

This Board,

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

Appearing for the Appellant:

Mr Mario Cassar

Appearing for the Contracting Authority:

Dr Stefan Zrinzo Azzopardi

Whereby, the Appellant contends that:

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

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

- a) the Contracting Authority maintains that the document referred to by the Appellant, was intended as an example with regard to design and not to specifications. However, the same Authority will issue the**

necessary clarification to avoid any advantage which might be given to particular Bidders.

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

In this regard, this Board:

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

Dr Anthony Cassar
Chairman

Dr Charles Cassar
Member

Mr Lawrence Ancilleri
Member

27th December 2019