

# State of Maine Procurement Services

*Presentation to Government Oversight Committee*

**Department of Administrative and Financial Services  
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# Procurement: Definition and Purpose

Public Procurement is the legal authority that governments use to purchase goods and services and distribute grant funds.

— National Association of State Procurement Officials

**5 MRS §1812** – *“Scope of Purchasing Authority. It is the intent and purpose of this chapter that the Director of the Bureau of General Services purchase collectively all services, supplies, materials and equipment for the State or any department or agency thereof in a manner that will best secure the greatest possible economy consistent with the grade or quality of the services, supplies, materials and equipment best adapted for the purposes for which they are needed.”*

The Office of State Procurement Services (Procurement), a division of the Bureau of General Services, is the conduit through which the State of Maine’s departments and agencies engage private sector businesses to provide goods and services that State Government does not directly provide.



# Statutory Authority

5 MRS, Chapter 155: Purchasing

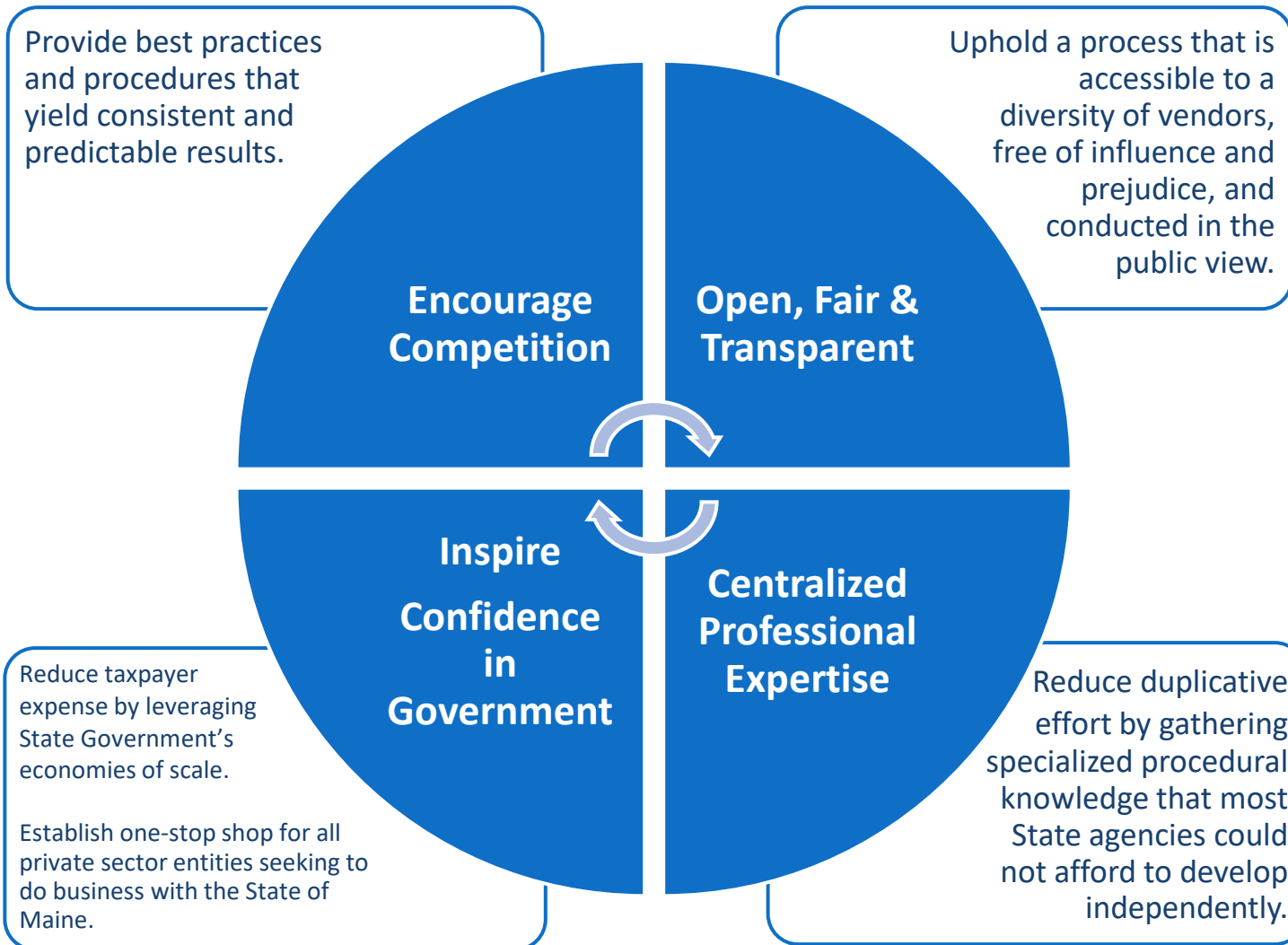
**§1811** – “The Department of Administrative and Financial Services, through the Bureau of General Services, has authority:

- To purchase all services, supplies, materials and equipment required by the State Government or by any department or agency thereof, subject to chapters 141 to 155;
- To adopt and enforce, subject to chapters 141 to 155, specifications which shall apply to services, supplies, materials and equipment purchased for the use of the State Government or any department or agency thereof;...”

**§1825-B, sub-§1** – “**Purchases by competitive bidding.** The Director of the Bureau of General Services shall purchase collectively all goods and services for the State or any department or agency of the State in a manner that best secures the greatest possible economy consistent with the required grade or quality of the goods or services. Except as otherwise provided by law, the Director of the Bureau of General Services shall make purchases of goods or services needed by the State or any department or agency of the State through competitive bidding.”

**§1825-B, sub-§7** – “**Awards to best-value bidder.** Except as otherwise provided by law, competitively awarded orders, grants or contracts made by the Director of the Bureau of General Services or by any department or agency of the State must be awarded to the best-value bidder, taking into consideration the qualities of the goods or services to be supplied, their conformity with the specifications, the purposes for which they are required, the date of delivery and the best interest of the State.”

# Core Values & Guiding Principles



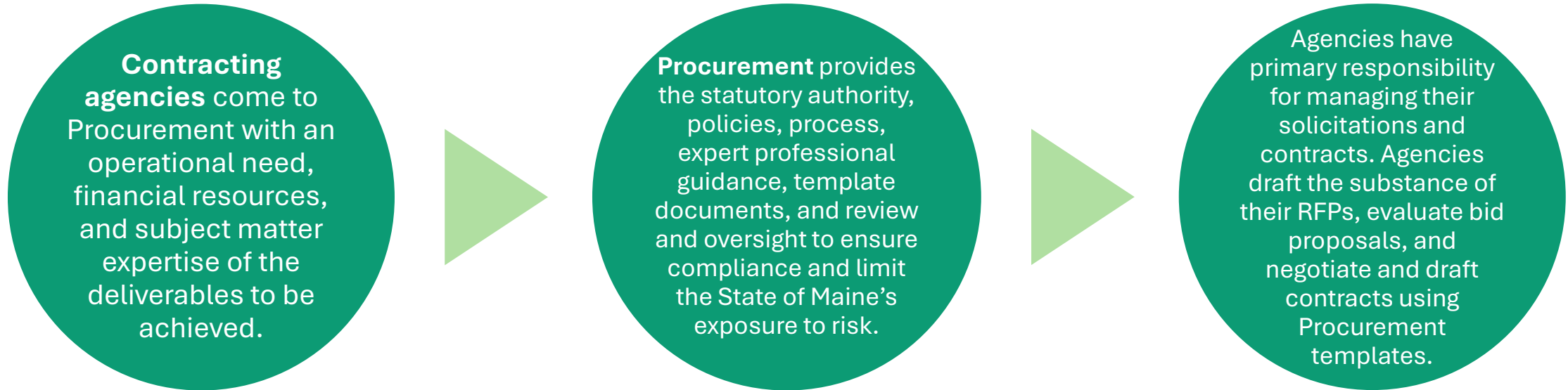
## Policies & Procedures:

[Chapter 110 - Rules For the Purchase of Services and Awards](#)

[Chapter 120 - Rules For Appeals of Contract and Grant Awards](#)

[Chapter 130 - State Purchasing Code of Conduct](#)

# Resource & Partner to Contracting Agencies



## Annual Procurement Volume & Spend

CY	RFPs	RFAs	RFIs	Other	Total	Total Spend	Appeals	Appeal Value	Invalidated
2022	160	45	3		208	\$378,233,334	4 (1.9%)	\$31,775,977 (8.4%)	2
2023	198	49	6	1	254	\$265,992,263	4 (1.6%)	\$76,050,000 (28.6%)	1
2024	80	22	1	1	104	\$88,840,517	3 (2.9%)	\$2,445,000 (2.75%)	all pending



RFP Coordinator Role & Responsibilities



Proposal Evaluation Phase 1: Individual Notes



Proposal Evaluation Phase 2: Team Consensus

# Resources for Contracting Agencies

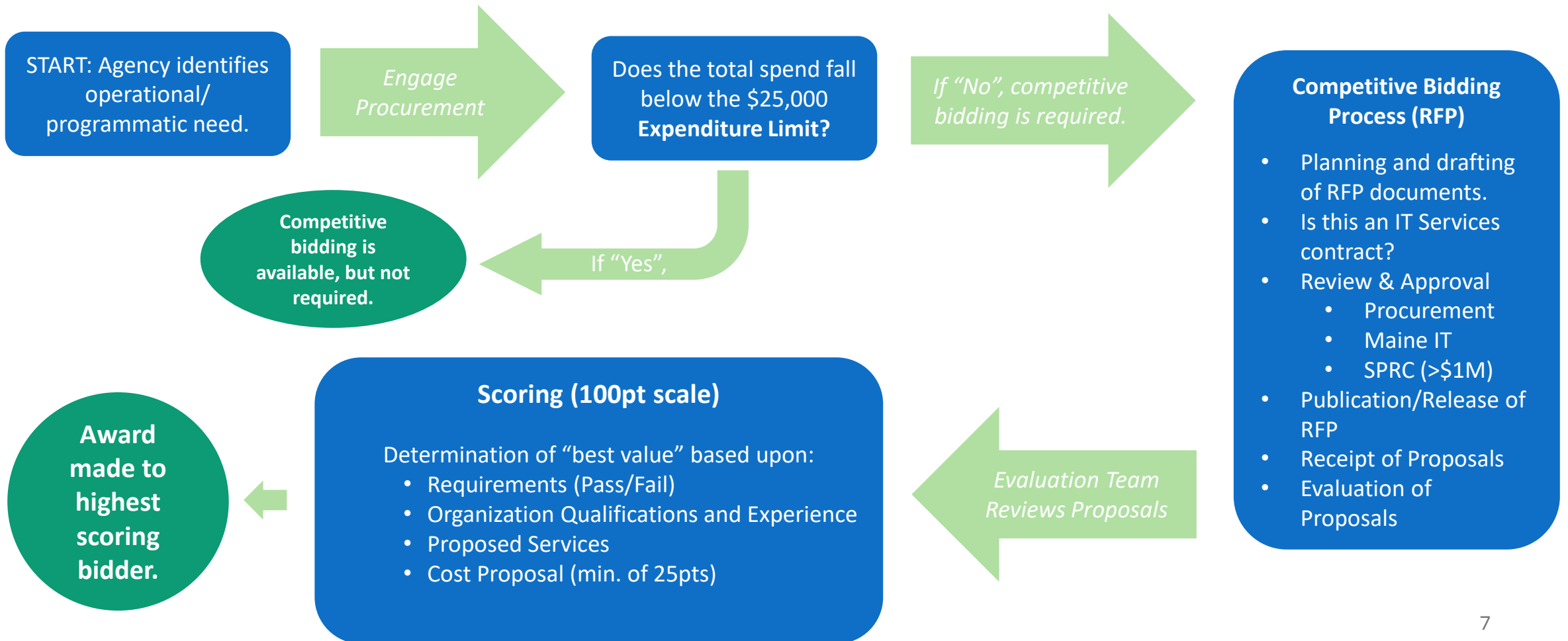
Guidance Documents & Training Videos

Workflows

Forms

Document Templates

# Standard Procurement Process for Services Over \$25,000



# Evaluation Teams & Selection Packets



**Contracting agencies select their own evaluation team members.**

**Recommended members of the team include the required RFP coordinator, a financial expert, a business expert, and a subject matter expert.**

If there is an IT component, MaineIT will provide an additional evaluation team member to conduct and advise on the IT Technical Assessment.



**In evaluating bid proposals, the contracting agency will consider materials provided in the proposal, information obtained through interviews/presentations (if any), and internal agency knowledge of previous contract history with the bidder (if any).**

The contracting agency reserves the right to consider other reliable references and publicly available information in evaluating a bidder's experience and capabilities. Due diligence requires checking the facts and claims of the bid proposal.



**Procurement reviews the entire contents of the completed selection packet, to assure that numeric scoring is supported by stated rationale and documentation is sufficient. If this is not the case, Procurement will require the evaluation panel revisit their work until it has been satisfactorily completed.**



# IT Procurement

Maine IT is responsible for ensuring the security and long-term viability of all information technology assets and data processing services acquired by the State, including hardware, software; as well as the data agencies or any contractors or vendors produce and share.

The statutory authority governing the work of the IT Procurement team comes from

[5 MRS §1973: Responsibilities of the Chief Information Officer.](#)

## Technology and data are ever-increasing components of the work that we all do.

The IT Procurement team needs to be involved when a procurement involves ANY of the following:

- Purchasing technology hardware, software, or services that collect data.
- Interaction with or implementing cloud technologies.
- Requires a supplier to send or receive data, whether through the cloud or the State data center.
- Providing a service that would normally be the responsibility of and be performed by the State, where the vendor's technology and systems will replace the State's.
- Involves the State sharing data with a supplier/contractor/vendor, or the collection of data on behalf of the State.

# Waivers of Competitive Bidding

5 MRS §1825-B, sub-§2: The requirement of competitive bidding may be waived by the Director of the Bureau of General Services when:

**A. County, >\$2,500**

A. The procurement of goods or services by the State for county commissioners pursuant to Title 30-A, section 124, involves the expenditure of \$2,500 or less, and the interests of the State would best be served;

**B. Emergency**

B. The Director of the Bureau of General Services is authorized by the Governor or the Governor's designee to make purchases without competitive bidding because in the opinion of the Governor or the Governor's designee an emergency exists that requires the immediate procurement of goods or services;

**C. Only one source**

C. After reasonable investigation by the Director of the Bureau of General Services, it appears that any required unit or item of supply, or brand of that unit or item, is procurable by the State from only one source;

**D. Petroleum Products**

D. It appears to be in the best interest of the State to negotiate for the procurement of petroleum products;

**E. Cooperative Agreement**

E. The purchase is part of a cooperative project between the State and the University of Maine System, the Maine Community College System, the Maine Maritime Academy or a private, nonprofit, regionally accredited institution of higher education with a main campus in this State involving:

(1) An activity assisting a state agency and enhancing the ability of the university system, community college system, Maine Maritime Academy or a private, nonprofit, regionally accredited institution of higher education with a main campus in this State to fulfill its mission of teaching, research and public service; and

(2) A sharing of project responsibilities and, when appropriate, costs;

**F. >\$25,000, informal bids**

F. The procurement of goods or services involves expenditures of \$25,000 or less, in which case the Director of the Bureau of General Services may accept informal written quotes or bids; or

**G. >\$10,000, single-source**

G. The procurement of goods or services involves expenditures of \$10,000 or less, and procurement from a single source is the most economical, effective and appropriate means of fulfilling a demonstrated need.

# Internal Review & Public Notice Process for Waivers of Competitive Bidding

1. Procurement Justification Forms (PJFs) are used to articulate an agency's rationale and statutory basis for pursuing single source contracts.
  - An agency seeking to waive competitive bidding must submit a PJF for review by Procurement staff.
  - PJFs found insufficient are sent back to the agency for additional information.
2. **For contracts greater than \$1 million**, additional review and unanimous approval is required by the State Procurement Review Committee, which consists of a Governor's designee, the Chief Procurement Officer, State Budget Officer, State Controller, Chief Information Officer (if IT related), and Attorney General's designee (ex-officio).
3. Notices of Intent to Waive Competitive Bidding, which includes the related PJF, are posted on Procurement's website for 7 days.
  - One of the most highly trafficked websites in Maine State Government.
  - Provides the public an opportunity to review agency's rationale and statutory basis.
  - Prospective vendors and interested parties wishing to protest the use of non-competitive bidding may file a challenge.

# Procurement of Goods & Services v. Grant Making

**CONTRACTS** are used to acquire goods or services needed by the State to serve the people of Maine.

- RFP (Request for Proposals)
- RFQ (Request for Quotations) are used to procure commodities.
- Awarded to single prevailing bidder.
- Contract costs driven by market forces.

**GRANTS** are used to assist individuals or organizations with supporting authorized public-service programs.

- Grant making also runs through Procurement, with a couple of statutorily provided exceptions.
- RFA (Request for Applications)
- Often multiple awards available.
- Award value determined by available funding.

# Appeal Process

## Who can file an appeal?

Only aggrieved persons may request an Appeal and/or Stay of Award.

An aggrieved person is any person who bids on a contract and who is adversely affected financially, professionally, or personally by that contract award decision.

## On what grounds can an award be appealed?

The petitioner must clearly demonstrate evidence to one of the following: (1) violation of law; (2) an irregularity creating fundamental unfairness; or (3) an arbitrary/capricious award decision.

An appeal hearing will be granted unless: (1) the petitioner is not an aggrieved person; (2) a prior request by the same petitioner about the same contract award has been granted; (3) the request was made more than 15 days after the notification of contract award; and (4) the request is capricious, frivolous, or without merit.

## Who hears appeals?

Appeal Committees consist of three members:

- The Chief Procurement Officer or their designee; and
- Two members from departments not involved in the contract award, appointed by the DAFS Commissioner.

The Appeal Committee may only validate or invalidate the award decision under appeal.

The Appeal Committee's decision may be further appealed to Superior Court.