



SURF REGULATION ON HANDLING TENDER-RELATED COMPLAINTS 2014

This regulation applies to the SURF organisation which comprises the SURF holding company and the four operating companies SURFnet, SURFmarket, SURFsara and SURFshare. The Notes on the Regulation on Handling Tender-Related Complaints is a part of this regulation.

Article 1

A complaint is a written statement from an enterprise with an interest in the tender in which the entrepreneur expresses his or her disagreement with the tender or a part thereof, giving reasons.

Article 2

1. The entrepreneur clearly indicates he/she is lodging a complaint, the nature of the complaint and how he/she believes the problem could be resolved.
2. The complaint is signed, includes the name and address of the entrepreneur and specifies the tender involved.

Article 3

Complaints relate to aspects of tenders that fall within the scope of the Public Procurement Act 2012. The tenders to which complaints relate can be either European or national.

Article 4

1. Complaints cannot relate to the procurement policy of the Awarding Service in general.
2. A complaint relates to a specific action or omission of an Awarding Service that is contrary to statutory provisions or other regulations that apply to that Awarding Service.

Article 5

1. Only entrepreneurs with an interest in the award of a specific government contract may lodge a complaint, and these are limited to the following:
 - interested parties;
 - (potential) tenderers and interested parties;
 - subcontractors of (potential) tenderers and interested parties;
 - sector organisations and sector-related entrepreneur advice centres.
2. Subcontractors may lodge a complaint to the extent the complaint does not concern the main contractor-subcontractor relationship.
3. Anonymous complaints will not be accepted. A sector organisation may, however, lodge a complaint in a private capacity in objection to a procurement procedure that is employed by one or more entrepreneurs in the sector.

Article 6

The Complaints Committee is formed by two advisers of one or more SURF divisions not (directly) involved in the tender to which the complaint relates. At least one of the advisers must be a jurist.

Article 7

1. The entrepreneur must submit the complaint in an e-mail addressed to klachtencommissie.aanbestedingen@surf.nl
2. The Complaints Committee will confirm receipt of the complaint.



Article 8

1. The submission of a complaint does not automatically suspend the complaints procedure.
2. The Awarding Service is free to decide whether to suspend the procedure.

Article 9

1. The Complaints Committee investigates whether the complaint is legitimate, possibly based on supplementary information provided by the entrepreneur and the Awarding Service.
2. The Complaints Committee will launch this investigation as soon as possible, conduct it expeditiously and take account of the tendering procedure schedule to ensure it does not prejudice a proper assessment of the complaint.
3. The Complaints Committee will inform the Awarding Service in writing of its decision regarding the complaint.

Article 10

1. The Awarding Service will decide whether to adopt the recommendation issued by the Complaints Committee, informing the claimant of its decision as soon as possible by e-mail; the claimant will be informed whether the complaint is legitimate, the complaint is not legitimate, or whether the complaint is only partially legitimate, and what action the Awarding Service will take with respect to the complaint.
2. In the event that the Awarding Service rejects the complaint, the Awarding Service will give proper reasons for the rejection.
3. The Awarding Service will also inform the other (potential) tenderers/interested parties of its decision via a summary of additional information and changes.
4. Depending on the phase in the tendering procedure, it is possible that the parties involved in the tender and the lodger of the complaint will be informed of the action to be taken by the Awarding Service at the same time.

Article 11

The Complaints Committee may propose, at the request of the entrepreneur or the Awarding Service, that the complaint be submitted to the Committee of Tendering Experts before the Awarding Service comes to a final decision.

Article 12

If the Awarding Service informs the entrepreneur of how it came to its decision or if the Awarding Service fails to respond to the complaint within a reasonable term, the claimant may submit the complaint to the Committee of Tendering Experts. The claimant reserves the right to lodge an objection with a court of law.

Article 13

These Regulations take effect on 1 January 2014.

Appendix 1: Standard texts:

Standard text in procurement documents:

If you are of the opinion that the Awarding Service, in dealing with this tender, is acting in contravention to the applicable rules, you are entitled under the SURF Regulation on Handling Tender-Related Complaints 2014 to lodge an objection with the Complaints Committee via klachtencommissie.aanbestedingen@surf.nl.