

Guidance Notes on the Possible and Potential Conflict of Interests

In order to protect the impartiality and reputation of the Review Body on Bid Challenge (the Review Body) and its individual members including the Chairman and Deputy Chairmen (hereafter the members), it is considered necessary for members to disclose their interests, either personal, family, or business; direct or indirect; pecuniary or otherwise, when there is a real or potential conflict with those in a matter placed before the consideration of the Review Body. The basic principle to be observed is that members' advice should be unbiased and impartial and it is the responsibility of each member to judge and decide if the situation warrants a declaration.

General Guidelines

2. It is not practical to set a hard and fast rule to judge what should be declared because each individual case is different and it is difficult to cater for unusual and unforeseen circumstances. However, the following are some general cases which can assist members to identify potential conflict of interests:

- (a) Pecuniary interests such as directorships or partnership in companies, substantial shareholdings (e.g. 1% or more of the issued share capital) and remunerated employments, offices, trades, professions or vocations, in a matter under consideration by the Panel of the Review Body, interests held by a member or his/her spouse, children under 18 or any close relative, should be declared. Members are themselves the best judge of who, in the particular circumstances, is a close relative.
- (b) A directorship, partnership, advisory or client relationship, employment or other significant connection with a company, firm, club, association, union or other organisation which is connected with, or the subject of, a matter under consideration by the Review Body, should be declared.
- (c) A member who, as a professional adviser, has personally or as a member of a company, has advised or represented or has frequent dealings with any person or body connected with a matter under consideration by the Review Body, should make a declaration.
- (d) Some friendships which might be so close as to warrant declaration in order to avoid situation where an objective observer might believe a member's advice to have been influenced by the

closeness of the association.

- (e) Any interest likely to lead an objective observer to believe that the member's decision might have been motivated by personal interest rather than by a duty to act impartially, should be declared.

Registration of Interests

3. Members should register in writing their interests (pecuniary or otherwise) when they are first appointed, and annually thereafter, to the secretariat. and should advise the secretariat about any changes to their registrable interests as soon as such changes have occurred. The registration should be made on a standard form (Appendix II). The scope of the Register seeks to strike a balance between the information to be disclosed so as to maintain the credibility of the Panel and the proper degree of privacy of the Members.

4. The registrable interests are the interests (pecuniary or otherwise) members hold and those of their spouses and children under the age of 18 including:

- (a) directorships or partnerships in companies;
- (b) substantial shareholdings (1% or more of the issued share capital);
- (c) substantial holdings in land and properties; and
- (d) remunerated employments, offices, trades, professions or vocations.

5. Members should register their interests and those of their spouses and children under the age of 18 to the best of their knowledge. Where applicable, Members should also give a brief description of the lines of business of companies in which they are involved.

Declaration of Interests at or before the Hearing

6. If a member has any direct or personal interest (pecuniary or otherwise) in any matter under consideration by the Panel he should make known to the secretariat before the hearing or meeting, notwithstanding that the interest has been registered.

(a) Substantial direct interest

Where a member has a substantial direct interest, whether pecuniary or otherwise, he/she should declare this and withdraw from the hearing or meeting prior to the discussion; but, at the Chairman's invitation, he/she may make a statement on the subject matter prior to his/her withdrawal if he/she has an important and unbiased contribution to make.

(b) Less direct or substantial interest

Where the interests are less direct or substantial, these should be declared but, unless for special reasons he/she is asked to withdraw, he/she should be allowed to participate in the discussion but should refrain from the determination on the subject matter. He/She should however carefully consider whether or not to abstain from giving advice to the Panel.

(c) Indirect or remote interest

Where a member has only an indirect or remote interest which is unlikely to give him/her any personal benefit and which a reasonable man would not consider as likely to influence his/her views and judgment, he/she should be free to participate in the discussion and determination on the subject matter. Nonetheless, he should make the interest known to the Panel.

7. In case of doubt, the member should discuss his/her position with and seek a ruling from the Chairman (or the Secretary for Commerce and Economic Development for the case of the Chairman) *as soon as he/she becomes aware of it*. If it is decided that a substantial direct conflict is involved, the secretariat would withhold the issue of relevant papers and documents to the concerned member or request the member to return the papers or other information relating to the matter under discussion which he/she may have received.

8. All cases of declaration of interests shall be recorded in the record of hearing or meeting.