

Content

Title :	Regulations Governing the Organization of the Contract Performance Dispute Mediation Committee for Cases Concerning Promotion of Private Participation in Infrastructure Projects Ch
Date :	2023.05.11
Legislative :	Promulgated by Decree Tai-Tsai-Cu-Tzi No. 11225512570 issued by the Ministry of Finance on May 11, 2023
Content :	<p>Article 1</p> <p>These Regulations are prescribed pursuant to Paragraph 4 of Article 48-1 of the Act for Promotion of Private Participation in Infrastructure Projects (the "Act").</p> <p>Article 2</p> <p>The contract performance dispute mediation committee (hereinafter referred to as the "Mediation Committee") established by the competent authority shall be responsible for the following:</p> <ol style="list-style-type: none">1. Mediation of disputes over contract performance governed by Article 48-1 of the Act.2. Other matters related to mediation of disputes over contract performance. <p>Article 3</p> <p>The Mediation Committee shall have one covener to manage all the affairs of the Mediation Committee who shall be appointed by the competent authority from its high-ranking officers and may have one deputy covener to assist the covener to handle the committee affairs.</p> <p>The deputy covener referred to in the preceding paragraph shall be appointed by the competent authority from its high-ranking officers or shall be an impartial person having expertise in engineering, finance, law, or the Act.</p> <p>Article 4</p> <p>The Mediation Committee shall consist of nine to thirty-five members, who shall be appointed by the competent authority from high-ranking officers of the competent authority or shall be impartial persons having expertise in engineering, finance, law, or the Act. Except for the covener and the deputy covener who shall be ex officio members of the Mediation Committee, the remaining committee members shall be divided into three groups based on their expertise. The number of members for each gender shall be at least one-third of the total members.</p> <p>Of the members in the preceding Paragraph, three at the most may be appointed from high-ranking officers of the competent authority, and such members shall not exceed one-fifth of the total members.</p> <p>The term of office of each member of the Mediation Committee appointed in accordance with Paragraph 1 shall be two years. At the end of their term of office, members shall be eligible for reappointment.</p> <p>Article 5</p> <p>The impartial persons referred to in the preceding two articles shall meet one of the following requirements:</p> <ol style="list-style-type: none">1. Having served as tenured judges or prosecutors.2. Having actually practiced as attorneys, accountants, architects, technicians or other professionals in connection with the Act for three years or more.3. Having taught engineering, finance or law-related courses for three years or more at domestic or foreign universities or colleges recognized by the Ministry of Education.

4. Having participated in the handling of at least five cases processed in accordance with the Act, or having served in related fields for a cumulative period of more than three years.

Article 6

If any one of the following circumstances exists, a person shall not be appointed as a committee member, or shall be discharged if he/she has been appointed:

1. The person has been sentenced to imprisonment or a more severe punishment. However, this provision does not apply to a probation not revoked after the expiration of the probation or to a negligent crime.
2. The person has been convicted by a final court decision with a punishment of rehabilitative disposition or disciplinary education.
3. The person has been declared bankrupt or has been ordered by court ruling to initiate liquidation proceedings where his or her rights are not yet resumed.
4. The person has been deprived of civil rights which have not yet been resumed.
5. The person has become subject to an order of the commencement of guardianship or commencement of assistance which has not yet been revoked.
6. The person is a professional or technologist having been disciplined by being barred from practice, or his/her practice qualification has been voided or revoked.
7. The person has violated his/her official duties or has engaged in other acts which renders him/her incompetent to serve as a committee member.

Article 7

The committee meetings shall be called by the covener who shall act as the chairperson. If the covener is unable to attend a meeting, the deputy covener shall act in his/her stead. If both the covener and the deputy covener are unable to attend a meeting, the meeting shall be chaired by a committee member designated by the covener.

A resolution by the Mediation Committee shall be adopted by the vote of a majority of the committee members present at a meeting attended by more than half of the total committee members. Where affirmative votes and negative votes are equal, the decision shall be made by the chairperson.

Article 8

The committee members shall and exercise their powers fairly and impartially and shall attend the committee meetings in person.

Article 9

The members of the Mediation Committee are non-paid positions but may be paid transportation fees, attendance fees, and examination fees in accordance with relevant regulations.

Article 10

Any official documents issued by the Mediation Committee shall be issued in the name of the competent authority.

Article 11

The Mediation Committee shall have one executive secretary who shall be appointed by the competent authority from its high-ranking officers. The executive secretary shall handle staffing affairs as ordered by the covener. The staff members necessary for these affairs shall be appointed from the employees of the competent authority.

Article 12

A committee member shall recuse himself/herself from handling a contract performance dispute in any one of the following circumstances:

1. Where the matter is involved with the interests of the member, the member's spouse or relatives within the second degree of kinship, or a family member that such member lives together with.
2. Where there an employment, mandate or agency relationship currently exists or has existed within the last three years between the committee member or his/her spouse and the authority in charge (executive authority),

the private institution, or the responsible person of the private institution.

3. Where there are substantial facts indicating that the member may not be impartial in performing his/her duties.

4. Where the member considers he/she may not be impartial in performing his/her duties .

If a member in any of the above circumstances fails to recuse himself/herself from handling a contract performance dispute, a party to the dispute may petition for disqualification of the member, or the covener may order the member to withdraw from handling the dispute.

Article 13

The Mediation Committee may invite experts or scholars to attend a committee meeting and provide consultations, if it considers their attendance necessary for mediation of the dispute.

Article 14

These Regulations shall come into force from the date of promulgation.

Data Source : Ministry of Finance, R.O.C. Laws and Regulations Retrieving System