

08<sup>th</sup> June 2026

Public Contracts Review Board  
Notre Dame Ravelin,  
Floriana,  
Malta



Legacy Ventures Limited

vs

Foundation for Tomorrow's  
School et.

CT 2350/2025

**Subject: Tender for the provision of civil works, mechanical and electrical services and finishing works using environmentally friendly products for the Gozo college, Gharb Primary School, Gozo**

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## REASONED REPLY BY FOUNDATION FOR TOMORROW'S SCHOOLS

Whereas, the Department of Contracts (*hereinafter* “**DOC**”) issued a call for tenders “for the provision of civil works, mechanical and electrical services and finishing works using environmentally friendly products for the Gozo college, Gharb Primary School, Gozo” with Foundation for Tomorrow’s Schools as beneficiary (*hereinafter* “**FTS**”).

Whereas, Messrs. Legacy Ventures Limited (*hereinafter* “**LVL**”) in accordance with reg. 270 of subsidiary legislation 601.03 (*hereinafter* “**PPR**”) submitted an objection on the 29<sup>th</sup> May 2026, requesting, *inter alia*, to revoke the recommendation for award to Elzan Construction Ltd (*hereinafter* “**ECL**”).

Whereas, for all intents and purposes, FTS rebuts all the claims and allegations made by LVL.

Now, therefore, FTS is filing its reply in accordance with reg. 276 of PPR, based on the following observations:

1. **Grievance No. 1:** **Multiple bids: the Recommended Bid should not have been recommended and should be discarded**

**Reply No. 1:** **The grievance is unfounded and should be rejected**

### Reg. 39 PPR – Article 3.1 GRGT

1.1 The General Rules Governing Tenders (*hereinafter* “**GRGT**”) in article 3.1 establishes that:

*“Bidders may submit up to three (3) multiple and non-identical (technically and financially) bids for a tender. In cases where bidders submit more than three (3) non-identical bids, the evaluation board will only consider the first three (3) cheapest offers submitted - irrespective of their administrative, technical and financial compliance. All other bids submitted by the tenderer will be automatically disqualified.”*

1.2 Indeed, ECL submitted multiple bids, and the Technical Evaluation Committee (*hereinafter* “**TEC**”). In full adherence with the GRGT, the TEC considered the three (3) cheapest offers, whilst it disqualified the remaining bids. The three (3) cheapest bids submitted by ECL are the following:

TID 236558	€2,793,980.72
TID 236568	€3,005,864.39
TID 236560	€3,147,032.13

1.3 The recommended bid for award by ECL is TID 236560, which is the third (3<sup>rd</sup>) cheapest offer as per the above schedule, and thereby respecting the permutations introduced by article 3.1, thereby the claim by LVL is factually incorrect and unsustainable.

1.4 In view of the aforesaid, and whilst reserving its rights to the fullest extent permissible to submit additional pleas in relation to this grievance, FTS respectfully requests this Honourable Borad to reject this grievance as it is unfounded both in fact and in law.

2. **Grievance No. 2:** **The objector’s project list: Citways was excluded on an unduly narrow, subjective and unexplained interpretation**

**Reply No. 2:** **The grievance is unfounded and should be rejected**

**Reg. 39 PPR – Reg. 62 PPR**

2.1 LVL complains that that exclusion on the basis of the fact that it failed the eligibility criteria is “legally and factually unfounded” – FTS stands firmly by the decision of the TEC, and this since the requirement was clear and unambiguous.

2.2 The Contracting Authority requested a form entitled ‘List of Projects’ to be filled out by the economic operators. This form was not submitted by the bidder. The TEC, in accordance with “Note 2”, invited LVL to rectify its missing information within “five working days”, an opportunity which LVL failed to fully adhere to, since the project it proposed was not in accordance with the tender requirements.

2.3 The tender, in page 6, requested:

(c) **Technical and Professional Ability** <sup>(Ibte 2)</sup>

- a. State the number of **successfully completed works projects** of similar nature, being **large-scale commercial or public projects** involving M&Es or Finishing works successfully completed during the last three (3) years, namely between 2022-2024 which satisfy the following criteria:
- i. the minimum number of projects must not be less than three (3) projects. Each Project listed must be accompanied by a **brief portfolio** which shall include photos of the different phases of the project up to commissioning.
  - ii. the cumulative value of all the works projects listed in (a) above must not be less than €4,000,000 (excl. VAT);
  - iii. One (1) of the projects listed in (a) above must not be less than €2,000,000 (excl. VAT);

*This information shall be included in the Form marked as "List of Projects" in accordance to point (ii) below.*

Extract from the tender document page 6

- 2.4 LVL'S initial failure was not remedied appropriately, since the project it presented does not conform to the tender requirements and this since it presented a residential project as opposed to a commercial project. LVL expectation is to widen the scope of the tender requirement *ex post* and admit its submission. This expectation is in breach the self-limitation principle, infringes transparency and breaches reg, 39 of PPR.
- 2.5 Reference is hereby being made to Court decision in the names of **22/2025/1 Vassallo Builders Ltd (TID 000210886) v. Wasteserv Malta Ltd (C-30560) et.** which makes it amply clear that the TEC cannot depart from what is specifically requested in the tender document.

2.6 The court judgment held that:

*“VBL jehtigilha tifhem ukoll li meta r-regolamenti tas-sejha jitolbu b’mod espress certu tip ta’ dokumentazzjoni, dik id-dokumentazzjoni għandha tingħata bil-mod ta’ kif ikun mitlub, u dan sal-għeluq taż-żmien għall-offerti (ara f’dan is-sens Legacy Ventures Limited v. Direttur Ġenerali tal-Kuntratti et, mogħtija mill-Qorti tal-Appell fit-30 ta’ Lulju, 2024). Taqa’ fir-responsabbiltà ta’ kull offerent li jobdi l-kundizzjonijiet tas-sejha bħala «a reasonable well informed and normally diligent tenderer», u għaldaqstant, għaladarba r-regoli tas-sejha inkwistjoni kienu jimponu fuq l-offerenti li jressqu kopja tal-«Final or Provisional Acceptance Certificate or equivalent», VBL kienet obbligata li tressaq dik id-dokumentazzjoni, u mhux tippretendi li setgħet tgħaddi mingħajrha jew inkella tressaq dak li jfetlilha (ara Freemon Limited v. L-Agenzija għas-Servizzi tal-Qorti et, mogħtija mill-Qorti tal-Appell fl-20 ta’ Marzu, 2023)”.*

2.7 Finally, reference is also being made to 35/22/1 NQUAYMT konsorzju kompost minn (i) **Bonnici Bros. Services Limited (C57464)** u (ii) **Korfezdeniz ins Taah. San. Ve Tíc. Ltd. Sti, soċjeta` estera v.(i) Aġenzija għal Infrastruttura Malta**

*“L-eċċess fil-manjaminita` u fit-tfittixsabiex jiġu salvati offerti akkost ta’ kollox mhux espressjoni ta’proporzjonalita` imma huwa sproporzjon kontra min kien “compliant” millbidu nett.”*

The expectation of the appellant company is nothing more than an excessive expectation which breaches the principles of equal treatment and level-playing field.

2.8 In view of the aforesaid, and whilst reserving its rights to the fullest extent permissible to submit additional pleas in relation to this grievance, FTS respectfully requests this Honourable Borad to reject this grievance as it is unfounded both in fact and in law.

3. **Grievance No. 3:** **Failure to provide information and reasons; Request for preliminary and interim remedy**

**Reply No. 3:** **The grievance is unfounded and should be rejected**

**Reg. 40 PPR – Reg. 242 PPR– Reg. 272 PPR**

3.1 FTS rejects this grievance, as it is not only factually incorrect, but the expectation of LVL is to be given information and be granted information and documents which it has no right.

3.2 Primarily, it must be stated that the rejection to LVL was made on the 22<sup>nd</sup> May 2026, yet the request for information (hereinafter “RFI”) was only submitted with FTS/DOC on the 28<sup>th</sup> May 2026, i.e. three (3) days before the objection deadline of 1st June 2026. Notwithstanding the above, FTS replied for such RFI on the 29<sup>th</sup> May 2026, inter alia, by providing all such information which is due to an interested party, in compliance with reg. 40, 242 and 272 of the PPR. For ease of reference, a copy of the RFI and the ensuing reply are hereby being enclosed as **DOC1** and **DOC2**, respectively.

3.3 It must however be stated that, in terms of information to be released, reg. 40 of PPR specifically indicates the following information which may be disclosed:

*“(a) the name of the bidders and the individual names of the members of a group of economic operators who submitted a particular tender;*

*(b) the name of the sub-contractors;*

*(c) documentation submitted by economic operators attesting that they comply with selection criteria; and*

*(d) technical information which is already made available in public.”*

3.4 In addition, additional guidance is derived from the judgment of the European Court of Justice in *Antea Polska* (17th November 2022, C-54/21, EU:C:2022:888), which mandates an obligation on the Contracting Authority to safeguard the interests of economic operators that disclosed confidential information, trade secrets and other privileged information under the premise that this shall be safeguarded from unwarranted disclosure.

3.5 In view of the aforesaid, and whilst reserving its rights to the fullest extent permissible to submit additional pleas in relation to this grievance, FTS respectfully requests this Honourable Borad to reject this grievance as it is unfounded both in fact and in law.

4. **Grievance No. 4:**        **Mandatory technical compliance of TID 236560, including eurovent, GPP/Ecolabel, Toilets, Curtains and Product Certification**

**Reply No.:**                **The grievance is unfounded and should be rejected**

4.1 The grievance is unclear as to the specific allegations. In any event, FTS confirms that the recommended bidder fully complies with the tender specifications. The TEC conducted its evaluation in accordance with its obligations and complied with the doctrine of self-limitation.

4.2 In view of the aforesaid, and whilst reserving its rights to the fullest extent permissible to submit additional pleas in relation to this grievance, FTS respectfully requests this Honourable Borad to reject this grievance as it is unfounded both in fact and in law.

5. **Grievance No. 5:**        **Key Experts and the Technical Identity of the Elzan Bids**

**Reply No. 5:**                **The grievance is unfounded and should be rejected**

5.1 The grievance is unclear as to the specific allegations. In any event, FTS confirms that the recommended bidder fully complies with the tender specifications. The TEC conducted its evaluation in accordance with its obligations and complied with the doctrine of self-limitation.

5.2 In view of the aforesaid, and whilst reserving its rights to the fullest extent permissible to submit additional pleas in relation to this grievance, FTS respectfully requests this Honourable Borad to reject this grievance as it is unfounded both in fact and in law.

6. **Grievance No. 6:**      **Price Discrepancy**

**Reply No. 6:**              **The grievance is unfounded and should be rejected**

6.1 FTS notes the “price discrepancy” allegation being made, notably the difference between the opening figure attributed to TID 236560 on ePPS (€3,147,032.13) and the recommended price stated in the award schedule (€3,147,910.83). FTS confirms that the change is attributable to an arithmetical correction, which change was done in strict compliance with normative standards.

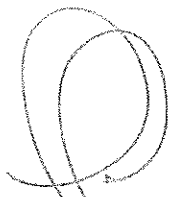
6.2 In view of the aforesaid, and whilst reserving its rights to the fullest extent permissible to submit additional pleas in relation to this grievance, FTS respectfully requests this Honourable Board to reject this grievance as it is unfounded both in fact and in law.

7. **Observations in relation to the deposit paid**

7.1.1 In accordance with reg. 270 et. seq. of the PPR, it is the prerogative of this Honourable Board to declare and to determine the outcome of the deposit paid.

7.1.2 For all intents and purposes, FTS hereby declares that, if LVL withdraws its objection in a timely manner and well before the PCRБ sittings, it will have no objection whatsoever for the refund of the deposit paid in its entirety.

**NOW, THEREFORE**, whilst reserving the right to put forward any other submission, FTS is hereby requesting this Honourable Board to reject in its entirety the objection of LVL, and this under such terms and under such conditions, which this Honourable Board deems fit and opportune.



**Avv. Matthew Paris**  
[matthew@dalliparis.com](mailto:matthew@dalliparis.com)

DR JOHN L GAUCI  
♦ ASSOCIATES

28<sup>th</sup> May 2026

To: The Director General (Contracts)  
By email to: info.contracts@gov.mt, adrian.dalli@gov.mt, and

Foundation for Tomorrow's Schools  
By email to: procurement.fts@gov.mt

**WITHOUT PREJUDICE AND SUBJECT TO ALL RIGHTS**  
**URGENT REQUEST FOR REASONS AND INFORMATION**

**CT2350/2025 - Tender for the Provision of Civil Works, Mechanical and Electrical Services and Finishing Works using Environmentally Friendly Products for the Gozo College, Gharb Primary School, Gozo**

We write on behalf of Legacy Ventures Limited, tenderer in CT2350/2025 - Tender for the Provision of Civil Works, Mechanical and Electrical Services and Finishing Works using Environmentally Friendly Products for the Gozo College, Gharb Primary School, Gozo.

This request is made urgently, without prejudice and subject to all rights, including Legacy Ventures Limited's right to file an objection before the Public Contracts Review Board.

We refer to the award recommendation published on 22<sup>nd</sup> May 2026, whereby the General Contracts Committee recommended the award of the above tender to Elzan Construction Ltd - TID 236560, at the price of €3,147,910.83 excluding VAT. The same notification states that any objection must reach the Public Contracts Review Board by not later than Monday, 1<sup>st</sup> June 2026, accompanied by the prescribed deposit of €14,250.

Given the imminent objection deadline, we request a reply by not later than 12 pm on Friday, 29<sup>th</sup> May 2026. This request is necessary for Legacy Ventures Limited to understand the basis of the recommendation and to decide whether to exercise its right of objection.

**1. Request for detailed reasons and evaluation record**

Kindly provide the detailed reasons for the proposed award to Elzan Construction Ltd - TID 236560, including the non-confidential extracts of the evaluation report, compliance matrix, technical evaluation, financial evaluation and any clarification/rectification correspondence relied upon by the Evaluation Committee.

If any part of the evaluation record or the recommended tenderer's submission is considered confidential, kindly provide a redacted version or an anonymised compliance table sufficient to allow Legacy Ventures Limited to understand how the recommended bid was found compliant.

ADVOCATE

45/11, Strait Street, Valletta, Malta, VLT 1434

Tel: +(356) 2099 1010 Fax: +(356) 2099 101 Mob: +(356) 7925 3794 Email: info@gaucllegal.com

## **2. Mandatory administrative, selection and technical compliance of TID 236560**

Please confirm, clause by clause, how Elzan Construction Ltd - TID 236560 satisfied all mandatory administrative, selection, technical and financial requirements of the tender documents. In particular, please provide the compliance basis for the following:

- a. the declarations concerning the required service activity licences for demolition, excavation and piling, and construction, including any subcontractor declarations where applicable;
- b. the exclusion and blacklisting criteria under the ESPD;
- c. the economic and financial standing requirements, including audited financial statements for 2022 to 2024, turnover requirements, going-concern confirmation and unqualified audit opinion;
- d. the technical and professional ability requirements, including the list of similar works projects, auditor confirmation, project values, client/project details and any verification carried out by the Evaluation Committee;
- e. the subcontractor details and percentage of works to be subcontracted, including whether any subcontractor was relied upon to satisfy selection criteria;
- f. the mandatory tender-stage technical offer documents listed under Clause 5(C)(i), namely the Technical Offer Form, Construction Management Plan, Preliminary Workplan and Programme of Works / Gantt Chart based on critical path analysis, Quality Assurance and Control Programme, Health and Safety Plan, Works Method Statement, declaration concerning certifications/documentation to be provided during execution, Literature List and supporting technical literature, and any Samples List or samples requested during adjudication.

Please confirm whether all mandatory Note 3 documents were submitted with the original tender submission. If any clarification was requested, kindly identify the date, wording, document concerned, response received and the legal/procedural basis on which the response was accepted.

Please also confirm that no missing Note 3 document was rectified, completed or supplied after the tender submission deadline, and that no impermissible post-submission alteration of the technical offer occurred.

## **3. Specific compliance with Technical Specifications and product literature**

The tender documents identify Technical Specifications as containing the minimum technical requirements. We therefore request a product-by-product and item-by-item compliance table showing how TID 236560 complied with those specifications.

For each relevant BOQ/specification item, kindly identify:

- a. the relevant specification reference;
- b. the make, model, manufacturer and product proposed by TID 236560;
- c. the catalogue, literature, certificate, declaration, test report, datasheet or sample relied upon;
- d. whether the evidence was submitted with the original tender, by clarification, by rectification, by sample request, or only after recommendation;
- e. whether an equivalent standard, brand, label or certificate was relied upon;
- f. the proof of equivalence submitted by the recommended tenderer; and
- g. whether the Evaluation Committee treated any requirement as capable of being satisfied only after award or during execution.

#### **4. Air-conditioning / mechanical systems - Eurovent certification**

Please confirm how TID 236560 complied with the Eurovent requirements in the Technical Specifications, including in particular:

- a. Specification 3.8 - Split System, Rev A, including the requirement that the split system and related equipment, where applicable, must be Eurovent certified;
- b. the requirement that the Eurovent certification be shown on the manufacturer's official catalogue;
- c. the requirement that the full catalogue be submitted showing clearly the models selected by the bidder together with the Eurovent certification;
- d. the requirement that the selected models be listed on the Eurovent website;
- e. the requirement that manufacturer-countersigned data is not accepted;
- f. the requirement that units without Eurovent certification are not accepted;
- g. the requirement that valid Eurovent certifications be issued not older than one month from the time the offer was submitted;
- h. Specification 3.9 - VRF System, Rev A, including the equivalent Eurovent certification, catalogue and listing requirements for the VRF system and related equipment;
- i. the specific split-unit and VRF models proposed by TID 236560;
- j. the date of issue and model references of each Eurovent certificate relied upon;
- k. the manufacturer catalogues relied upon;
- l. the official COP, EER and SEER values relied upon;
- m. confirmation that the proposed units complied with the specified noise, refrigerant, warranty, spare-parts, local-distribution and CE requirements; and
- n. whether any Eurovent certificate, catalogue, product model, COP/EER/SEER value or technical data was clarified, supplemented or changed after tender submission.

#### **5. Paints, painting works, EU Ecolabel and GPP compliance**

Please confirm how TID 236560 complied with Specification 11 - Painting, Rev A, including the Green Public Procurement requirements and the requirements concerning paints, varnishes and coatings.

For each paint system proposed by the recommended tenderer, please identify the make, product name, manufacturer, catalogue/datasheet and evidence submitted for:

- a. internal walls, floors and ceilings, including compliance with EN 13300 and with the ecological and performance criteria adopted by the EU for the Eco-Label for internal paints and varnishes;
- b. external masonry and concrete, including compliance with EN 1062-1 and the required dry-film thickness class;
- c. exterior and internal wood paint systems, including compliance with EN 927-1;
- d. internal and external metalwork coatings, including the applicable metalwork specification;
- e. fire classification requirements, including EuroClass requirements where applicable;
- f. batch test certification;
- g. Safety Data Sheets;
- h. white pigment content limits;
- i. VOC limits and the supporting VOC calculations or test reports, including ISO 11890-2 or ISO 17895 where applicable;
- j. CLP hazard classification evidence, confirming that the final products are not classified as acutely toxic, specific target organ toxicants, carcinogenic, mutagenic, toxic for reproduction or hazardous to the aquatic environment within the prohibited classifications;
- k. hazardous-ingredient restrictions, including preservatives, APEOs, phthalates, formaldehyde and metals;

- l. spreading-rate evidence and relevant ISO 6504 / equivalent test reports;
- m. weathering resistance for outdoor paints;
- n. fungal and algal resistance for outdoor paints;
- o. packaging/container compliance; and
- p. the required waste-management plan for paint leftovers, paint stripping, cleaning of equipment, hazardous waste handling and minimisation of unused paint.

Please specify whether compliance was accepted because the proposed products actually held the EU Ecolabel for paints and varnishes, or whether the Evaluation Committee accepted equivalent calculations, SDSs, manufacturer declarations and/or third-party test reports instead.

If equivalent proof was accepted, please provide the non-confidential extracts showing how equivalence was assessed.

#### **6. Toilets, sanitary ware, water-saving fittings and HPL toilet cubicles**

Please confirm how TID 236560 complied with Specification 3.2 - Plumbing, Sanitary Ware and Bathroom Accessories, Rev C, including:

- a. the proposed sanitary ware make/model and confirmation of compliance with BS EN 997 or equivalent;
- b. the wash-hand-basin drain outlet requirement, including the specified combined filter and the prohibition on discharging through a full-bore outlet;
- c. the requirements for sanitary ware for persons with special needs, including compliance with local regulations, the latest K.N.P.D. guidelines and the UK Doc M requirement referred to in the specification;
- d. confirmation that handles and grab rails for special-needs toilets are stainless steel;
- e. confirmation that flushing units are dual-flush, with maximum 4 litres full flush and 2.6 litres urine flush;
- f. confirmation that disabled toilets are single 4 litre flush;
- g. confirmation that water cisterns include water-saving devices achieving the specified 30% saving;
- h. confirmation that toilet seats are rigid type, with stainless steel hinges and soft-closing mechanism;
- i. confirmation that all water taps, including kitchenette taps, include water-saving inserts or flow limiters achieving the specified water saving and maximum flow requirements;
- j. confirmation of the required warranties, including the minimum warranty for ceramic products and brassware products; and
- k. the technical literature submitted at tender stage for all the above items.

Please also confirm compliance with Specification 127 - Toilet Cubicles - High Pressure Laminate (HPL) Panels, including:

- a. exterior-grade self-supporting HPL for exteriors;
- b. compliance with EN 438:2005 or equivalent;
- c. panel thickness of 12mm to 13mm, as required by the BOQ/specification;
- d. stainless steel section bars, Grade 304 or better;
- e. moisture resistance;
- f. non-porous, scratch-proof, easy-clean and hygienic surface characteristics;
- g. adjustable feet;
- h. hinges, locks and emergency opening system;
- i. coat hooks and toilet-roll holders; and

- j. the manufacturer literature, datasheets and samples, if any, relied upon by the Evaluation Committee.

### **7. Curtains, stage drapery, fire-safety certification and GPP textile requirements**

Please confirm how TID 236560 complied with Specification 3.18 - Stage Curtains, Rev B, including:

- a. CE marking and compliance with fire-safety regulations;
- b. the requirement that the stage curtains be supplied by an established Malta/Europe firm able to provide support or after-sales service;
- c. the requirement that the curtains be manufactured by a manufacturer of international repute with a certified track record;
- d. the detailed design submitted for the works, including plans, elevations, side elevations, fixtures, ancillaries, dimensions, layouts and anticipated loadings;
- e. the proposed fabric/product for the front curtain, valance, legs, borders, travellers, tabs, scrims, backdrops and cycloramas, where applicable;
- f. compliance with the specified fire ratings, including B1 flame-retardant according to DIN 4102, BS 5867 Part 2 Type B & C or equivalent, and E60 heat-stabilised fabric achieving 60-minute fire integrity in accordance with EN 1634-1, where applicable;
- g. certification for fire-retardant treatment;
- h. permanent labelling identifying the flame-retardant treatment applied;
- i. evidence of weight, colour fastness, acoustic absorption, abrasion resistance and pilling resistance;
- j. the proposed track and draw mechanism, including motorised-operation features where applicable;
- k. for any fire curtain or fire-rated textile element, compliance with the required fire-resistance, reliability, self-closing durability and product certification standards;
- l. GPP textile compliance, including Type I ecolabel or EU Ecolabel evidence, where relied upon;
- m. REACH declarations and restricted-substance evidence;
- n. laboratory testing evidence for final textile products, where required;
- o. durability testing evidence;
- p. warranty and spare-parts declarations; and
- q. any manufacturer declarations or equivalent proof accepted by the Evaluation Committee.

Please identify whether any curtain, fabric, fire certificate, GPP declaration or textile test report was submitted only after tender submission, and, if so, the basis on which this was accepted.

### **8. Roller blinds / classroom blinds**

Please confirm how TID 236560 complied with Specification 105 - Roller Blinds and Mini Blinds, including:

- a. the proposed fabric and whether it is 100% blackout fiberglass fabric or light-filtering fiberglass fabric, as required by the BOQ;
- b. dimensional stability;
- c. cleanability and suitability for moist wiping;
- d. UV non-fading performance according to ISO 105-B02;
- e. flame resistance according to BS 5867-2:2008, EN 13501-1, NFPA 701 or equivalent;
- f. the blackout fabric approximate weight of 450g/m<sup>2</sup>, where applicable;
- g. the roller mechanism, chain operation, fittings and aluminium tube requirements; and
- h. the product literature or sample relied upon by the Evaluation Committee.

## **9. Other environmentally friendly / GPP products and specifications**

Since the tender is expressly for works using environmentally friendly products, please confirm how TID 236560 complied with all GPP, ecolabel, environmental, REACH, VOC, recycled-content, hazardous-substance, product-longevity, warranty and product-certification requirements across the Technical Specifications and BOQ.

This should include, where applicable, photovoltaic systems, mechanical systems, landscaping, synthetic turf, chain-link fencing, flooring, waterproofing, timber items, fire-rated doors, aluminium works, lighting systems, ELV/CCTV systems and any other specified product category containing environmental or certification requirements.

For each such item, kindly identify whether the Evaluation Committee relied upon:

- a. an EU Ecolabel certificate;
- b. another Type I ecolabel;
- c. a manufacturer declaration;
- d. a Safety Data Sheet;
- e. a third-party test report;
- f. a technical catalogue;
- g. a sample; or
- h. another form of proof.

## **10. Clarifications, rectifications, samples and post-submission changes**

Please identify whether Elzan Construction Ltd - TID 236560 was asked to clarify, rectify, supplement or change any of the following after tender submission:

- a. technical literature;
- b. certificates;
- c. Eurovent certificates;
- d. EU Ecolabel / GPP evidence;
- e. Safety Data Sheets;
- f. product models;
- g. manufacturer catalogues;
- h. BOQ product references;
- i. samples;
- j. declarations;
- k. Key Expert documentation;
- l. subcontractor information;
- m. the programme of works;
- n. the Construction Management Plan;
- o. the Method Statement;
- p. the QA/QC Programme; or
- q. the financial offer / BOQ.

For each such request, kindly provide:

- a. the date and text of the request;
- b. the date and text of the reply;
- c. the document or item concerned;
- d. whether the matter was treated as a clarification, rectification, sample request or arithmetical correction;

- e. the legal/procedural basis for acceptance; and
- f. confirmation that the reply did not alter, complete or improve a non-compliant tender after the submission deadline.

**11. Key Experts**

Please confirm, in relation to TID 236560, the Key Experts nominated for each required role, namely:

- a. Site Manager;
- b. Mechanical Engineer;
- c. Electrical Engineer;
- d. Contractor's Warranted Perit;
- e. Health and Safety Practitioner; and
- f. Site Technical Officer.

For each Key Expert, please provide or confirm:

- a. the role nominated;
- b. the qualification, warrant, licence or registration relied upon;
- c. years of post-warrant or professional experience where applicable;
- d. Statement of Availability;
- e. CV;
- f. Key Expert Form;
- g. Declaration for Key Experts relating to public employees, where applicable;
- h. MFHEA equivalence letter, where applicable;
- i. whether any MFHEA documentation was requested during evaluation;
- j. whether any Key Expert was replaced or supplemented during evaluation; and
- k. whether the Key Expert was nominated in any other Elzan bid or in any other economic operator's bid.

Please also confirm whether any Key Expert was nominated for more than one role. If so, please identify the specific clause relied upon. In particular, please confirm that only the roles expressly allowed by the tender documents were combined, and that all other Key Experts did not occupy more than one role.

If personal data cannot be disclosed, kindly provide an anonymised role-by-role compliance matrix sufficient to explain the Evaluation Committee's finding of compliance.

**12. Multiple bids submitted by Elzan Construction Ltd**

The opening information available on ePPS appears to show that Elzan Construction Ltd submitted more than three bids for this tender, including the following:

TID	Tenderer	Opening price available on ePPS
236557	Elzan Construction Ltd	€3,691,108.33
236558	Elzan Construction Ltd	€2,793,980.72
236560	Elzan Construction Ltd	€3,147,032.13 according to opening information available to us
236568	Elzan Construction Ltd	€3,005,864.39
236573	Elzan Construction Ltd	€3,390,133.63

The General Rules Governing Tenders provide that bidders may submit up to three non-identical multiple bids and that, where more than three non-identical bids are submitted, only the first three cheapest offers are to be considered, irrespective of administrative, technical and financial compliance, with all other bids automatically disqualified.

In this regard, please confirm:

- a. the complete list of all bids submitted by Elzan Construction Ltd, with TID numbers and prices;
- b. whether each Elzan submission was treated as a separate multiple bid;
- c. whether each Elzan submission was considered technically and financially non-identical;
- d. which Elzan bids were considered by the Evaluation Committee;
- e. which Elzan bids were automatically disqualified under the multiple-bid rule;
- f. why TID 236560 was treated as eligible for evaluation and recommendation;
- g. whether any Elzan submissions were treated as identical, duplicate, alternative, invalid or otherwise not constituting separate non-identical multiple bids;
- h. whether all Elzan bids contained separate technical offers, separate Literature Lists and separate product submissions;
- i. whether separate samples were requested/provided for each Elzan bid, where samples were required;
- j. whether the same Key Experts, subcontractors, technical submissions, method statements, programmes, product literature or certificates were used across multiple Elzan bids; and
- k. if the same Key Experts or technical components were used across multiple Elzan bids, how the Evaluation Committee concluded that the bids were non-identical technically and financially.

### **13. Lower-priced Elzan bids and sole award criterion**

The tender's sole award criterion is price, with award to the cheapest priced offer satisfying the administrative and technical criteria.

The opening information available to us appears to show that Elzan Construction Ltd submitted bids lower than the recommended TID 236560, namely TID 236558 at €2,793,980.72 and TID 236568 at €3,005,864.39.

Please therefore explain why those lower-priced Elzan submissions were not recommended. For each lower-priced Elzan bid, please confirm whether it was:

- a. administratively non-compliant;
- b. technically non-compliant;
- c. financially non-compliant;
- d. automatically disqualified under the multiple-bid rule;
- e. rejected due to missing or non-corroborating literature;
- f. rejected due to missing or non-corroborating samples;
- g. rejected due to Key Expert non-compliance;
- h. rejected due to product/specification non-compliance;
- i. rejected due to arithmetical correction or non-acceptance of correction; or
- j. excluded for any other reason.

Please provide the specific reasons, clauses and evaluation findings for each such rejection or exclusion.

#### **14. Price discrepancy / arithmetical correction**

The opening information available to us shows TID 236560 at €3,147,032.13, whereas the award schedule states the recommended price as €3,147,910.83.

Please explain this discrepancy and confirm:

- a. whether the discrepancy resulted from an arithmetical correction;
- b. whether the XML tender structure, BOQ or uploaded financial bid prevailed;
- c. which BOQ items or totals were corrected;
- d. whether the corrected amount was communicated to Elzan Construction Ltd;
- e. whether Elzan Construction Ltd accepted the correction within the applicable timeframe;
- f. whether the correction affected the ranking of Elzan's multiple bids; and
- g. whether the correction affected the ranking of all tenderers.

Kindly provide the relevant non-confidential extracts of the arithmetical-correction record.

#### **15. Request for urgent disclosure**

Given the strict objection deadline of Monday, 1<sup>st</sup> June 2026, we request that the Contracting Authority provide the requested information immediately.

If the full documentation cannot be provided within the requested timeframe, kindly provide, at minimum:

- a. the compliance table/matrix for TID 236560;
- b. the reasons why lower-priced Elzan bids were not recommended;
- c. the application of the multiple-bid rule to Elzan's submissions;
- d. the explanation for the price discrepancy;
- e. the Eurovent compliance evidence;
- f. the paint/GPP/Ecolabel compliance evidence;
- g. the toilets/sanitary ware/HPL compliance evidence;
- h. the curtains/GPP/fire-certification compliance evidence; and
- i. the Key Expert compliance matrix.

My clients reserves the right to rely on any refusal, failure, delay or insufficiency in the information provided in support of any objection or other remedy available at law.

Yours faithfully,

  
Dr. John L. Gauci LL.D

**REQUEST FOR INFORMATION DATED 28th MAY 2026****CT2350/2025 — Tender for the Provision of Civil Works, Mechanical and Electrical Services and Finishing Works using Environmentally Friendly Products for the Gozo College, Gharb Primary School, Gozo**

Foundation for Tomorrow's Schools (hereinafter "FTS" and/or "Contracting Authority") acknowledge receipt of your request for information dated 28 May 2026, submitted on behalf of Legacy Ventures Limited by Dr John Gauci.

Hereunder please find the replies and the submission by the Contracting Authority:-

**1. Timing of the request**

The Contracting Authority notes and that the rejection to Legacy Ventures Limited was made on the 22<sup>nd</sup> May 2026, yet the present request for information (hereinafter "RFI") was only submitted on the 28<sup>th</sup> May 2026, i.e. three (3) days before the objection deadline of 1 June 2026. The RFI includes nine (9) pages of requests which renders the turnaround time impossible to sustain.

**2. Legal considerations**

Without prejudice to the above stated, it must be stated that the legal framework governing the Contracting Authority's obligations in respect of the disclosure of information is set out in Subsidiary Legislation 601.03, (hereinafter referred to as "S.L.601.03" and/or "PPR") and in particular Regulation 40 thereof, which imposes a the duty of confidentiality.

Regulation 40 specifically indicates the following information which may be disclosed:

*"(a) the name of the bidders and the individual names of the members of a group of economic operators who submitted a particular tender;*

*(b) the name of the sub-contractors;*

*(c) documentation submitted by economic operators attesting that they comply with selection criteria; and*

*(d) technical information which is already made available in public."*

In addition, additional guidance is derived from the judgment of the European Court of Justice in *Antea Polska* (17th November 2022, C-54/21, EU:C:2022:888), which mandates an obligation on the Contracting Authority to safeguard the interests of economic operators that disclosed confidential information, trade secrets and other privileged information under the premise that this shall be safeguarded from unwarranted disclosure.

**3. Disclosure of information**

The Contracting Authority has considered the RFI, and in view of the above considerations, the following information, in accordance with and in strict compliance to reg. 40 of PPR, is hereby disclosing the following information:-

<b>Reg. 40 (2) (a)</b>	<b>the name of the bidders and the individual names of the members of a group of economic operators who submitted a particular tender;</b>
Comment by FTS	<i>This information was not requested, however and in any case, this information is publicly available.</i>
<b>Reg. 40 (2) (b)</b>	<b>the name of the sub-contractors;</b>
Comment by FTS	<i>Kindly note that the sub-contractors proposed by the recommended bidder are Road Construction Co. Limited and Richard Cauchi. In relation to question number 2(e) of the RFI, and in view of the legal considerations above indicated, and unless authorised by the recommended bidder, and/or ordered by any supervening authority, any other request in relation to the sub-contractors is being rejected.</i>
<b>Reg. 40 (2) (c)</b>	<b>documentation submitted by economic operators attesting that they comply with selection criteria; and</b>
Comment by FTS	<i>It is hereby confirmed that, the economic operator complied with all the selection criteria. In relation to question number 2 of the RFI, it is hereby being confirmed that the recommended bidder complied with all the selection criteria therein mentioned, including but not limited to all Note 2 and Note 3 requirements. In view of the legal considerations above indicated, and unless authorised by the recommended bidder, and/or ordered by any supervening authority, any other request in relation to the selection criteria is being rejected.</i>
<b>Reg. 40 (2) (d)</b>	<b>technical information which is already made available in public</b>
Comment by FTS	<i>Whilst confirming that the offer by the recommended bidder is technically compliant in accordance with all the tender specifications, in view of the legal considerations above indicated, and unless authorised by the recommended bidder, and/or ordered by any supervening authority, any other request in relation to the technical criteria is being rejected.</i>

#### 4. Price discrepancy

The Contracting Authority notes the “price discrepancy” claim being made in the RFI, notably the difference between the opening figure attributed to TID 236560 on ePPS (€3,147,032.13) and the recommended price stated in the award schedule (€3,147,910.83). The Contracting Authority confirms that the change is attributable to an arithmetical corrections, which change was done in strict compliance with normative standards.