



**rijksuniversiteit
 groningen**

**COMPLAINTS REGULATIONS FOR TENDERING
 PROCEDURES**

UNIVERSITY OF GRONINGEN

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INTRODUCTION

The University of Groningen (the UG) believes it is important to provide an opportunity for entrepreneurs to submit their complaint related to tenders in a very accessible way. The UG ensures that complaints are dealt with appropriately. This Complaints Procedure Procurement UG (the Complaints Procedure) aims to provide a framework for that purpose. The Complaints Procedure is based on the Guidelines on Complaint Resolution for Tendering Procedures (in Dutch: Handreiking Klachtenafhandeling bij aanbesteden van het Ministerie van Economische Zaken & Klimaat, versie januari 2022).

CHAPTER I: GENERAL PROVISIONS

1. Terms and definitions

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| Board of the University: | the Board of the University of Groningen. |
| Complainant | an Entrepreneur who has filed a Complaint with the Complaints Office of the UG. |
| Complaint: | a substantiated expression of dissatisfaction by an Entrepreneur with the acts or omissions of the Contracting Party, the UG, to the extent that such acts or omissions fall within the scope of the applicable Procurement Act and regulations. |
| Complaints Committee: | the officials who are involved in the handling of the Complaint and who issue a Recommendation on the Complaint to the Board of the University. The Complaints Committee is formed by officials of the UG with knowledge of laws and regulations relating to tenders and who are not or have not been substantively involved in the Tender to which the Complaint refers. |
| Complaints Office: | the UG Office to which an Entrepreneur can submit their Complaint, preferably via abjz@rug.nl . |
| Design Complaint: | a Complaint that deals with the stage prior to the closing date of registration/submission of a current Tender, such as Complaints on suitability requirements, selection criteria, award criteria, or contract conditions. |
| Entrepreneur: | a party involved in a Tender as a candidate or bidder. In this complaints procedure, 'Entrepreneur' also means a party's trade association or an industry-related procurement advice centre. |
| Recommendation: | a written, substantiated recommendation from the established Complaints Committee regarding the Complaint. |

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| Response: | the substantiated written handling of the Complaint by the Board of the University based on the Recommendation. |
| Tender(s): | a single or multiple private, national, or European tendering procedure for concessions, works, supplies, or services in which the UG is the contracting party. |
| University of Groningen (UG): | a government-funded educational institution as referred to in Article 1.1 under g of the Higher Education and Research Act (WHW), for the purposes of this procedure being a contracting party. |

2. Applicability

1. This complaints procedure is based on the Public Procurement Act 2012, the Proportionality Guide, and the Guidelines on Complaint Resolution for tendering procedures (Handreiking Klachtenafhandeling bij aanbesteden) of the Ministry of Economic Affairs and Climate Policy.
2. This complaints procedure regulates how the UG deals with a Complaint.
3. An Entrepreneur may file a Complaint about a Design, a selection or allocation decision of an ongoing Tender, or a case where the UG did not carry out a tender when, according to the Entrepreneur, it should have done so.
4. Subcontractors may file a Complaint provided that they do not complain about the main contractor-subcontractor relationship.
5. In case of a possible Design complaint, a question should be submitted first which will be answered in the Memorandum of Clarification. The UG provides ample opportunity to do so. If the Entrepreneur is dissatisfied with the response, or no response is provided, the Entrepreneur may file a Complaint with the Complaints Office.
6. In the event of an intended Complaint regarding a selection or award decision, the Entrepreneur should first contact the UG to request an explanation. If the Entrepreneur is dissatisfied with the response or no response is provided, the Entrepreneur may file a Complaint with the Complaints Office.
7. Notwithstanding the provisions of Paragraph 5, in case of a Design Complaint, the Entrepreneur does not have to submit a question first, if the Complaint arises from the last Memorandum of Clarification and less than 10 calendar days remain until the deadline for submitting a request for participation or a tender.
8. This complaints procedure only applies to Complaints in the context of Tenders. Complaints regarding the UG in general and the tendering policy in particular do not fall within the scope of this complaints procedure. For this, please refer to the UG's General Complaints Procedure, [General Complaints Procedure | Confidentiality, Complaints, Objections, and Appeals | University of Groningen \(rug.nl\)](#).

3. General provisions

1. The UG refers to this complaints procedure in the tendering documents.
2. A Complaint should be filed in a timely manner during the ongoing Tender. In case the Complaint does not concern an ongoing Tender, it may be filed at any time. Timely in this context entails that the Entrepreneur submits the Complaint at the time he is or should have been aware of relevant facts and circumstances relating to the Complaint. The Complaints Office will then ensure proper processing in accordance with Article 5.

3. In handling a Complaint, the Complainant(s) and the UG will cooperate where necessary. Thus, both the UG and the Complainant have a best-efforts obligation to provide and process information in order to resolve the Complaint.

4. Independent Complaints Committee

1. The UG has an independent Complaints Committee. This entails that the persons handling the Complaint are not (have not been) substantively involved with the Tender to which the Complaint relates.
2. The officials involved in the handling of the Complaint are assessed for each individual Complaint. In any case, there will be one official with knowledge of procurement and one official with knowledge of laws and regulations related to procurement. If necessary, a subject expert will be involved in handling the Complaint.
3. The Complaints Committee ensures the execution of all tasks mentioned in this complaints procedure.

CHAPTER II: HANDLING OF THE COMPLAINT

5. Complaints procedure

1. The Complainant must submit the Complaint in writing by post or digitally, with digital submission being preferred. Digitally, the Complaint can be submitted via the following email address: abjz@rug.nl. Submitting the Complaint in writing is possible by addressing it to: P.O. Box 72, 9700 AB Groningen, addressed to the Board of the University, for the attention of AJZ.
2. The submitted complaint must include the following:
 - a. subject: state "complaint", and if it concerns a specific Tender: name of the concerning Tender + reference of the Tender.
 - b. details Entrepreneur:
 - i. name of the Entrepreneur;
 - ii. name, position, and details of the contact person.
 - c. information relating to the Complaint:
 - i. description of the Complaint;
 - ii. the substantive grounds to justify the Complaint.

In case the Complaint does concern a case where the UG did not carry out a tender when, according to the Entrepreneur, it should have done, the Complaint need not include points iii, iv, and v.

- iii. Reference to the section of the tendering document to which the relevant Complaint relates, stating the page number and/or paragraph number;
 - iv. whether the Complaint has already been addressed in the Memorandum of Clarification, stating question number(s);
 - v. to what extent and why the Entrepreneur does not agree with the answer given by the UG.
- d. a substantiated proposal for a solution;
 - e. signature: date + name;
 - f. optional: attach relevant documents;
 - g. if the Complaint contains confidential information such as business and manufacturing data that have been disclosed confidentially by natural persons or legal entities to the government, in this case the UG (Art. 5.1(1)(c) Open Government Act (Woo)), or other competition-sensitive business and

manufacturing data (Art. 5.1(2)(f) Woo), the Entrepreneur will state this in the Complaint. This information will not be repeated in the Response;

- h. the Complainant's personal details will be handled in line with the AVG, processing only those details necessary to handle the complaint. The privacy statement, which is published with the complaints procedure, describes which personal details are processed. The details will be kept in accordance with the Universities and University Medical Centres Selection List 2020 https://www.nationaalarchief.nl/sites/default/files/field-file/Selectielijst%20universiteiten%20en%20umc%20oversie%20vastgesteld_0.pdf.
3. After receiving the Complaint, the Complaints Office will send an acknowledgement of receipt within three working days.
4. The time limit for sending the Response is no more than 15 working days after the day on which the acknowledgement of receipt was sent. The UG may deviate from this deadline on reasonable grounds.
5. Prior to considering the merits of the Complaint, the Complaints Committee examines whether and to what extent the Complaint is admissible. The Complainant is inadmissible the moment the Complaint is not filed in accordance with this Complaint Procedure.
6. If necessary, the Complaints Committee may request the Complainant and the UG to submit further information for the consideration of the Complaint.
7. If the Complaints Committee, in the case of a Design Complaint, anticipates that it will not be able to resolve the Complaint before the deadline for registration of the Tender, it will notify the Board of the University. The Board of the University will decide on suspension of the Tender, supported by reasons. The foregoing applies accordingly to Complaints regarding selection or award decisions in the event that the Complaints Committee anticipates not being able to settle the Complaint before the expiry of the suspension or expiry period.
8. The Recommendation states: inadmissible, founded, unfounded, or partially founded. If the Complaints Committee finds a Complaint to be (partially) founded, it will - in all cases where it sees opportunities to do so - provide a recommendation to the Board of the University on how to resolve the Complaint, or how to prevent it from happening in the future.
9. The Board of the University issues the Response to the Complainant, with the Recommendation attached. The Recommendation is adopted by the Board of the University, unless it departs from it with due justification.
10. The Response will be disclosed anonymously to the other Entrepreneurs involved through the appropriate means. For example, via the messaging module of the tendering website or through direct correspondence.

CHAPTER III: OTHER

6. Final Provisions

1. This complaints procedure may be referred to as "Complaints Regulations for UG Tendering Procedures".
2. This complaints procedure shall enter into force on 23 January 2023.

Adopted by the Board of the University of Groningen in its meeting dated 13 December 2022.