

# Procurement Complaints: Got a complaint?

## Factsheet

When undertaking procurement activity, Government agencies are required to comply with the principles and policies set out in the Treasurer's Instructions. Where a procurement is a 'covered procurement', Government agencies are also required to comply with the requirements set out in the *International Procurement Obligations* guideline.

A 'covered procurement' is one where an international free trade obligation applies.

If you are concerned that a Government agency is not or has not adhered to these requirements, principles or standards, you are entitled to make raise your concerns or make a complaint.

### Step 1: Contact the agency concerned and discuss the problem with the person named on the bid documentation:

If you have a concern about a specific procurement, you should seek to resolve the problem with the contact officer nominated in the procurement documentation in the first instance.

### Step 2: If not satisfied with the outcome:

#### 'Covered procurement'

Where your complaint arises from a 'covered procurement' **and** relates to contravention of an

'enforceable procurement provision', the *Government Procurement Review (International Free Trade Agreements) Act 2019* applies.

'Enforceable procurement provisions' are those contained in the guideline, *International Procurement Obligations*.

This Act provides for the lodging of a complaint with an agency and also allows you to apply to the Supreme Court of Tasmania for an injunction or compensation in accordance with the Act. The procurement may be suspended while the matter is dealt with unless a public interest certificate has been issued.

#### All other procurement complaints

For all other procurement, you should lodge a formal complaint with the relevant agency's [purchasing complaints officer](#). The agency will review your concerns and provide you with a formal response. Agencies will investigate complaints in a timely manner. However, for these complaints, there is no obligation for the agency to suspend the procurement (although it may choose to do so in appropriate cases).

All complaints are investigated free of charge.

#### Form of complaint

Your complaint should be made in writing. Please ensure that you provide all relevant information and supporting documentation.

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**Note:** Where your complaint is covered by the *Government Procurement Review (International Free Trade Agreements) Act 2019*, that Act requires that the complaint ***must*** be in writing.

### Step 3: Complaint still not resolved?

For procurements not covered by the *Government Procurement Review (International Free Trade Agreements) Act 2019*, where you still feel that your complaint has not been resolved, you can write to the Secretary of the Department of Treasury and Finance at:

GPO Box 147  
HOBART TAS 7001

You should provide all relevant information, including copies of correspondence with the agency including any advice received from the agency's complaint's officer in relation to your original complaint.

**Note:** If your complaint has not yet been investigated by the agency complaints officer, it will be referred back through that process prior to the Department of Treasury and Finance reviewing the matter.

The purpose of this investigation will be to determine whether the process undertaken was in accordance with the Government's procurement principles and policy requirements. It is not an appeal of the original decision. It is important to note that Treasury and Finance does not have the authority to compel an agency to change a procurement outcome. Also, if a contract has been entered into, it is unlikely that an agency would be able to overturn its original decision. However, identified learnings will be used to improve processes, guidance and training.

Advice on the outcome of the investigation will be provided to you, relevant agency personnel and relevant Ministers.

If you are not satisfied with the response from the Department of Treasury and Finance, you may wish to approach the Ombudsman or the Minister responsible for the tendering agency.

## ALLEGED CRIMINAL ACTIVITY

Allegations of official misconduct of a criminal nature should be referred directly to Tasmania Police.

## RESOURCES

Agency complaints officer contact details are available from the Purchasing website at <https://www.purchasing.tas.gov.au/winning-government-business/winning-business/unsuccessful-bid/got-a-complaint/agency-contact-officers-for-complaints-and-code-of-practice-matters>

The Treasurer's Instructions are available from the Department of Treasury and Finance website at <https://www.treasury.tas.gov.au/purchasing-and-property/procurement-treasurers-instructions>

The *International Procurement Obligations* publication is available from the Purchasing website at <https://www.purchasing.tas.gov.au/Documents/International-Procurement-Obligations.pdf>

The *Government Procurement Review (International Free Trade Agreements) Act 2019* is available from the Tasmanian Legislation website at <https://www.legislation.tas.gov.au/>

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