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**Tender Disputes start with the issuing of tenders, which may not have funds appropriated for it.**

Should you check with the government whether funds are appropriated for contracts awarded to you?

In the case of Zeal Health Innovations, they appealed a High Court ruling that had declared their contract with the Department of Military Veterans constitutionally invalid.

The dispute arose from a tender awarded to Zeal Health for providing healthcare services, which the Department later challenged due to budget constraints and alleged procedural irregularities.

The Supreme Court of Appeal upheld the appeal in part, confirming the contract's invalidity but preserving Zeal Health's right to seek compensation for services rendered.

The court found the initial tender process flawed due to violations of Section 38 (2) of the Public Finance Management Act.

This provision explicitly prohibits accounting officers from committing a department to financial obligations without properly appropriated funds.

Despite the unlawful contract, the court acknowledged that Zeal Health had provided services in good faith, entitling them to pursue payment.

The Court relied on section 172(1) of the Constitution, issuing a just and equitable order, finding that Zeal Health had not contributed to the irregularities.

Ultimately, the court sought a just and equitable resolution, balancing constitutional principles with the need to compensate Zeal Health for work performed.

Successful bidders are therefore advised to confirm during the service level agreement negotiations to request confirmation that funding has indeed been appropriated for the contract they've won to avoid disputes like these.

**For assistance on any tender issue or if your team requires training on how to submit winning bids, contact Gerrit Davids, Lead Advisor at TaranisCo Advisory:**

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