

## 8 PROCUREMENT COMPLAINT PROTOCOL

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### 8.1 PURPOSE

The purpose of this protocol is to set out the process for Bidders to file a complaint about a procurement activity.

### 8.2 INTERPRETATION

This protocol should be read in conjunction with the Nova Scotia Sustainable Procurement Policy. Terms used in this protocol are as defined in the Nova Scotia Sustainable Procurement Policy.

### 8.3 SCOPE OF THE PROCUREMENT COMPLAINT PROCESS

A Bidder that is not satisfied with the results of a bidder debriefing may file a complaint. The Bidder must request and attend a debriefing prior to engaging in the procurement complaint process.

The procurement complaint process set out in this protocol is meant to provide an opportunity for Bidders to voice complaints and to assist the Province in identifying any gaps or shortcomings in its procurement policies and practices. The process is intended to help resolve issues that involve no significant factual or interpretive disagreement between the parties. It is not intended to resolve fundamental disputes over facts or legal rights and obligations or to establish a mechanism to adjudicate such disputes.

The procurement complaint process will under no circumstances result in any contract award being set aside by the Province.

The procurement complaint process set out in this protocol shall not be used to challenge a procurement process in respect of which the Bidder has commenced legal proceedings against the Province.

### 8.4 PROCUREMENT COMPLAINT PROCESS

A Bidder that wishes to file a complaint must do so by submitting a request in writing to Procurement within sixty days from notification of award of contract. The request must include:

- A clear statement as to which procurement the Bidder wishes to file a complaint

- A clear explanation of the Bidder's concerns with the procurement, including specifics as to why they disagree with the procurement process or its outcome
- The Bidder's contact detail including name, phone number and email address.

Procurement, in cooperation with any involved Public Sector Entity (when applicable), then:

- reviews the complaint
- within ten business days of receipt of the Bidder's complaint, sends the Bidder written notification that:
  1. acknowledges receipt of the complaint
  2. a date has been set by which the Bidder will be contacted with a response (date must be within twenty-five days of receipt of the Bidder's complaint)

The Bidder's request for review and the notification must then be submitted to a Procurement Review Committee (PRC). The PRC is comprised of three representatives that were not involved in the procurement process in question from Procurement and the relevant Public Sector Entities.

Members of the PRC must:

- Sign individual conflict of interest declarations.
- Convene a meeting and, as a group, review the complaint outlining the Bidder's concerns, and seek clarification when necessary

Upon review of the complaint, the PRC has two options:

- If the PRC is satisfied that the Bidder's rationale for requesting a review is without merit, the PRC instructs Procurement to notify the Bidder in writing that the PRC has reviewed its concerns and that the PRC is of the opinion that the complaint is without merit
- If the PRC finds that the Bidder's complaint may have some merit, an appropriate response will be prepared and submitted to the Bidder from Procurement. Any response provided to a Bidder in accordance with this protocol is to be provided on a "without prejudice" basis, unless otherwise agreed by Procurement.