



Independent Review Panel

Decision No. 12/25

In the matter of:

Compagnie Régionale De Services et De L'Environnement Ltée

(Applicant)

v/s

**Ministry of Environment, Solid Waste Management and Climate
Change
(Solid Waste Management Division).**

(Respondent)

(Cause No. 18/25/IRP)

Decision



A. History of the case

On 22 August 2025, the Ministry of Environment, Solid Waste Management and Climate Change (Solid Waste Management Division) (Respondent) proceeded with an open international bidding for the Operation and Maintenance of La Brasserie Transfer Station and Transportation of Wastes from La Brasserie Transfer Station to Mare Chicose Landfill for a Period of 36 months – Procurement Ref: ENV/SWM/EPROC/OIB/29/2024-25 - e-Proc Ref. No. SWM/IFB/2025/168-CPB Ref: CPB/13/2025.

Following addendums extending deadlines, the closing date for submission of bids was fixed for 22 October 2025. The re-scheduled date of opening of bids was 24 October 2025.

B. Challenge

On 28 October 2025, the Applicant challenged the opening of bids on the following grounds:

Bidder's grounds for challenge:

7. The request for site Visit, made during that Pre-Bid Meeting was for CRSE as prospective Bidder to apprehend the state of the Transfer Station and to determine to what extent this would impede the cost of operating the Transfer Station and to eventually consider same to set its Bid Price.

However, this Site Visit was not scheduled. This has mislead Prospective bidders. The procedure has thus been flawed.

8. The Specific Clarification requested by CRSE, namely whether a mechanical Loader has to be used for the Loading of Waste, represents a significant factor of cost and the absence of reply from the Public Body is a major information denied to a prospective Bidder.

C. Reply to Challenge:

On 3rd November, 2025, the Respondent, in reply to the challenge of the Applicant, stated that:-

According to ITB 9, it is the Bidder's responsibility to visit and examine the site. Further to your request for site visit on 22 October 2025, the Ministry agreed to organise a site visit but you chose not to pursue the visit. The requirements for at least two loading equipments to be deployed have been specified at ITB/BDS 6.5 (c)(II)(i).

Moreover, the Bidder is allowed, to use track excavator on the lower platform. It is for the Bidder to make its own assessment on number and type of loaders to be deployed for the execution of the contract, especially with regard to loading and carting away of waste to the landfill.

In addition, your company has carted away 7000 Tons of waste from the station from December 2024 to February 2025 and you are fully aware of the site conditions to enable you to submit a comprehensive offer.

D. Grounds for Review:

On 7th November 2025, the Applicant seized the Independent Review Panel for review on the following grounds:-

1. The Ministry has failed to reply to a request for clarification submitted by the bidder on the e-Procurement system on 26 September 2025 as regards to whether the 3 hoppers at the Transfer Station which were not in good condition would be ready for use by the submission date, or whether for the purposes of the bid, wastes will need to be loaded using track excavator loaders. The failure to reply to such request for clarification, is in contravention of ITB/BDS 11 of Section II, and has prevented the bidders to submit a quote commensurate with the true scope of works on site and considering the conditions of the site.

2. The Ministry is wrong to hold that it is for a bidder to “make its own assessment on number and type of loaders to be deployed for the execution of the contract, especially with regard to loading and carting away of waste to the Landfill” because ITB/BDS 6.5(c)(II)(i) does not provide that bidders must make their own assessment for the loading of waste and the requirement for loading truck trailers constitute a significant cost.

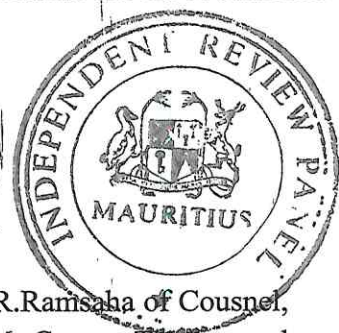
3. The Ministry is wrong to hold that the applicant had chosen not to attend the site visit on 22 October 2025 because a site visit must be **meaningful and timely** for the purposes of preparing a bid owing to lack of comprehensive information pertaining to the site conditions. However, it has only after the applicant's representative queried on phone whether the submission deadline is maintained since no date and time for site visit nor reply to online query have been received, that the Ministry scheduled a site visit to be made on the same day, a couple of hours before deadline for the submission of the bid.

G. The Hearing

Two extensive hearings were held on 25 November 2025 and 02 December 2025.

The Applicant was represented by Mr A. Oozeer, Senior Counsel together with R. Ramsaha of Counsel, whilst Mr A. Ramdahan, Principal State Counsel appeared for the Respondent. Mr Georgy Thomas and Ms Nalini Boodhoo deponed as witness for the Applicant.

We must thank both parties and their Counsel for the frank and open presentation of their respective cases and thorough evidence. In particular, we must commend the witness on behalf of the Ministry, a very senior officer, who has made gracious concessions where it was made apparent that the approach taken in respect of a matter had not been ideal.



H. Findings

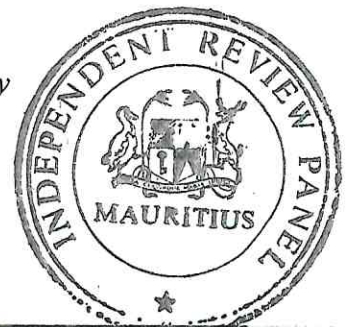
1. This case reaches us at an atypical stage in the bidding process. Indeed, the Applicant's application has been made after the opening of bids and before the evaluation proper has begun, and it could not have been any other way given the issues being raised by it.
2. Insofar as the Application for Review itself is concerned, it is based on two central matters namely: the holding of a site visit effectively promised by the Ministry and the response by the said Ministry to a specific request for clarification by the Applicant. The two issues were usefully summarised by Senior Counsel in his written submissions filed on Saturday 6th December 2025. They read as follows:

"Site visit:

6. As regards the site visit, which was mentioned at the pre-bid meeting of September 4, 2025, the Ministry referred the applicant to ITB 9 and mentioned that it is the bidder's responsibility to visit and examine the site. The Ministry mentions that the applicant allegedly made a request for site visit on October 22, 2025, and the Ministry agreed to organise a site visit but the applicant allegedly "chose not to pursue the visit." The Ministry also mentioned that the applicant is "fully aware of the site conditions" to enable the applicant to bid because the applicant has carted away 7,000 tons of waste from the station during the period December 2024 to February 2025.

(a) Loading equipment:

7. The Ministry replied that the requirements for at least two loading equipment to be deployed have been specified at ITB/BDS 6.5 (c)(II)(i). The Ministry further stated that it is for the bidder to make its own assessment on number and type of loaders to be deployed for the execution of the contract, especially about loading and carting away of waste to the landfill."



Handwritten marks: a large 'C' and a signature 'AM' with a flourish.

3. Through our determination of the two issues, and because of how the case unfolded before us, other issues will require our attention and we shall address them where appropriate.

Site visit

4. It has been hardly disputed that ITB 9 of the Bidding Documents (ITBs being the general clauses included in bidding documents, a template so to speak) invited bidders to visit the site and make an assessment for themselves of the state and physical conditions thereof. The Ministry rests its case on that fact, primarily.
5. We pause here to state that the evidence adduced before us during the two lengthy hearings focused on that ITB which was somewhat at odds with the Ministry's Statement of Defence (as well as its reply to the challenge made by the Applicant prior to applying for review before the Panel) which tended to show that a visit of some form was to be held on 22nd October 2025 but not attended by the Applicant.
6. Nevertheless, before us, the Applicant's position was that, during the official pre-bid meeting held (in pursuant to a BDS of the Bidding Document, BDS's being the more specific clauses inserted to alter/clarify/adapt the general ITBs and essentially superseding the latter) on 4th September 2025, it had asked for a site visit to be held accompanied by the Ministry to be in a better position to assess the conditions on site. The Ministry did not respond to that until 14th October 2025 (in Addendum No.4 through annexing of the minutes of the 4th September 2025 pre-bid meeting), the "Minutes".
7. In these Minutes, dated mid-September 2025 but circulated to bidders only on 14th October 2025 (8 calendar days before the bid submission date and at the very limit of when the Ministry could respond to clarifications of bidders, that is, 7 days prior to submission date), the Ministry informed that a site visit with bidders would be organised by it and it would inform bidders of the date and time. Of course, this never took place.
8. Much was made before us about the fact that the site at La Brasserie transfer station is easily accessible and almost a public place (the Applicant replied that it was under the control of a competitor and free access might not have been forthcoming). There was also an astute attempt by the Ministry, relying on the use of the word 'bidders', plural, in the Minutes to distinguish between a site visit by a bidder and a joint visit by all bidders with staff from the Ministry; no doubt, this argument arose when the Ministry decided to use the fallback found in ITB 9 trying to place the responsibility on bidders not having carried out visits on their own.
9. We find that, irrespective of whether the site was easily or freely accessible or that the Ministry had 'in mind' individualised visits or a joint one with all bidders present, the fact that the Minutes were circulated nearly 6 weeks after the pre-bid meeting had taken place and included a crucial item that

would reasonably create an expectation by the bidders that they would be led through the site to have a good picture of its condition. The fact that the visit (of whatever form) was then not set up by the Ministry is in itself unlawful and a breach that warrants our intervention pursuant to section 45(10)(a) to prohibit the Ministry from acting in an unauthorised manner.

Clarification sought by the Applicant about what equipment to provide

10. The failure by the Ministry to properly respond to the specific request for clarification must follow suit.
11. Indeed, the request by the Applicant would not have arisen had there been a site visit. The issue was a simple one: in the Bidding Documents, the bidders were required to include in their bids the use of two mechanical loaders and they had the option to use an excavator 'for more efficient compacting'. These equipment requirements, as confirmed by the Ministry's witness before us, are the same as the previous contract given to another contractor some years ago.
12. The loaders (weighing less than 10 tons) are used from the upper platforms at the site. The trailers (lorries) reverse into a chamber with an open roof (level with the upper platform) and the mechanical loaders are then used to push solid waste through that open roof and into the lorries. To prevent garbage from falling around the lorries instead of into their trailers, a funnel system is fixed around the opening of the roof, the hoppers (or "chutes" in French).
13. Excavators are much heavier machinery (above 10 tons) and are usually on "chenilles" instead of wheels, and due to their weight, cannot drive up onto the upper platform. For their operation, solid waste is piled up and the excavators are driven up the pile. The excavator then grabs some of the waste and rotates to drop it in a lorry placed next to pile.
14. Using the approach with mechanical loaders is inextricably linked with whether the hoppers are operational and in good condition, and that is precisely what the Ministry failed to properly advise the bidders about.
15. We will avoid going into much detail (in view of our order and recommendations below) but, in the addendums issued by the Ministry on 14th October 2025, the Ministry annexed a report of the site (we are told by its representatives that the report would have been drawn up in early October, that is, two weeks before they were issued).

16. In that report, which we will call the October Site Report, the Ministry specifically states that the hoppers are going to be repaired by the then contractor on site and that one of the hoppers was partly damaged. Bidders, reasonably, acted upon that statement.
17. However, it has been established before that the October Site Report was incorrect.
18. The Ministry has launched a very similar bid a day after the closing date of the present one; it has been described as a bridging contract for 4 months (up to 7 months) while the main one before us is for 36 months.
19. The Applicant won the bridging contract. When it took over the site from the previous contractor on 14th November 2025, another site report was drawn up by the Ministry, which we will call the November Site Report.
20. In there, a dismal state of affairs is set out in respect of the upper platforms and the hoppers and we read that none of the three hoppers are operational.
21. Interestingly enough, the equipment requirement of the bridging contract is for at least two loaders and one excavator (no longer optional but mandatory). How the same Ministry can arrive to such drastically different set of requirements over a period of 6 weeks leads us to conclude that the October Site Report was incorrect and wishful, dare we say, that the previous contractor would carry out repairs – repairs whose scale was clearly not in the mind or maybe even the knowledge of the persons drawing up the requirements of the bid in the present tender.
22. The combination of not holding the site visit it had promised and its fairly dismissive reply about it being for bidders to decide what equipment they will propose leads us to conclude, in the very specific circumstances of this case, that the Ministry has acted in an unauthorised manner. Its position that all bidders were in a position, and placed in a position, to devise their bids in an informed manner is also flawed: the other bidders who have not challenged the present proceedings just do not know and could not have known of the true scale of damage at the transfer station. The Applicant having won the bridging contract of 7 months 'provisionally' found itself in the privileged position to have full access to the site and see that the hoppers were not usable, and excavators would be required (again, mandatory in the bridging contract but only optional in the present bid).

Cancellation

23. Once more, we have been asked by an applicant to order a cancellation of the whole procurement proceedings. Different divisions of this Panel have, over the years, had to grapple with this question and have come to diverse conclusions.



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24. We form the view that we do not have such a power which remains in the hands of the ministries' public officers, the Establishment, led by the political executive (the ministers). The Panel cannot make policy decisions in lieu of the political and establishment executive but the legislator has allowed this Panel to make recommendations of annulment of part or whole decisions taken by a public body in procurement proceedings.
25. In the present exercise, the Applicant came at the first opportunity (within five days of the opening of bids) and we are mindful that our order creates difficulties for the Ministry given that the bids have been opened and the prices of bidders known.
26. However, we do believe that the present Application for Review is as deserving as can be of one that would justify us recommending that the Ministry starts afresh. The 'usual' equipment requirements the Ministry had set over the decades does not, this time around, match the true state of the site, while the bridging contract does.
27. It may very well be that the Ministry was rightly hopeful that the previous contractor would have repaired the hoppers before vacating, as is usual practice but the fact remains that the said hoppers are not operational and are not to be operational unless drastic measures are taken.
28. Therefore, a bidding requirement in a long-term contract heavily reliant on the use of hoppers and mechanical loaders is simply not proper until such hoppers are repaired. In that sense, the present bidding exercise is, if anything, premature, and we strongly recommend that the Ministry revisits its decision in light of the true state of the La Brasserie site, and either adapts its requirement or completes the repairs of the site before proceeding with a fresh long-term (36 months) exercise.
29. The Ministry cannot and should not expect *l'impossible* from bidders, their eventual contractors. Excavators are notoriously hard to come by and are very expensive to run. Their dearness has been confirmed by the Ministry's witness and the Applicant suggested that one excavator is as expensive as the personnel cost plus operation of two mechanical loaders. Should the eventual successful bidder in the present exercise (as couched) take over the site in 8 months and the hoppers were not operational, that bidder would find itself in a very dire situation indeed.

I. Conclusion

30. In light of the above, we recommend to the Ministry an annulment of present exercise on the basis that the equipment requirement is flawed and lacking given the true state, established before us through documentation from the Ministry itself, of the hoppers at La Brasserie Transfer Station.

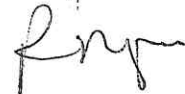
31. Furthermore, and in any event, the Ministry is prohibited from proceedings with the present exercise on the basis that it has not held the site visit it had undertaken to carry out nor has it properly replied to one bidder's request (the reply, of course, would have guided all bidders) for clarification on a crucial item.



J. Ramano
(Chairperson)



A. K. Namdarkhan
(Member)



R. Mungra
(Member)

Dated: 08 December 2025

