



# **Democratic Socialist Republic of Sri Lanka**

**Supplement – 24**

**to the**

**PROCUREMENT MANUAL**

**Issue Date: 21-03-2012**

**(To be used along with Procurement Guidelines 2006 Goods & Works)  
PROCUREMENT GUIDELINE REFERENCES: 8.3 & 8.4**

**DEPARTMENT OF PUBLIC FINANCE**

## **Procurement Appeal Procedure**

### **8.3 Appeals against Contract Awards recommended by the CAPC**

The Secretary to the Line Ministry (SLM) having informed all unsuccessful bidders the intention to award the contract to the successful bidder, as per the recommendation of the relevant Cabinet Appointed Procurement Committee (CAPC), shall inform them in writing to make their representation (if any) against the recommendation of the CAPC. Accordingly;

- a.** An unsuccessful bidder who is aggrieved by a recommendation of a Standing Cabinet Appointed Procurement Committee (SCAPC), Cabinet Appointed Procurement Committee (CAPC) and Cabinet Appointed Negotiating Committee (CANC) may appeal in writing, against the recommendation of the said SCAPC, CAPC or CANC as the case may be, to the Procurement Appeal Board (PAB) against such recommendation.
- b.** All appeals should be submitted within one week (07 working days) of the bidder being informed by the SLM, of the intention to award the contract to the successful bidder.
- c.** Every appeal shall be addressed to the Chairman, Procurement Appeal Board, Presidential Secretariat, Colombo – 01.
- d.** All such bidders should deposit a non-refundable fee of Rupees Fifty Thousand (Rs. 50,000/-) at the office of the PAB, located at the Presidential Secretariat and a receipt obtained. However, deposits will not be accepted without a written representation against the recommendation of the intended contract award. The appeal will be considered only upon proof of such deposits.
- e.** All appeals should be sent by registered post or handed over at the office of the PAB and an acknowledgement obtained.
- f.** Appeals shall contain all materials required to support the averments and should be self-contained and supported by relevant documents, to enable the PAB to arrive at a decision.
- g.** The PAB, upon receipt of any representations from an unsuccessful bidder shall promptly notify same to the SLM.
- h.** If no representation is made within the stipulated period (vide para. b above), the SLM shall proceed to obtain the approval of the Cabinet of Ministers to award the contract. In the Cabinet Memorandum pertaining to procurement matters, it should be specifically stated that, either no appeals have been received by the PAB under Section 8.3 of the Government Procurement Guidelines 2006 or the fact that appeals have been made to the PAB within the stipulated period. A copy of the PAB report should also be attached to the Cabinet Memorandum.

- i. For the purpose of investigation into representations, made to it, the PAB may call for reports, files or any other relevant documents from the SLM, who shall promptly provide to the PAB all such documents as requested. The PAB where deemed necessary, may obtain advice of a procurement expert in relation to technical aspects of procurement. Similarly, the PAB may also consult the Director General of the Public Finance Department or the External Resources Department on matters such as procurement aspects and donor funding.
- j. Where the views or the observations of the SLM have been called by the PAB on the specific representations made in the appeal, the SLM shall promptly provide his/her views or observations on the representations, as requested, while clearly stipulating the reasons for rejection.

#### **8.4 Appeal Board**

- a. After investigating into representations made in the appeal, the PAB shall submit its independent report to the Cabinet of Ministers and the report shall contain;
  - (i) the reasons for endorsement of the decision of the SCAPC, CAPC or CANC;
  - or
  - (ii) the reasons for rejecting the decision of SCAPC, CAPC or CANC together with their independent recommendation of contract award
- b. The PAB shall submit its report containing its recommendations to the Cabinet of Ministers through the Secretary to the Cabinet, with copy to the SLM, within three (03) weeks of the appeal being lodged.
- c. PAB may, if it is deemed necessary, make special observations, in its report to the Cabinet of Ministers regarding any instances of serious non-compliance with the Procurement Guidelines or the Procurement Manual 2006, on the part of any Technical Evaluation Committee, Standing Cabinet Appointed Procurement Committee, Cabinet Appointed Procurement Committee or Cabinet Appointed Negotiating Committee, which have come to the attention of the PAB in the course of its investigation of the appeal.
- d. The decision of the Cabinet of Ministers shall be sent to the Chairman of the PAB, by the Secretary to the Cabinet and the PAB shall intimate the Cabinet decision to the bidder, who lodged the appeal, with copies to the SLM and DG/ Department of Public Finance of the Ministry of Finance & Planning. The decision of the Cabinet of the Ministers on the appeal shall be final.