SUPPLIER COMPLAINTS SCHEDULE

Contents

NOTES:

- Terms used throughout this schedule have the same meaning as defined in the *Public Finance and Audit Act 1987*, *Treasurer's Instructions 18 – Procurement,* and the Procurement Glossary.
- All values identified in the framework are in Australian Dollars and are GST inclusive.

Purpose

This schedule sets the requirements for managing **supplier complaints related to procurements** undertaken by public authorities under *Treasurer's Instructions 18 - Procurement*. It is to be read and applied in conjunction with Premier and Cabinet Circular 039 Complaint Management in the SA Public Sector.

This schedule **does not apply to disputes arising out of contracts** which are managed under the terms and conditions of each contract, with advice from the Crown Solicitor's Office as required.

Referral of supplier complaints

Supplier complaints will be referred as follows if they include disclosure of information:

- of a **criminal nature** will be directed to SA Police in accordance with obligations under the *Public Interest Disclosure Act 2018*
- **involving public officer corruption, misconduct, or maladministration** will be reported to the Office for Public Integrity in accordance with the *Independent Commission Against Corruption Act 2012*, *Police Complaints and Discipline Act 2016* and the *Public Interest Disclosure Act 2018*
- that involve **complaints relating to the *South Australian Industry Participation Policy*** will be referred to the Office of the Industry Advocate
- that involve **complaints relating to breaches of free trade and international government procurement agreements** will be referred to Procurement SA.

Roles and responsibilities

Public authorities

Public authority internal procurement frameworks

Chief Executives are responsible for ensuring their public authorities have effective systems, practices and processes in place to manage supplier complaints in an open and transparent manner at any stage of the procurement process, including contract management.

Public authorities will comply with the supplier complaint management approach set out in their internal procurement framework unless there are extenuating circumstances in which the standard process would not be appropriate (e.g. where there has been a clear breach of law, or the complaint is particularly sensitive or complex) when should be sought from the Crown Solicitor's Office.

Public authority supplier complaint management approaches will align with the standard approach to managing a supplier complaint set out in this schedule and must include:

- details of the public authority's supplier complaints register
- a mechanism for assessing the severity of complaints

- mechanisms for escalating complaint responses
- timeframes and processes aligned with the requirements of this schedule.

Record keeping and reporting

Accurate records are to be kept for all stages of the supplier complaint process. Investigation details and decision making needs to be documented, including the process followed to arrive at that decision. Such documentation serves to provide enough information for audit or other review.

Public authorities will document all relevant communication with the complainant and ensure that appropriate record keeping is maintained and auditable. This includes written communications and appropriate records of relevant verbal discussions throughout the supplier complaint process (e.g. minutes of a meeting or file notes of telephone discussions).

Public authorities are required to report on all public complaints via annual reporting in accordance with the *Premier and Cabinet Circular 13 Annual Reporting Requirements* and the corresponding annual report template provided each year by the Department of the Premier and Cabinet.

Procurement Review Committee

The Procurement Review Committee (PRC) acts as the government's review authority for supplier complaints. A complaint will only be escalated to the PRC if either:

- if it cannot be resolved to the satisfaction of both the public authority and the supplier following an internal or independent investigation
- the Treasurer considers that the circumstances warrant and earlier intervention.

The PRC will manage its review process in alignment with the standard approach to managing supplier complaints set out in this schedule.

Suppliers

Suppliers have a responsibility to:

- seek to understand 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 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

- not issue any news releases or responses to media enquiries and questions regarding a procurement process without the public authority's written approval.

Standard approach to managing a supplier complaint

Supplier complaint management practices

All formal complaints will be investigated, and responded to in writing, by an appropriate independent officer who is not directly involved in the subject matter of the complaint. For example, public authorities with a central procurement unit may elect to have complaints managed by an internal audit unit.

Public authorities will:

- make their complaints management system publicly available
- nominate a complaints/feedback contact officer in market approach documents
- provide suppliers with information about complaints/feedback at the start of procurements
- provide suppliers with options for submitting written complaints (e.g. online, email, letter)
- provide constructive feedback during supplier debriefs
- respond to complainants in writing
- investigate complaints impartially and in a timely, ethical and transparent manner
- provide complainants with details of what information/documentation to submit, and how
- regularly communicate with the complainant in writing throughout the complaint management process, and advise anticipated timeframes for reviewing the complaint
- appropriately manage confidential information and identities of complainants and public officers

Supplier complaint management process

FORMAL COMPLAINT		
1.	**Receipt of complaint**	Supplier submits a complaint, in writing, **within a reasonable period of time** from when the complaint became, or should have become, known to the supplier.
2.	**Confirmation of receipt**	Public authority provides supplier with confirmation of receipt and with initial details about investigation process and timeframes.
PUBLIC AUTHORITY INVESTIGATION		
3.	**Referral (if required)**	Public authority refers the complaint to the appropriate public authority and documents all information, decisions, and correspondence.
4.	**Consultation (if required)**	Public authority consults the appropriate public authority(ies) about the complaint (see 'disclosure of information').
5.	**Initial investigation**	Undertaken by an independent (i.e. not directly involved in the subject matter of the complaint) officer of the public authority.

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If complaint can be resolved immediately	
6. Notification of outcome	Public authority notifies supplier of the outcome, in writing and in a **timely manner**, including any actions, reasons, remedies or resolutions.
7. Closure of complaint	Public authority closes the complaint and documents all information, decisions, and correspondence.
If complaint requires further investigation	
8. Detailed investigation	Undertaken by an independent officer with sufficient skills and knowledge who a) may or may not be the officer who conducted the initial investigation; and b) may be an internal or external officer. The investigation will be thorough, impartial and undertaken within a **reasonable timeframe** in line with the public authority's internal complaints management process. Public authority regularly informs supplier about process and timeframes.
9. Notification of outcome	Public authority notifies supplier of the outcome, in writing and in a **timely manner**, including any actions, reasons, remedies or resolutions, and provides the supplier at least **7 calendar days** to advise of acceptance (or otherwise) of the outcome.
If supplier accepts outcome	
10. Closure of complaint	Public authority closes the complaint and documents all information, decisions, and correspondence.
If supplier does not accept outcome and escalates the complaint through the public authority	
11. Referral to PRC	Public authority Chief Executive informs the PRC, via Procurement SA, within **14 calendar days** of being advised of the supplier's non-acceptance. Public authority provides all relevant documentation to Procurement SA including details undertaken (process and outcome) of investigations already. Procurement SA advises supplier that complaint has been sent to the PRC.
If supplier does not accept outcome and escalates the complaint through Procurement SA	
12. Referral to PRC	Procurement SA notifies the public authority within **7 calendar days** of receipt of the complaint. Public authority provides all relevant documentation to Procurement SA including details undertaken (process and outcome) of investigations already. Procurement SA advises supplier that complaint has been sent to the PRC.
PRC INVESTIGATION	
13. Independent investigation	Undertaken by an independent third party engaged by the PRC, through Procurement SA.
14. Public authority response	Procurement SA invites the public authority to respond to the report of the independent investigation.
15. Supplier response	Procurement SA invites the supplier to respond to the recommendations of the independent investigation, and to the response of the public authority.
16. Draft Treasurer recommendations	Procurement SA invites the public authority to respond to the draft recommendations prepared for the Treasurer.
17. Final Treasurer recommendations	Procurement SA submits final recommendations to the Treasurer.
APPEAL IF SUPPLIER IS NOT SATISFIED WITH OUTCOME	
18. Referral to Ombudsman SA	Procurement SA refers the supplier to the Ombudsman SA.