that both proposed one supervisor yet received different marks demonstrates assessment was based on totality of methodology, process documentation, and evidential support, precisely as BPQR requires.

Therefore, the Board does not uphold the Appellant's grievance on this point.

Grievance 5: Criterion 1.21 – Health and Safety Resources

- The Appellant obtained 3.67 out of 4 points (individual marks: 3, 4, 4). The Evaluation Committee noted "*although reference was made to health and safety policies...these documents were not included.*"
- Mr Dimech testified that Simply Clean Ltd held ISO certifications since 2003 and that "*these were not requested.*"
- The Appellant's write-up stated "*developed and implemented a health and safety policy*" and "*quality assurance regime*" but provided generic statements without substantiating documentation or implementation evidence.
- The Recommended Bidder submitted comprehensive particulars including specific PPE protocols, slips/trips signage systems, manual lifting procedures, working at heights risk assessments, and ISO 45001:2018 certification providing verifiable third-party-audited evidence.
- The Court of Appeal in *General Cleaners Co. Ltd v. Heritage Malta et* confirmed the principle that under BPQR evaluation, bidders who provide superior evidence and specificity merit higher marks: "*If other bidders were more specific in their submissions, it is the true nature of BPQR evaluation that bids meeting the minimum criteria are not awarded the most points on technical matters.*"
- The criterion requested "*a write-up...outlining resources*" and "*quality assurance systems.*" Under BPQR comparative evaluation (distinct from cheapest technically compliant criteria where compliance alone suffices), bidders who voluntarily provide independent certification as evidence demonstrate higher quality and merit higher marks within the evaluation committee's discretionary leeway.
- The Appellant possessed ISO certifications but chose not to reference them in the Criterion 1.21 write-up or submit them as supporting evidence. The argument that certifications "*were not requested*" misapprehends BPQR methodology, which rewards voluntary provision of superior evidence, as confirmed in PCRB Cases 1577, 1583, and 1818 and the Court of Appeal jurisprudence.
- The 0.33-point differential is modest and proportionate, with two of three evaluators awarding full marks, reflecting appropriate exercise of discretionary leeway.

Therefore, the Board does not uphold the Appellant's grievance on this point.

Grievance 4: Criterion 1.18 – Employer's Liability Insurance

- The Appellant obtained 1 out of 4 points. The Evaluation Committee stated "*insurance coverage is limited to the contractor's own premises.*"
- The Contracting Authority, in its Reasoned Letter of Reply dated 20th August 2025 and during the hearing of 12th January 2026, conceded this grievance. Page 17 of the policy includes a "Work Away Extension" covering employees at client sites. The earlier observation was an oversight. The score should be corrected to 4 out of 4.

Therefore, the Board upholds the Appellant's grievance on this point.

The Board,

Having evaluated all the above and based on the above considerations, concludes and decides:

- a) Upholds Appellant's Letter of Objection for Grievance 4: Criterion 1.18 – Insurance and Grievance 6: Bias/Conflict of Interest;
- b) Does not uphold Appellant's Letter of Objection for Grievance 1: Criterion 1.4 – Timekeeping, Grievance 2: Criterion 1.5 – Adequate Level of Service, Grievance 3: Criterion 1.8 – Methodology and Grievance 5: Criterion 1.21 – Health & Safety;
- c) Directs a re-evaluation of all bids by a newly constituted Evaluation Committee not including members who participated in the original evaluation, which shall:
 - Consider the Board's findings, including correction of Criterion 1.18;
 - Apply the published BPQR criteria consistently and impartially;
- d) Directs that bidders be requested to extend bid validity periods if required;
- e) Directs that the deposit of €8,860 be reimbursed to the Appellant.

Mr Kenneth Swain
Chairman

Dr Ing. Damien Gatt
Member

Dr Maria Cardona
Member