



**rijksuniversiteit
 groningen**

**COMPLAINTS REGULATIONS FOR TENDERING
 PROCEDURES**

UNIVERSITY OF GRONINGEN

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INTRODUCTION

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 will then ensure that the complaint is dealt with appropriately, and this complaints procedure aims to do exactly that. The 'Complaints Regulations for UG Tendering Procedures' is based on the Guidelines on Complaint Resolution for Tendering Procedures (Handreiking Klachtenafhandeling bij aanbesteden).

CHAPTER I: GENERAL PROVISIONS

1. Terms and definitions

1. **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.
2. **Recommendation:** the Recommendation is a written, substantiated recommendation from the established Complaints Committee on the Complaint.
3. **Response:** the substantiated written handling of the Complaint by the Board of the University based on the Recommendation.
4. **Board of the University:** the Board of the University of Groningen.
5. **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.
6. **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.
7. **Complaints Office:** the UG Office to which an Entrepreneur can submit their Complaint, preferably via abjz@rug.nl.
8. **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.
9. **Complainant:** an Entrepreneur who has filed a Complaint with the Complaints Office of the UG.
10. **Entrepreneur:** a party involved in a Procurement as a candidate or bidder. In this complaints procedure, 'Entrepreneur' also means a party's trade association or an industry-related procurement advice centre.
11. **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 Procurement Act 2012 (Aanbestedingswet 2012), the Proportionality Guide (de Gids Proportionaliteit), 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 asked first and then 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 forthcoming, then the relevant Entrepreneur may file a Complaint with the Complaints Office.

6. In the event of an intended Complaint about a selection or allocation decision, the Entrepreneur should first contact the UG to ask for an explanation. If the Entrepreneur is dissatisfied with the response or no response is forthcoming, then the relevant Entrepreneur may file a Complaint with the Complaints Office.
7. The first paragraph of Section 2.54 of the 2012 Procurement Act (Aanbestedingswet 2012) stipulates that further information on the tender documents must be provided no later than 10 days before the deadline for submission of applications, provided that the request for information was submitted in a timely manner before the deadline for submission of applications. If an Entrepreneur has a question relating to new information from the latest Memorandum of Clarification, the UG must offer the Entrepreneur the opportunity to submit this question to the Complaints Office as if it were a Complaint. This applies only if the ten-day term referred to in Article 2.54 has expired before the application deadline.
8. This complaints procedure only covers Complaints in the context of Tenders. Complaints about 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 a current Tender, it may be filed at any time. Timely in this context means 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 adequate handling in accordance with what is stated in Article 5. In dealing with a Complaint, the Complainant(s) and the UG will cooperate where necessary. In other words, there is a best-efforts obligation for both the UG and the Complainant to provide and process information to deal with the Complaint.

4. Independent Complaints Committee

1. The UG has an independent Complaints Committee. This means that the persons handling the Complaint are not or have not been substantively involved in the Tender to which the Complaint refers.
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 these regulations.

CHAPTER II: HANDLING OF THE COMPLAINT

5. Complaints procedure

1. The Complainant must submit the Complaint in writing 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 not concern a specific Tender, 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, (Wet open Overheid, 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%20open%20umc%20oversie%20vastgesteld_o.pdf.
3. After receiving the Complaint, the Complaints Office will send an acknowledgement of receipt within three working days at the latest, with a time period within which the Complainant can expect a Response to the Complaint.
 4. The time limit for sending the Response to the Complaint is no more than 10 working days from the day of sending the acknowledgement of receipt. The UG may deviate from this deadline on reasonable grounds.
 5. Before dealing with the substance 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 UG to submit further information for the consideration of the Complaint.
 7. If necessary, the Complaints Committee will advise the Board of the University whether the ongoing tendering procedure or the standstill period should be suspended. The Board of the University either adopts this advice or deviates from it, providing reasons.
 8. The Recommendation on the Complaint is: inadmissible, valid, unfounded, or partially valid.

9. The Board of the University informs the Complainant of the UG's Response with reasons, with the Recommendation attached. The Complaints Committee's Recommendation is adopted by the Board of the University, unless reasons are given for deviating from it.
10. The Response to the Complaint will also be anonymously disclosed to the other concerned Entrepreneurs through the appropriate means, for example, through 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 comes into force on 23 January 2023.

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