

Supplier Complaints Schedule

Purpose

This Schedule provides direction and guidance for public authorities on handling supplier complaints relating to procurements undertaken by South Australian public authorities. The appropriate handling of supplier complaints is vital to ensuring the integrity of government procurement processes. It is also essential for compliance with the *South Australian Government Procurement Framework* ('the Framework'), Premier and Cabinet [Circular 039 Complaint Management in the SA Public Sector](#) ('PC039') and applicable free trade and government procurement agreements ('international obligations')¹.

Scope

The scope of this Schedule is limited to complaints raised by a supplier regarding a procurement undertaken by a public authority. It is to be read and applied within the context of the public authority's existing complaint management system (as required under the Framework and [PC039](#)).

Supplier complaints that disclose information:

- of a criminal nature must be directed to [SA Police](#) in accordance with obligations under the [Public Interest Disclosure Act 2018](#);
- involving public officer corruption, serious or systemic misconduct, and serious or systemic maladministration must be reported to the [Independent Commissioner Against Corruption \(ICAC\)](#) in accordance with the [Independent Commissioner Against Corruption Act 2012](#);
- that involve complaints relating to the [South Australian Industry Participation Policy](#) are to be referred to the [Office of the Industry Advocate](#); and
- that involve complaints relating to breaches of free trade and government procurement agreements (International Obligations) are to be referred to DTF Procurement Services SA.

Contract Disputes

In accordance with the *Contract Management Policy*, if a dispute arises out of a contract, the public authority will manage the dispute in accordance with the specific terms and conditions of the contract and will seek advice from the Crown Solicitor's Office as required.

¹ See the *International Obligations Guideline* for further information on the free trade and government procurement agreements.

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Roles and Responsibilities

Public Authorities

In line with the Procurement Governance Policy, [PC039](#) and the government's international obligations, Chief Executives are responsible for ensuring their public authorities have effective systems, practices and processes in place to manage supplier complaints at any stage of the procurement process, including contract management.

It is important that public authorities uphold good supplier practices in all aspects of procurement and adopt an open and transparent approach to the handling of supplier complaints.

Public authorities are responsible for supplier complaints frameworks and for:

- providing constructive feedback to suppliers on the outcome of any offers to supply;
- adopting an open and transparent approach to the handling of supplier complaints;
- providing clear and accessible information for suppliers at the commencement of a procurement process on submitting a complaint or providing feedback;
- offering various options to submit a written complaint (such as online, email, letter);
- including details of a nominated complaints / feedback contact officer in market approach documents;
- providing detail of the information or documentation required from the complainant and the process to provide documentation;
- appropriately managing confidential information and identities (of complainant or public authority officer);
- having a mechanism for assessing the severity of the complaint;
- providing responses to supplier complaints in writing;
- regularly communicate with the complainant in writing throughout the complaint management process, and advise of anticipated timeframes for reviewing the complaint; and
- investigating complaints impartially and in a timely, ethical and transparent manner.

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Suppliers

Suppliers have a responsibility to:

- invest time and effort in understanding government procurement processes;
- consider whether an issue may be dealt with by providing feedback or seeking clarification from the public authority contact person before making a complaint;
- provide their complaint in writing (if the complainant has made a verbal complaint, ensure the complainant is aware that a complaint cannot be progressed until it has been submitted in writing) within 14 days calendar days from when the complaint becomes known, or should have been known, to the supplier);
- submit the complaint to the public authority's nominated contact officer for procurement feedback/complaints;
- provide appropriate information and documentation to support an investigation in a timely manner;
- endeavour to resolve problems or complaints in a professional manner directly with the public authority before seeking independent investigation; and
- not issue any news releases or responses to media enquiries and questions regarding a procurement process without the public authority's written approval.

Assessing the severity of the complaint

Public authorities should assess the severity of the complaint in accordance with the public authority's internal procurement framework and complaints management framework. The following is provided as a guide:

Level	Description
1	Business Unit complaint handling and early resolution of complaint.
2	Internal review (e.g. by complaint officer) of complaint and/or complaint handling (may include further investigation of issues raised) and satisfactory resolution of complaint
3	External review (e.g. by Procurement Review Committee) of complaint and/or complaint handling (may include further investigation of issues raised) and satisfactory resolution of complaint.
4	Unsatisfactory resolution of complaint following external review.

Procurement Review Committee

Further information: Procurement Services SA
 Contact Number: (08) 8226 5001
 Contact Email: contact@procurement.sa.gov.au
 Version: 1.0

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Government of South Australia
 Procurement Services SA

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In line with the requirements of the Framework, complaints will only² be escalated to the Procurement Review Committee (PRC)³ following an investigation that cannot be resolved to the satisfaction of both the public authority and the supplier. The PRC will not participate in a complaint management process until the complaint has been investigated by the public authority and/or independent investigation.

The PRC:

- may make recommendations to the Treasurer to direct that a public authority suspend or reconduct all or any part of the procurement process; and
- Will refer matters to the appropriate authority as required.
- Will provide recommendations, in writing, in a timely fashion.

Complaint Handling Process

Supplier complaints can be a valuable source of information on how and where issues have occurred and may pinpoint improvement opportunities in the procurement function and processes.

In accordance with the Procurement Governance Policy, public authorities will make their complaint management process publicly available to suppliers.

The timely investigation and management of supplier complaints is essential for maintaining good relationships between public authorities and suppliers. Appendix 1 provides an overview of the process (with required steps to be taken) to be considered alongside the public authority's complaint management process. It includes when and how a complaint is to be escalated.

There may be extenuating circumstances in which the process outlined at Appendix 1 would not be appropriate. These may include issues where there has been a clear breach of law, or particularly sensitive, complex and/or serious complaints.

Prevention of complaints

Public authorities can minimise the potential for supplier complaints by:

- offering written information up front on the supplier complaint process including the contact details of an appropriately skilled contact officer who can deal with complaints;
- conducting the procurement in an ethical and impartial manner;
- conducting the procurement aligned to the requirements of the Framework;

² unless the Treasurer considers that the circumstances warrant an earlier intervention.

³ via Procurement Services SA: contact@procurement.sa.gov.au

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- ensuring that all staff undertaking procurement processes understand government procurement policies and demonstrate good procurement practice;
- providing specifications that are outcomes focused and not inherently biased to a particular supplier;
- documenting, justifying and authorising market approaches that limit supplier responses;
- maintaining open, timely and ongoing communications with suppliers both throughout the procurement process and during contract management;
- providing South Australian businesses with the opportunity to tender for government business;
- managing effective relationships with the supplier market;
- carrying out market analysis before advertising the Invitation to Supply or Expression of Interest; and
- debriefing all unsuccessful suppliers.

Documentation and Reporting

The market approach documentation should include the name and contact details of an independent and appropriately skilled and experienced public officer who can manage supplier comments, feedback and complaints.

In accordance with the Procurement Governance Policy, public authorities must maintain records of supplier complaints via a database and/or physical file containing all relevant documentation. Public authorities are required to report on supplier complaints via annual reporting for its own agency annual report (public complaints reporting) in accordance with [Premier and Cabinet Circular 13 Annual Reporting Requirements](#).

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Appendix 1: Supplier Complaints Process

Formal complaint made	
Step 1	<p>The formal complaint is submitted to the public authority by the supplier in writing (within 14 calendar days from when the complaint becomes known, or should have been known, to the supplier).</p> <p>The written complaint should include:</p> <ul style="list-style-type: none"> background information identifying the relevant tender, process and dates; a brief summary of the problems or concerns; an outline of any dealings with the public authority to date (including relevant communications, names, meetings); and contact details (including names, addresses, and phone numbers).
Step 2	<p>The public authority acknowledges receipt of the complaint, provides the supplier with initial detail about the process and timeframe for review, and completes the following steps 3-12 as required.</p>
Investigation	
Step 3	<p>Identify whether the complaint needs to be referred to another authority, or whether another public authority should be consulted on the complaint, including if the complaint relates to:</p> <ul style="list-style-type: none"> allegation of criminal activity (refer to SAPOL); allegations of public officer corruption, misconduct or maladministration (refer to ICAC); complaints related to IPP (refer to the Office of the Industry Advocate); or breaches of International Obligations (refer to DTF Procurement Services SA).
Step 4	<p>Refer the complaint and document all information, decisions, and correspondence, or move to Step 5.</p>
Step 5	<p>An independent officer of the public authority investigates the complaint (i.e. a person not directly involved in the subject matter of the complaint).</p>
Step 6	<p>If the complaint can be resolved immediately without additional investigation, provide the supplier with written notification of the decision in a timely manner.</p>
Step 7	<p>Close the complaint and document all information, decisions, and correspondence, or move to Step 8.</p>
Step 8	<p>If further investigation is warranted, an independent officer with sufficient skills and knowledge to undertake a thorough and impartial review should be appointed.</p> <ul style="list-style-type: none"> This person may or may not be the same officer as the person conducting the initial review and may be an internal or external officer. The investigation should be undertaken within a reasonable timeframe (in line with public authority's complaint's management process). The supplier should be regularly informed of process and if timeframes for resolution are expected to change.
Step 9	<p>Once a determination is made, notify the supplier, in writing, of the outcome and advise any action(s) being taken, reasons, remedies or resolutions.</p>
Step 10	<p>Supplier given 7 calendar days to advise of acceptance (or otherwise) of the findings</p>
Step 11	<p>If supplier accepts findings, close the complaint and document all information, decisions, and correspondence, or move to Step 12.</p>

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Escalation to Procurement Review Committee

Step 12

If the investigation cannot be resolved to the satisfaction of the public authority AND the supplier, the Chief Executive of the public authority will inform the Procurement Review Committee (PRC), via Procurement Services SA, within 7 calendar days.

- Public authorities will provide all relevant documentation to the PRC, via Procurement Services SA, including details of any investigation already undertaken (process and outcome).
- The supplier will be advised that their complaint has been sent to the PRC for review and will be provided with the opportunity to reply to a procuring public authority's response before the PRC has made recommendations relating to the complaint.

In the case of the supplier escalating the complaint to the PRC:

- The supplier will submit the Supplier Complaints Form to Procurement Services SA within 7 calendar days of advising the public authority of their non-acceptance of the independent investigation findings.
- Procurement Services SA will notify the public authority that the supplier has escalated the complaint, within 7 calendar days.

Role of the Procurement Review Committee:

The PRC will not participate in a complaint management process until the complaint has been investigated by the public authority and/or independent investigation – unless the Treasurer considers that the circumstances warrant an earlier intervention.

The PRC :

- May recommend to the Treasurer to direct that a public authority suspend or reconduct all or any part of the procurement process if required.
- Will refer matters to the appropriate authority as required.
- Will provide recommendations, in writing, in a timely fashion.

Appeal

Step 13

If the complaint remains unresolved to the satisfaction of the supplier, provide the complainant with information of the [Ombudsman SA](#).