



Policy

AusAID's Procurement Related Complaints Handling Procedure Updated July 2008

This complaints handling procedure applies to complaints received in relation to an AusAID procurement exercise, including the conduct of the procurement process or its outcome. The process for dealing with disputes arising during the contract period is dealt with in the contract and AusAID's Contracts Charter and therefore is not covered below.

CPG Requirement	AusAID
Agencies need to have fair, equitable and non-discriminatory complaint handling procedures.	The following process outlines the steps to be taken in the event of a dispute or complaint about an AusAID procurement process.
Agencies should in the first instance attempt to resolve a complaint internally.	<p>AusAID's complaints handling process reflects AusAID's desire to manage and resolve all complaints internally, where possible, through communication and conciliation with the supplier.</p> <p>In order to lodge a complaint about an element of the procurement process or its outcome, suppliers should initially raise the issue in writing with the contact person nominated in the tender documentation. This person, his or her supervisor/manager and the Director of the Section will attempt to resolve the issue.</p> <p>AusAID will respond to the supplier in writing outlining the issue that has been raised and AusAID's initial response. AusAID's correspondence will also include an assessment of the complaint and inform the supplier of its options, if it remains dissatisfied with the issue. Where a supplier remains dissatisfied, it may lodge a request in writing to the Assistant Director General of the Operations Policy & Support Branch (ADG OPS) if it wishes to escalate the issue. The issue will then be examined by AusAID's Independent Complaints Committee (ICC). The ICC comprises the ADG OPS, a senior officer from the relevant program area (excluding the senior officer involved in the initial attempt to resolve the complaint, if relevant) and a Director from within OPS (excluding the Director involved in the initial attempt to resolve the complaint, if relevant).</p>
Senior management and officials independent of the process should be involved as appropriate.	The ICC will have been, to this point 'arms length' from the complaint and the process or decision in dispute. The ICC may wish to examine any tender documentation or other correspondence from either party in relation to the matter. This will be done having regard to the commercial-in confidence nature of the information.
Complaints should be dealt with in writing	In all instances, complaints should be issued, and responded to, in writing, with reasonable notice – not less than ten days – provided for each party

CPG Requirement	AusAID
Each party must have sufficient time to appropriately respond to developments (no less than ten days unless urgent).	to respond to the correspondence.
Agencies must ensure that the initiation of a complaint process does not prejudice a supplier's or a potential supplier's participation in future procurement processes.	All AusAID staff involved in the management of a complaint will ensure the process is applied ethically and professionally. To this end, tenderers or potential contractors who initiate a complaint will not be prejudiced with regard to their participation in any future AusAID procurement processes.
External options are available if independent review of a complaint is necessary.	<p>Suppliers may seek external review of a complaint where it has not been satisfactorily resolved through AusAID's internal mechanism.</p> <p>Commonwealth Ombudsman Complaints may be made to the Commonwealth Ombudsman (http://www.ombudsman.gov.au)</p> <p>The Commonwealth Ombudsman has powers to investigate procurement complaints. The Ombudsman aims to resolve matters by negotiation and persuasion and may make recommendations to the senior levels of government in the context of continuous improvement to Commonwealth administrative processes.</p> <p>The Commonwealth Ombudsman cannot overturn AusAID's procurement decisions, nor specifically direct AusAID to vary it. However, their comments on the dispute may influence AusAID's response.</p> <p>If the Commonwealth Ombudsman decides not to investigate a particular complaint, the complainant will be provided with reasons for this decision and the Ombudsman may be able to suggest other avenues for resolving the matter.</p> <p>Court system</p> <ul style="list-style-type: none"> ○ Tenderers may seek review of the matter through the Court system. ○ The agency and complainant will need to seek independent legal advice about pursuing resolution through the courts. ○ It is important to remember that if a matter has been referred to an external body for review, agencies may be required to provide relevant documents to that body.
If a matter has been referred to an external body for review, agencies may be required to provide all relevant documents to that body as required by law.	If a matter is referred to an external body for review, AusAID must provide all relevant documents to that body as required by law.