

The Secretary,
Public Contracts Review Board
Notre Dame Ravelin
Floriana

29th December 2021

Re: SPD7/2021/033 - Supply, Delivery and Assembly of Furniture for the Financial Intelligence Analysis Unit (FIAU) Offices - Lot 1 and Lot 2.

Reply of the Contracting Authority

Dear Sir,

1. This is the reply of the Financial Intelligence Analysis Unit (FIAU) to the objection and appeal filed by Cieffe Joinery Limited (Cieffe) against the decision finding that its tender submission was not compliant.
2. The objector, Cieffe, objects on the basis that according to it the ITT should not have requested an EN Standards Certificates or equivalent for the proposed furniture.

The bid was deficient because Cieffe failed to understand the nature and technical requirements of the project tendered for.

3. It is clear from this objection that Cieffe has failed to understand and appreciate the nature and technical requirements of the tender in question and just for that reason its offer have been rejected. This is stated because the tender in question was not for the design and supply of be-spoke office furniture but rather for the supply of defined and definite designs each of which is ALREADY confirmed to be in accordance with the specified EN technical standards.

Cieffe seems to believe that the designs and specifications of the requisite furniture was up for debate following the award of the tender, when this is not so.

4. In the interests of celerity the FIAU requested pre-existing and already certified designs that are compatible with the technical specifications provided in the tender document. The ITT makes it clear that the FIAU did not want proposed designs to obtain EN Certification after the bid is awarded, and that therefore such certification had to exist

either at offer stage or during Evaluation stage by means of a clarification or rectification. In this regard, Cieffe was given the opportunity to rectify the shortcoming and provide the EN certificates or equivalent as per Clarification Request issued on the 3rd September 2021 (Annex A).

5. The EN standards or equivalent are technical specifications defining requirements for products, production processes, services or test-methods. The standards specified help to ensure that the offered products are in line with EU technical requirements and thus the minimum quality, safety and durability requirements are adhered to. With the above in mind, the following are the EN Standards which were included and for what purpose:

- EN 1730:2013 Furniture - Tables - Test methods for the determination of stability, strength, and durability.
- EN 527-1:2011 - Office furniture. Worktables and desks Dimensions.
- EN 527-2:2017+A1:2019 - Office furniture - Work tables - Part 2: Safety, strength and durability requirements.
- EN 14073-1:2004 - Office furniture - storage furniture - Part 1: Dimensions.
- EN 14073-2:2004 - Office furniture - Storage furniture - Part 2: Safety requirements.
- EN 14073-3:2004 - Office furniture - Storage furniture - Part 3: Test methods for the determination of stability and strength of the structure.
- EN 14074:2004 - Office furniture. Tables and desks and storage furniture. Test methods for the determination of strength and durability of moving parts.

6. The tender document requested the above mentioned EN standards certificates, however the Contracting Authority gave the opportunity to Economic Operators to submit any other certificates equivalent to the listed EN standards. The EN standards certificates or equivalent were reasonably requested given the Estimated Procurement Value (excluding potential costs) of the tender being that of four hundred nineteen thousand and five hundred Euro (€419,500) excl. VAT, and that the FIAU is investing in a long-term project and durable furniture for long-term investment is a prerequisite. In order to ensure that the Contracting Authority is not distorting competition, the Contracting Authority carried out market research and it was determined that the requested specifications were appropriate, fair, reasonable and easily available. Furthermore, the EN standards certificates also help to ensure that a common factor is included in the specifications to compare like with like and ensure a fair evaluation of the submitted bids. Hence, EN standard certificates were included to ensure proportionality, non-discrimination, and fairness. The whole procurement process was carried out in a transparent manner on the etenders website and the call for tenders was even published on the OJEU to ensure an open market as much as possible. Furthermore, in order to

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encourage competition, the tender was divided into four (4) lots to give the opportunity to different economic operators to participate in this open call.

7. There was therefore no excuse that justifies Cieffe's failure to provide certification for the designs that it was proposing to supply to the FIAU in terms of the ITT. It must be noted that in fact the awarded bid was compliant with this requirement and offered designs were already EN certified as per the technical certifications.

Failure to request a pre-contractual remedy or clarification prior to submitting the tender.


8. In any case and without prejudice to the above, Cieffe accepted the condition as being valid by submitting an offer without requesting a pre-contractual remedy for the ITT in terms of regulation 262 of the Public Procurement Regulations.

9. Cieffe did not even request a clarification in relation to the matter.

10. With all due respect it is not possible to retroactively change technical conditions imposed in an ITT after bids were presented and the winning bid made in accordance to such technical conditions. Doing so would be giving an unfair and non-proportional advantage to negligent bidders.

Conclusion

11. For the above reasons and such others as may become evident throughout these proceedings the objection and appeal of Cieffe should be rejected with costs.


Av. Mark Refalo



Cieffe Joinery Ltd. – Tender ID 159327

Date: 3rd September 2021

SPD7/2021/033 - Supply, Delivery and Assembly of Furniture for the Financial Intelligence Analysis Unit (FIAU) Offices

Clarification No. 1

Reference is made to the tender in caption and to your offer submissions to same.

The Evaluation Committee noted the following shortcomings with regard to your submission.

Lot 1

1. Kindly note that the literature submitted is incomplete and does not indicate that the proposed products meet or exceed all technical specifications as listed in Section 3 of the tender document. In this regard and as requested in Section 1 Article 5 (c) (ii) Literature^(Note 2), you are requested to submit the remaining manufacturer technical literature to substantiate your offer and indicate that the proposed products meet the following technical specifications:

Item 1.01

- a. Legs: White or Black

Item 1.02

- a. Drawers: Melamine
- b. Drawer sides: Metal
- c. Handle: Anodized aluminium
- d. Handle Colour: White or Black
- e. The workstation pedestal shall be on castors suitable for soft flooring
- f. The workstation pedestal shall be lockable. A stationary tray is to be included in one of the drawers



Item 1.03 and 1.04

- a. Return Unit: Wood veneer, lacquer with minimum thickness of 18mm
- b. Return Unit dimensions (+/-5%): W 600mm
- c. Modesty Panel: Wood veneer
- d. Modesty Panel dimensions (+/-5%): L 1200mm, H 450mm
- e. The storage is to include three drawers and all of which shall be lockable

Item 1.05 and 1.06

- a. Doors: Melamine with minimum thickness of 18mm
- b. Shelves: Melamine with minimum thickness of 25mm
- c. Handle: Powder coated metal
- d. Handle: White or Black
- e. Storage unit shall be lockable

Item 1.10

- a. Side panel to support a screen of max diagonal size of 45 inches

2. Kindly note that the literature submitted does not include the EN standards or equivalent certificates as listed in Section 3 of the tender document. In this regard and as requested in Section 1 Article 5 (c) (ii) Literature^(Note 2), you are requested to submit the below mentioned certificates

Item 1.01, 1.03, 1.04, 1.07, 1.08, 1.09, and 1.10

- a. EN 1730:2013 Furniture - Tables - Test methods for the determination of stability, strength and durability
- b. EN 527-1:2011 Office furniture - Work tables and desks Dimensions
- c. EN 527-2:2017+A1:2019 - Office furniture - Work tables - Part 2: Safety, strength and durability requirements

Item 1.02, 1.05, and 1.06

- a. EN 14073-1:2004 - Office furniture - storage furniture - Part 1: Dimensions
- b. EN 14073-2:2004 - Office furniture - Storage furniture - Part 2: Safety requirements
- c. EN 14073-3:2004 - Office furniture - Storage furniture - Part 3: Test methods for the determination of stability and strength of the structure
- d. EN 14074:2004 - Office furniture. Tables and desks and storage furniture. Test methods for the determination of strength and durability of moving parts

Item 1.02

- a. EN 12529 - Castors and wheels - Castors for furniture - Castors for swivel chairs requirements



Lot 2

1. Kindly note that the literature submitted is incomplete and does not indicate that the proposed products meet or exceed all technical specifications as listed in Section 3 of the tender document. In this regard and as requested in Section 1 Article 5 (c) (ii) Literature^(Note 2), you are requested to submit the remaining manufacturer technical literature to substantiate your offer and indicate that the proposed products meet the following technical specifications:

Item 2.01

- a. Dimensions: L 1700mm, W 600mm (+/-5%)
- b. Modesty panel: Wood veneer
- c. The storage is to include three drawers and all of which shall be lockable

Item 2.02

- a. Handle: Powder coated metal
- b. Top Door: Walnut wood finish
- c. Bottom Door: Walnut wood finish
- d. Handle: Black
- e. Storage unit doors are to be lockable and in 2 sections with top and bottom compartments having independent access.

Item 2.03

- a. Handle: Powder coated metal
- b. Top Door: Grey clear tinted glass, frameless
- c. Bottom Door: Walnut wood finish
- d. Handle: Black
- e. Storage unit doors are to be lockable and in 2 sections with top and bottom compartments having independent access.
- f. Storage unit shall include 5 layers of shelving and 4 of the shelves shall be height adjustable

2. Kindly note that the literature submitted does not include the EN standards or equivalent certificates as listed in Section 3 of the tender document. In this regard and as requested in Section 1 Article 5 (c) (ii) Literature^(Note 2), you are requested to submit the below mentioned certificates

Item 2.01

- a. EN 1730:2013 Furniture - Tables - Test methods for the determination of stability, strength and durability



- b. EN 527-1:2011 Office furniture - Work tables and desks Dimensions
- c. EN 527-2:2017+A1:2019 - Office furniture - Work tables - Part 2: Safety, strength and durability requirements

Item 2.02 and 2.03

- a. EN 14073-1:2004 - Office furniture - storage furniture - Part 1: Dimensions
- b. EN 14073-2:2004 - Office furniture - Storage furniture - Part 2: Safety requirements
- c. EN 14073-3:2004 - Office furniture - Storage furniture - Part 3: Test methods for the determination of stability and strength of the structure
- d. EN 14074:2004 - Office furniture. Tables and desks and storage furniture. Test methods for the determination of strength and durability of moving parts

In terms of Article 5 of the Instructions to Tenderers, you are hereby being given the opportunity to rectify these shortcomings within five (5) working days of notification. Kindly submit replies by 10.00hrs on Monday 13th September 2021.

Tenderers who fail to rectify the shortcomings identified in this communication shall be deemed to be non-complaint.

The requested information is to be submitted through the appropriate Electronic Public Procurement (ePPS) module.

This rectification opportunity is being sent without any commitment whatsoever on the part of the Contracting Authority, and does not imply that your offer will be accepted as it may still be deemed administratively, technically or financially non-compliant during the evaluation process.

Yours sincerely,

Evaluation Committee Board