



# Challenge and review procedures\*

\*Extract of EIF Procurement Policy and procedures

## Appeals Committee

1. When the CEO thinks it necessary on account of any of the grounds mentioned in the Procurement Policy, the CEO may, appoint three persons, from a list of persons referred to in the Policy –
  - a) having qualifications, wide knowledge and experience in legal, administrative, economic, financial, trade, engineering, scientific or technical matters; and
  - b) of whom not more than two are of the same sex,to constitute an appeals committee to adjudicate on application for -
  - a) review;
  - b) suspension, debarment and disqualification of bidders and suppliers; or
  - c) any other matter that the CEO may refer to the appeals committee for its consideration.
2. The CEO must appoint one of the members of the Appeal Committee as the Chairperson of the Committee.
3. The CEO must exercise the powers vested in him/her under the Procurement Policy on the grounds of allegations made in the application submitted to the Appeal Committee.
4. The CEO must compile a list of five persons with qualifications referred to in subsection 1 (a) after an invitation of expression of interest and may update it annually when necessary.
5. A member of the Appeals Committee is appointed for the duration of the existence of such matter or for such period as the CEO at the date of appointment of the member may determine.
6. The CEO may at any time remove -
  - a) the name of a person from a list referred to in subsection (4) who is guilty of –
    - i. misconduct, default or breach of trust in the performance of his or her functions in any capacity; or
    - ii. an offence of such nature that warrants the termination of the appointment of the member, after having given the person a reasonable opportunity to be heard.

## Application for review

7. A bidder or supplier may, as prescribed, apply to the Appeals Committee for review of a decision or an action taken -
  - a) by the Board; or
  - b) by the Procurement Committee,for the award of a procurement contract.
8. An application for review made in terms of subsection (7) does not suspend the award unless an application has been made and resolved in favour of suspension.
9. The Appeals Committee must strive to make a decision as contemplated in subsection (11) within seven days of receipt of the application for review or as soonest as practicaln possible, but not later than 14 days.
10. A bidder or supplier who is aggrieved or claims to have suffered, or to be likely to suffer, loss under this policy must exhaust all available remedies under this policy before instituting any judicial action in the High Court.

## Decisions of Appeal Committee

11. Upon receipt of the application for review referred to in subsection (7), the Appeals Committee may -
  - a) dismiss the application;
  - b) direct the Board or the Procurement Committee that has acted or proceeded in a manner that is not in compliance with this policy to act or proceed in a manner that is in compliance with this policy;
  - c) set aside in whole or in part a decision or an action of the Board or Procurement Committee that is not in compliance with this policy, other than any decision or action bringing the procurement contract or the framework agreement into force, and refer the matter back to the Board or Procurement Committee for reconsideration with specific instructions;
  - d) correct a decision or action by the Board or Procurement Committee that is not in compliance with this policy;
  - e) confirm the decision of the Board or Procurement Committee; or
  - f) order that the procurement proceedings be terminated and start afresh

## Confidentiality in Review proceedings

12. All information in proceedings at the Appeals Committee are confidential, and a person who discloses such information to a third person without the authorization of the Appeals Committee, commits an offence and is liable to disciplinary hearing as prescribed by the EIF Human Resource (HR) policy. For procurement processes conducted by the National Procurement Board section 61 subsections (1) and (2) of the Procurement Bill Act (2015) should apply.