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| Energy Efficiency and Conservation Authority not unreasonable in tender process |
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| Legislation Ombudsmen Act 1975  Agency Energy Efficiency and Conservation Authority  Ombudsman Leo Donnelly  Case number(s) 428455 (previously unpublished)  Date 2017 |

*Complaint about tender process when tenderer found its partner had also bid individually but was not informed by EECA—Ombudsman concluded the process followed was not unreasonable and had already been reviewed by independent reviewer*

The complainant claimed it was unreasonable for the Energy Efficiency and Conservation Authority (EECA) not to advise that the complainant’s partner, with whom it had a joint venture to tender for work with EECA, had also tendered separately. The complainant believed that EECA had a duty to advise it about the separate tender, and that this tenderer had had an unfair advantage due to its familiarity with the details of the joint bid. In addition, the complainant considered that the review of the process by Deloitte did not address many aspects of the complaint made to EECA in the first instance.

The Ombudsman concluded that EECA’s decision not to award a tender to the complainant was not unreasonable. The EECA tender process gave the complainant a right of review, which it had exercised. The review by Deloitte was thorough and independent and rejected all but one ground of complaint, concluding that the procurement process was proper. The remaining concerns about breach of confidentiality and the claim for compensation were beyond the scope of an Ombudsman’s role to resolve. EECA did not confirm the contracts until after a settlement offer was rejected by the complainant and the independent review was completed. The Ombudsman concluded that overall the decision made by EECA was reasonably open to it.

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