

Complaints management

Office of the Chief Advisor - Procurement

Complaints management
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Contact us

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Disclaimer

This document is intended as a guide only for the internal use and benefit of government agencies. It may not be relied on by any other party. It should be read in conjunction with the Queensland Procurement Policy, your agency's procurement policies and procedures, and any other relevant documents.

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Purpose

The purpose of this guidance is to assist Queensland Government agencies to manage complaints about procurement. Also included is information about how to develop procedures for management of complaints.

Context

Clause 3.1 of the Queensland Procurement Policy requires agencies to ensure a complaints management system for procurement is in place.

An effective complaints management system is integral to providing quality customer service. It helps to measure customer satisfaction and is a useful source of information and feedback that can improve services. Often customers are the first to identify things that are not working properly.

Implementing effective complaints management systems within Queensland public sector agencies:

- improves agencies' internal complaints handling
- reduces recurring complaints
- improves standards of service to the community
- raises standards of decision-making.

Preventing complaints

Preventing complaints from occurring saves both agency and supplier in terms of time and valuable resources. Many complaints originate from lack of understanding on the part of buyers and suppliers and/or poor communication between them. Some suggestions about ways government officers can help prevent complaints are listed below:

- ensure that officers dealing with suppliers possess a high level of interpersonal skills, including verbal and written communications skills
- ensure that a thorough analysis of the relevant supply market is undertaken
- build effective relationships with suppliers
- liaise with local suppliers and provide opportunities for local suppliers to offer to government
- treat suppliers in an ethical and impartial manner
- ensure that clear specifications are developed
- ensure that negotiations with suppliers are well planned and executed
- ensure that there is effective contract management
- provide regular performance feedback to the supplier
- provide debriefing sessions for suppliers who have been unsuccessful in tendering for government business.

Managing complaints about procurement

In the first instance, complainants should be encouraged to seek resolution through the area managing the procurement process.

Some complaints originate as a telephone call and these can sometimes be resolved relatively easily, with more information being provided by the agency to improve the complainant's understanding of processes

or practices. In such cases, direct contact with the area handling the procurement is the most effective and appropriate response.

If the complainant still wishes to pursue the matter, they should be advised to put their concerns in writing to the accountable officer, or delegate, in the buying agency. The complaint should be signed and dated by the complainant. A central point of contact within the agency should be designated for investigation of the complaint. Ideally, this central point should operate independently of the area against which the complaint has been made.

For complaints where allegations of official misconduct or corruption against government officers are made, refer to the below section on official misconduct.

When it is not possible to resolve a procurement complaint with the agency concerned, then the complainant may seek the assistance of Queensland Government Procurement, which can help to resolve the complaint by facilitating open communication between the parties. Note - Queensland Government Procurement cannot override legally binding contracts.

External independent review of a procurement complaint is available through the Queensland Ombudsman. The Ombudsman can investigate the administrative actions of agencies and make recommendations to the agency for rectification.

Official misconduct

The Chief Executive Officer of each agency has a statutory obligation to report any matters concerning allegations of corrupt conduct in relation to procurement to the Crime and Corruption Commission (as required by the *Crime and Corruption Act 2001*). Each agency should develop a formal policy that details the procedures for reporting alleged official misconduct and corrupt conduct to the Crime and Corruption Commission.

Where applicable, the following Australian Government organisations may also deal with complaints about procurement:

- Australian Competition and Consumer Commission, regarding contraventions of the *Competition and Consumer Act 2010 (Cwlth)*
- Australian Securities and Investments Commission, regarding contraventions of the *Corporations Act 2001 (Cwlth)*.

Examples of official misconduct in procurement include accepting money or benefits in exchange for helping someone win a contract; knowingly making false documents to cover what is essentially a personal purchase; or misuse of confidential information to give advantage to one supplier over another, even where there was no personal benefit to the officer involved.

Complaints about non-compliance with international trade obligations

The Queensland Government has agreed to observe a number of international agreements (Agreements) which affect government procurement. These include the:

- Australia-Chile Free Trade Agreement
- Australia-United States Free Trade Agreement
- Comprehensive and Progressive Agreement for Trans-Pacific Partnership
- Japan-Australia Economic Partnership Agreement
- Korea-Australia Free Trade Agreement

- Singapore-Australia Free Trade Agreement.

In complying with the Agreements, the Queensland Government will afford suppliers in other participating countries access to procurement opportunities no less favourable than domestic suppliers.

One of the provisions within the Agreements is 'domestic review'. This enables a supplier to raise complaints about a procurement activity where they believe the Agreements have not been properly observed by the procuring agency.

Complaints relating to compliance with agreements should first be referred to the agency concerned. The fact that a supplier has raised a complaint must not prejudice the supplier's participation in ongoing or future procurement activities.

Developing a complaints management process

The Queensland Procurement Policy requires agencies to ensure a complaints management system for procurement is in place.

Most agencies have established a single system for managing all complaints, which is not restricted to complaints raised by suppliers or members of the community about the conduct of agency procurement activities. Where a separate procurement management system or database is not established, the agency's system must have the capability to identify procurement-related complaints.

The following processes and issues should be considered when developing a complaints management process.

Roles

- Roles and responsibilities within the agency should be established, recorded and the descriptions distributed to the relevant officers.
- Officers involved in the complaints management process should be appropriately trained.

Responses

- The complaints handling process should be provided free of charge to the complainant.
- Officers should ensure that their dealings with complainants are clearly documented: for example, maintaining signed and dated file notes of telephone conversations.
- Complaints should be investigated in a timely and effective manner. Where a prolonged investigation is necessary, regular feedback should be provided to the complainant.
- Complainants should be made aware that unless there has been a breach of the contract between the agency and the successful offeror, the contract cannot be overturned, as it is a legally binding document.

Systems

A database should be established to assist in recording information about complaints, to enable analysis of trends. Information which should be maintained about complaints includes:

- date
- complainant
- contact person
- region

- product category
- complaint category
- brief description of complaint
- action in progress
- outcome.

An analysis of trends should be undertaken to highlight emerging patterns. Recurring complaints usually indicate the need for remedial action. Such a database may also be useful in developing better procurement systems.

Processes

- An acknowledgement of the complaint (outlining the process that will be followed) should be made in writing to the complainant within three business days.
- Reasons for upholding or rejecting the complaint should be recorded.
- A tracking system with time frames should be developed to monitor the progress of the complaint. Processes for regular reporting to an appropriate officer regarding the status of complaints should be implemented.
- Care should be exercised in respect of confidentiality issues regarding the complaint. The complainant should not be victimised or harassed as a result of any complaint.