



**CAMILLERI PREZIOSI**

A D V O C A T E S



Camilleri Preziosi  
Level 3, Valletta Buildings  
South Street  
Valletta, VLT 1103  
Malta

(+356) 2123 8989  
www.camilleripreziosi.com

07 October 2026

ATTN: The Secretary  
Public Contracts Review Board  
Notre Dame Ditch  
Floriana

By e-mail

Reasoned Letter of Objection

**Re: SPD1/2025/092 – Tender for Research on Gen Z and Gen Alpha in the Context of the Future of Work in Malta and Gozo**

Dear Sir, Madam,

**1. Introduction**

- 1.1. We are instructed by PricewaterhouseCoopers (the “Applicant” or “PwC”), bearing Tender ID number 237059, in connection with the Tender Procedure published by the Department of Contracts with the final beneficiary being the Sectoral Procurement Directorate (the “Contracting Authority”).
- 1.2. In accordance with the Public Procurement Regulations, 2016 (S.L. 601.03) (“PPR”), our client hereby submits the reasoned application in terms of Regulation 270 (Appeals from decisions taken after the closing date for the submissions of an offer) for the reasons set out hereunder (this “Application”).
- 1.3. Enclosed with this application is evidence of payment of the deposit required to be paid in terms of 273 of the PPR paid to the Public Contracts Review Board (the “Board”).

**2. Facts**

- 2.1. PwC submitted a tender for SPD1/2025/092 through the Government's e-Procurement Platform (“ePPS”) on 16 December 2025, the tender having been uploaded by a PwC employee, Ms Laura Cybulskiene, using the ePPS username “lauracybulskiene”.

Partners: Louis de Gabriele, Marisa Vella, Malcolm Falzon, Ron Galea Cavallazzi, Donald Vella, Steve Decesare, Andrei Vella, Andrew Caruana Scicluna, Kirsten Debono Huskinson, Kristina Rapa Manche

CAMILLERI PREZIOSI IS A CIVIL PARTNERSHIP ESTABLISHED UNDER THE LAWS OF MALTA.



CAMILLERI PREZIOSI

- 2.2. The Call for Tenders was published on 14 November 2025, with a deadline for the submission of tenders of 16 December 2025 at 09:30, and a stipulated bid validity period of 90 days from that deadline (expiring, on the ordinary course, around mid-March 2026). The award decision was, however, only issued more than eight months after the submission deadline, on 21 August 2026, some five months after the ordinary bid validity period would have lapsed.
- 2.3. During the procurement process, ePPS sent various notifications and communications, including clarification requests and responses, both to Ms Cybulskiene's ePPS account and, in relation to certain notifications, to the Applicant's other EO Admins.
- 2.4. On 20 February 2026, some two months after submission and while the evaluation was still ongoing, Ms Cybulskiene's ePPS account (username "lauracybulskiene") was deactivated by the Applicant's EO Admin, Mr Andrew Schembri, following Ms Cybulskiene's departure from the firm. When that account was deactivated, the ePPS platform did not prompt for, and no alternative contact was in fact assigned, to receive future notifications relating to this Tender Procedure on Ms Cybulskiene's behalf.
- 2.5. On 21 August 2026, the Contracting Authority issued the procurement results. The Schedule of Award records that the Tender Procedure was awarded to EMCS Advisory Ltd for the amount of €358,386.00 excluding VAT, and states that any objection was to be lodged electronically with the Board by no later than 12:00 hrs (noon) of 31 August 2026, against a deposit of €3,000.00.
- 2.6. On the same date, the Department of Contracts also issued a separate letter addressed to the Applicant, informing it that its tender had been found technically non-compliant and was therefore not recommended for award (the "Non-Compliance Letter").
- 2.7. The award criterion for this Tender Procedure was the Best Price/Quality Ratio ("BPQR"), under which the Contracting Authority weighed technical quality against price on an 80/20 basis: the technical score awarded to each offer was multiplied by 0.80, and the financial score by 0.20, with the contract to be awarded to the offer obtaining the highest combined score.
- 2.8. Critically, by the Contracting Authority's own admission, the "Announce Results" notification communicating the Schedule of Award and the Non-Compliance Letter was transmitted by ePPS exclusively to the ePPS account of Ms Cybulskiene, being the EO user who had submitted the tender. As set out above, that account had already been deactivated some six months earlier, on 20 February 2026.



CAMILLERI PREZIOSI

- 2.9. Neither the Applicant's other EO Admins nor any other live ePPS account associated with the Applicant received the "Announce Results" notification, the Award Notice, or the Non-Compliance Letter, or any other form of notification communicating the outcome of the Tender Procedure and the reasons for the Applicant's exclusion.
- 2.10. The only communication that the Applicant's personnel did receive, on 30 August 2026, being one day before the objection deadline, was an automated reminder of the appeals period deadline, sent to Mr Bonavent Gauci and Mr Andrew Schembri. That reminder did not attach, reproduce, or otherwise disclose the substance of the award decision, the identity of the successful tenderer, or the reasons for the Applicant's own exclusion; it merely flagged that an unspecified appeals deadline was approaching.
- 2.11. Upon receipt of that reminder, Mr Gauci and Mr Schembri searched the ePPS portal for the "Announce Results" notification but could not locate it. PwC thereupon telephoned the Contracting Authority and was advised by Ms Mary Anne Borg to send an email requesting clarification, which PwC did the following day.
- 2.12. On 31 August 2026, Mr Michael Tonna of PwC wrote to Ms Borg confirming that PwC had not received any Award Notification in relation to this Tender Procedure and had, as a result, no visibility of the outcome or of any grounds for objection within the applicable timeframe. PwC requested confirmation of whether the Award Notification had been issued and a copy of same.
- 2.13. On 1 September 2026, the Sectoral Procurement Directorate replied and amongst other things confirmed that: (i) the results notification had been sent only to Ms Cybulskiene's account; (ii) that account was in "De-activated" status at the time the results were issued on 21 August 2026; (iii) ePPS notifications of this kind are sent only to the EO user who submitted the tender and to the relevant contracting authority users; and (iv) following its own investigation and consultation with ePPS support, the Directorate considered that there was "*no issue... pertaining from the portal*".
- 2.14. Given the seriousness of the notification failure and its implications for the Applicant's right to an effective remedy, the Applicant, through its legal advisors, sent a formal Request for Information to the Director (Sectoral Procurement) on 7 September 2026 (annexed and marked as "Doc. PWC1"), requesting, *inter alia*: (a) detailed logs of all notifications issued by the Directorate to any ePPS account associated with the Applicant; (b) the activity logs of the ePPS account registered under username "lauracybulskiene"; (c) confirmation of the date of deactivation of that account; (d) confirmation of whether, following that



CAMILLERI PREZIOSI

deactivation, any other ePPS account was associated with this Tender Procedure on behalf of the Applicant; and (e) copies of any other electronic communication of the Award Notice addressed to the Applicant.

- 2.15. The Director (Sectoral Procurement) replied on 12 September 2026 (annexed and marked as "**Doc. PWC2**"), confirming, among other things, that: (i) between 28 November 2025 and 16 December 2025, notifications relating to the Tender Procedure were sent exclusively to Ms Cybulskiene's account, save for two platform-wide notifications sent to all EO Admins of the Applicant (the tender-upload confirmation of 16 December 2025 and an appeals-period deadline reminder of 30 August 2026) and one notification sent only to Mr Andrew Schembri; (ii) Ms Cybulskiene's account was confirmed de-activated on 20 February 2026 by Mr Schembri; (iii) "since the account was de-activated on 20/02/2026 and the results were sent on 21/08/2026, it is normal that the emails regarding the Announce of the Results were not sent to the de-activated user"; and (iv) "the user of the Organization named 'Pricewaterhousecoopers' did not receive any email notification related to the Awarding process of the CFI in mention". The Directorate declined to provide the underlying audit logs, citing security reasons.
- 2.16. It is therefore common ground, on the Directorate's own admission, that no notification of the Schedule of Award, the evaluation outcome, or the reasons for the Applicant's technical exclusion was ever transmitted to any live, monitored ePPS account or email address of the Applicant.
- 2.17. As regards the substance of the technical evaluation, the Non-Compliance Letter records that the Applicant achieved a very high overall technical score, but was declared technically non-compliant solely because it scored 0 out of a maximum of 9 marks under Strategy - Point 4 (Article 4.2.2 of the Terms of Reference). Article 4.2.2 of the Terms of Reference (Contractor's Tasks, item 4) required the Applicant, at bidding stage, to "provide a sample comprising one occupation, presented in three distinct design options along with the corresponding information to be included". The stated reason for the nil score was that, while five mock-ups were submitted, they depicted different occupations rather than three distinct design options of a single, same occupation.
3. **First Grievance: the Applicant was never notified of the award decision and the objection period could therefore not begin to run against it**
  - 3.1. Regulation 270 of the PPR and the constant practice of the Board require that an award decision, and the reasons underpinning it, be effectively communicated to the tenderer concerned before that tenderer can be expected to exercise its right of objection within the



CAMILLERI PREZIOSI

prescribed peremptory period. A notification which is never received by, or transmitted to, any live and monitored channel of the tenderer is not a notification capable of setting that period running.

- 3.2. As set out in the Facts above, the Directorate itself has confirmed, in writing, that the "Announce Results" notification (comprising the Award Notice and the Non-Compliance Letter) was sent exclusively to the ePPS account of Ms Cybulskiene, an account which the Directorate also confirms had been de-activated on 20 February 2026, some six months before the results were issued on 21 August 2026. No other notification of the results, the award, or the reasons for the Applicant's exclusion was sent to any other ePPS account or email address associated with the Applicant.
- 3.3. The Court of Appeal, in *Dr Francis B. Vassallo noe v Direttur tal-Kuntratti*<sup>1</sup>, confirmed that the strict and peremptory ten-day (now shortened) objection period under the procurement regulations runs from the date on which the tenderer is officially notified of the decision concerned, and that the regularity of that notification is a threshold question which conditions whether the period has started to run at all. The Court there rejected the tenderer's argument on the facts before it because the notice had in fact been sent to an email address appearing on the tenderer's own tender documentation and therefore validly designated by the tenderer itself as a contact channel.
- 3.4. The present case is readily distinguishable, and indeed *a fortiori* in the Applicant's favour. Here, the Directorate did not send the results notification to a channel of the Applicant's own choosing that simply went unmonitored; it sent it to an account that the Directorate's own ePPS platform recorded, and that the Directorate has itself confirmed in writing, as having been deactivated some six months earlier. The Directorate was accordingly on express notice, from its own systems, that the recipient channel was defunct, yet no step was taken to identify or use any live channel associated with the Applicant, notwithstanding that such channels existed and had received other ePPS communications throughout the procurement process.
- 3.5. The Applicant recognises that the Board has, in other cases, held tenderers to a duty of vigilance in monitoring the email address and ePPS account nominated for communications relating to a given tender. That duty, however, presupposes that the notifying authority has in fact directed its communication to a channel capable of being monitored. It cannot be turned into a duty on the tenderer to monitor an account that its

---

<sup>1</sup> *Dr. Francis B. Vassallo bħala mandatarju speċjali tal-kumpanija estera RUAG Aerospace Services GmbH (Registrata Munich, il-Germanja bin-numru HRB 145060) vs. Direttur tal-Kuntratti*, Appell Ċivili Numru. 19/2009, 8 January 2010



CAMILLERI PREZIOSI

own IT administrator had already deactivated for legitimate business reasons unconnected with this Tender Procedure, still less where the Contracting Authority's own systems recorded that deactivation and nonetheless proceeded to notify that same defunct account.

- 3.6. The Applicant further notes that the only communication reaching any live account of the Applicant prior to the expiry of the original objection deadline was the automated reminder of 30 August 2026, addressed to Mr Gauci and Mr Schembri. That reminder did not itself constitute notification of the award decision: it did not disclose the Schedule of Award, the identity of the successful tenderer, the Applicant's own evaluation outcome, or any of the reasons for its purported technical non-compliance. A generic deadline reminder, unaccompanied by the substance of the decision being appealed, cannot be equated with the notification that Regulation 270 requires as the trigger for the objection period, particularly where, as here, the Applicant had no means of accessing that substance through the ePPS portal itself.
- 3.7. The Directorate's subsequent reply of 12 September 2026 to the Applicant's formal Request for Information places beyond doubt that no notification of the award or of the reasons for exclusion was ever sent to any live account of the Applicant.
- 3.8. In these circumstances, the Applicant submits that it was never validly notified, within the meaning of Regulation 270 of the PPR, of the decision the subject of this objection, and that the objection period could not, and did not, begin to run against it. This objection, made without undue delay upon the Applicant's actual acquisition of the necessary information, must accordingly be treated as timely and admissible.
4. **Second Grievance: the technical non-compliance decision, based exclusively on the mock-up requirement under Strategy Point 4, is manifestly disproportionate**
  - 4.1. Without prejudice to, and independently of, the First Grievance above, the Applicant also objects to the substance of the technical evaluation, insofar as it resulted in the Applicant being declared technically non-compliant.
  - 4.2. The Non-Compliance Letter and the accompanying evaluation grid record that the Applicant performed strongly across the evaluation criteria, achieving the maximum available marks under several sub-criteria and being found, in the Directorate's own words, to have provided write-ups that "demonstrate an understanding of the project", "show good understanding of the ToR", and "provide detail on the approach, design rationale, and methodology" required. The Applicant's overall technical score was 90 out of 100.



CAMILLERI PREZIOSI

- 4.3. Notwithstanding this overall performance, the Applicant was declared technically non-compliant solely by reason of the marking of Strategy - Point 4 (Article 4.2.2 of the Terms of Reference), under which it scored 0 out of a possible 9 marks. The Terms of Reference required, at Contractor's Tasks item 4, a sample "comprising one occupation, presented in three distinct design options". The stated justification for the nil score was that, although five mock-ups were submitted, they depicted different occupations rather than three distinct design options of a single, same occupation.
- 4.4. The Applicant accepts that Article 4.2.2 of the Terms of Reference, read together with Contractor's Tasks item 4, called for a sample comprising one occupation presented in three distinct design options, and that the five mock-ups submitted by the Applicant did not strictly conform to that requirement, having instead illustrated different occupations rather than three design options of a single occupation. The Applicant's grievance is accordingly confined to the proportionality of the consequence attached to that shortcoming, rather than to the clarity of the requirement itself.
- 4.5. The Applicant submits that, even accepting the shortcoming identified by the Contracting Authority, the resulting mark of 0 out of 9 is manifestly disproportionate to the nature of that shortcoming. The sub-criterion itself was structured as a graduated scale ("3 marks for each mock up", up to a stated maximum of 9 marks), which is inconsistent with treating the sub-criterion as an all-or-nothing, binary pass/fail gate. Having submitted five mock-ups that were, on the Contracting Authority's own description, technically competent illustrations of how occupational information would be displayed in the web-based tool (differing only in that they related to different occupations rather than a single occupation presented in three design options), the Applicant ought, at the very least, to have been awarded partial marks reflecting the substantial and largely compliant work product actually delivered.
- 4.6. The consequence of the marking approach adopted was that a single sub-criterion, worth a maximum of 9 marks out of a 100-mark technical score, was permitted to override an otherwise very strong technical submission and result in the wholesale exclusion of the Applicant's tender as "technically non-compliant", rather than being reflected, as its weighting suggests it should have been, in a proportionate deduction of marks. Under the BPQR formula applied to this Tender Procedure, technical quality was weighted at 80% of the overall award score, meaning that Strategy Point 4, worth 9 out of 100 technical marks, represented only approximately 7.2% of the Applicant's overall BPQR score, as against the 20% weight given to price alone. It is manifestly disproportionate for a single sub-criterion representing such a modest fraction of the overall award score to operate, in effect, as an



CAMILLERI PREZIOSI

absolute bar to award, regardless of the Applicant's performance on every other criterion and regardless of its competitiveness on price. The Applicant submits that this approach is neither consistent with the principle of proportionality nor with the principles of equal treatment and transparency that must govern the evaluation of tenders, and that the Contracting Authority's evaluation of Strategy Point 4 is accordingly vitiated and ought to be revisited.

## **5. Conclusion**

- 5.1. In view of the above, the Applicant respectfully requests the Board to:
- 5.1.1. declare this objection admissible notwithstanding the expiry of the nominal deadline stated in the Schedule of Award, on the basis that the Applicant was never validly notified of the award decision and that the objection period accordingly never began to run against it, for the reasons set out in the First Grievance;
  - 5.1.2. order the re-evaluation of the Applicant's tender by a newly composed Tender Evaluation Committee, including but not limited to the re-evaluation of the marking of Strategy – Point 4 (Article 4.2.2 of the Terms of Reference), in accordance with the Board's Findings, and consequently set aside the classification of the Applicant's tender as technically non-compliant, for the reasons set out in the Second Grievance; and
  - 5.1.3. without prejudice to the foregoing, order such further or other remedy as the Board considers appropriate in the circumstances, including the annulment of the award decision in favour of EMCS Advisory Ltd and the re-issuance of the procurement procedure.
- 5.2. In the alternative, and without prejudice to the foregoing requests, the Applicant respectfully requests the Board to order the reimbursement of the deposit paid by the Applicant, given that the notification failure described in the First Grievance is attributable exclusively to the Contracting Authority and could not reasonably have been anticipated or avoided by the Applicant.
- 5.3. The Applicant reserves the right to make other submissions, summon witnesses and submit other evidence during the proceedings relating to this Application before the Board.

Yours faithfully,

Stefan Cutajar



CAMILLERI PREZIOSI

#### List of Witnesses

- All members of the Contracting Authority's Tender Evaluation Committee
- Person(s) responsible for the administration and operation of the ePPS platform, including as regards notification logs and account deactivation records
- Person(s) responsible for and, or involved in the preparation of the Terms of Reference, including the technical specifications for Article 4.2.2
- Person(s) from the Contracting Authority responsible for this procurement process, including Ms Mary Anne Borg and Mr John L Degiorgio
- Person(s) from the Applicant, including Mr Bonavent Gauci, Mr Andrew Schembri and Mr Michael Tonna
- Person(s) responsible for the ePPS platform on behalf of the Government of Malta

**BOV**  
Bank of Valletta

**Bank of Valletta p.l.c**  
Registration Number: C 2833  
Registered Office: 58 Zachary Street, Valletta VLT 1130 - Malta

**View my Transactions**  
Printed by: Ms. Marvic O'Dwyer  
Printed on: 06/10/2026 - 18:00  
Document ID: 29995222

Account data

Date range: Recent Transactions

Account number: PwC Current (EUR) 4002252099 7

Currency: EUR

Actual balance:

Available balance:

Account limit:

View my transactions

| Date       | Details                                                                                                                                                                                                         | Amount        | Actual balance |
|------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------|----------------|
| 06/10/2026 | SCT OUTWARDS<br>Department Of Contracts<br>EUR 3,000.00<br>Relation: Professional Service<br>Reason: Payment for Services<br>SPD 1/2025/092 Deposit appeal<br>application<br>REF: 2627904064281000 - 2790100347 | EUR -3,000.00 |                |