

**Proceedings of Bid Challenge Hearing lodged under  
Article XX(2) of the World Trade Organization  
Agreement on Government Procurement**

**1. Note for Panel**

A member who has an interest in the case under consideration but who has not yet registered his/her interest should declare it before the hearing or as soon as he discovers that he could have a conflict of interests in the course of discussion. Members are required to observe the rules governing the declaration and registration of interests (pecuniary or otherwise) as set out in the “Guidance Notes on the Possible and Potential Conflict of Interest” at Appendix I to the “Rules of Operation of the Review Body on Bid Challenges (under the World Trade Organization Agreement on Government Procurement)”.

**2. Commencement of Proceedings**

- (a) Before the commencement of the hearing, the Chairman shall invite the complainant and the procuring entity and their representatives (if any) into the hearing.
- (b) The Chairman declares commencement of hearing by stating-
  - (i) purpose of the hearing;
  - (ii) a brief description of the challenge; and
  - (iii) the method(s) of recording the proceedings of hearing.

**3. Introduction of all the Parties present at the Hearing**

The Chairman will introduce members of the Panel, the complainant and the entity and/or their representatives and other working staff at the hearing as appropriate.

#### **4. Hearing in Progress**

The Chairman shall conduct the proceedings of the hearing as detailed below-

##### Presentation by the Complainant

- (a) the complainant or his representative(s) to present the case.
- (b) the complainant and/or his representative(s) to call his witnesses one by one and produce documentary evidences and examine the witnesses separately. )  
)  
)  
)  
)
- (c) the entity and/or his representative(s) to cross-examine the witness. )  
) Steps (b)  
) to (f) are
- (d) the complainant and/or his representative(s) to re-examine the witness. )  
) applicable  
) only if the  
) complainant  
) has
- (e) the Panel can question the witness(es) at any point of time during the presence of the witness at the hearing. )  
) witness(es)  
) to call  
)  
)
- (f) to repeat steps (b) to (e) if there are more than one witnesses. )  
)
- (g) the entity and/or his representative(s) to question the complainant and/or his representative(s).
- (h) the Panel to question the complainant and/or his representative(s).

##### Presentation by the Entity

- (i) the entity or his representative(s) to present the case.
- (j) the entity and/or his representative(s) to call his witnesses one by one and produce documentary evidences and examine the witnesses separately. )  
)  
)  
) Steps (j) to
- (k) the complainant and/or his representative(s) to cross-examine the witness. )  
) (n) are  
) applicable  
) only if the  
) entity has
- (l) the entity and/or his representative(s) to re-examine the witness. )  
) witness(es)  
) to call.  
)  
)
- (m) the Panel can question the witness(es) at any point of time during the presence of the witness at the hearing. )  
)  
)  
)
- (n) to repeat steps (j) to (m) if there are more than one witnesses. )  
)

- (o) the complainant and/or his representative(s) to question the entity and/or his representative(s)
- (p) the Panel to question the entity and/or his representative(s).

Conclusion

- (q) the complainant or his representative(s) to give his conclusion.
- (r) the entity or his representative(s) to give his conclusion.

**5. Close of Proceedings**

The Chairman declares the close of hearing and invites the parties concerned and/or other persons attending the hearing to leave the venue.

**6. Hearing in the Absence of the Complainant or the Entity and/or their Representatives**

If hearing of a challenge is conducted in the absence of the complainant/the entity and/or their representatives, the Chairman shall basically follow the proceedings as set out in paragraphs 1 to 4 above except that -

- (i) there is no need to introduce the complainant/the entity and/or their representatives as appropriate;
- (ii) he can omit the relevant steps as detailed in paragraph 4 above as appropriate.

**7. Formation of Panel's Opinion**

After the proceedings are closed, the Members of the Panel should discuss the challenge and give their views. The Chairman will guide the discussion and help to form the opinions on the case. The Panel will make its recommendations on the basis of the consensus opinions or the majority views. In case consensus opinions or majority views cannot be reached, the Chairman shall make a ruling. In all cases, all opinions and views expressed shall be recorded.