

INDEPENDENT REVIEW PANEL

In the matter of:

Avacor Ltd

(Applicant)

v/s

Central Electricity Board

(Respondent)

(Cause No. 01/15/IRP)

Ruling

At the sitting of 27 April 2015, the Counsel for the Applicant challenged the Chairperson as being ineligible to chair these proceedings for reason of having a contractual relationship with the successful bidder, namely that his Company was a Client of the successful bidder.

The Panel has given due consideration to the following:

1. The Chairperson has stated at the hearing that he did not believe that the contractual relationship mentioned above constituted a conflict of interest.
2. He also stated that he had not personally met any member of the management of the successful bidder
3. Section 55 of the Public Procurement Act 2006 reads as follows:

55. Disclosure of interest

A member or officer having any direct or indirect interest in any matter brought before the Policy Office, the Board or the Review Panel -

- (a) shall immediately inform the Director or the Chairperson, as the case may be; and
- (b) shall not participate in the deliberations or any part of the decision-making process in relation to that matter.

It is clear that if the Chairperson did not challenge himself, he had given due consideration to the matter and had decided that the contractual relationship mentioned above does not constitute a direct or indirect interest in the matter under consideration, namely that the possibility of his deriving any pecuniary or other benefit arising from his chairmanship of these proceedings was not only remote, but non-existent.

4. Section 55 above does not provide for a challenge by a third party. It is of course understood that if any possibility of conflict, which had been overlooked, comes to the attention of any of the parties involved, the matter should be brought to the attention of the Chairperson to avoid any perception of bias.
5. It is in this context that the chairperson asked if there was any objection to his chairmanship because of the aforesaid contractual relationship.
6. The challenge made by the counsel goes beyond a simple objection, and it was important therefore that the hearing be adjourned for discussion with other members of the Panel. After explanations given by the chairperson, it was evident that the contractual relationship he referred to was no different than that existing between the Respondent and all members of the Panel, or indeed between the Respondent and the Counsel for the Applicant.

The Panel has therefore decided, and it is hereby ruled that the challenge of the Counsel for the Applicant should be set aside.

The matter is therefore fixed for **continuation on Tuesday 12 May 2015 at 14.00 hrs.**

(R. Lalloo)
Chairperson

(R. Ragnuth)
Member

(R. Rajanah)
Member

Dated