

COMPLAINTS PROCEDURE FOR PUBLIC TENDERS – AIR TRAFFIC CONTROL THE NETHERLANDS (LVNL) 2025

Article 1: Complaint

A complaint is a written notification from an supplier with an interest in the tender in which the supplier gives substantiated notice of an alleged inaccuracy or illegality in a tendering procedure.

Article 2: Complaints Desk for Tenders

1. There is a “Complaints Desk for Tenders” at Air Traffic Control the Netherlands (LVNL).
2. Complaints reported to the Complaints Desk for Tenders are handled by the internal complaints committee.

Article 3: Submitting a complaint

1. A complaint is submitted by email to complaintpublictender@lvnl.nl
2. The complaint must contain:
 - the name and address of the supplier;
 - a description of the complaint accompanied by reasons, and the (legal) grounds the complaint is based on; and
 - a suggestion for a substantive compensation of the complaint.

Article 4: Scope of the procedure

1. Complaints relate to certain acts or omissions by LVNL in a current European, national, or multiple-negotiated tendering procedure that falls within the scope of the Public Procurement Act 2012.
2. Complaints regarding LVNL’s general tendering policies are not within the scope of this procedure.

Article 5: Interest

Suppliers with an interest in a tendering procedure can submit a complaint. An supplier with an interest is:

- a confirmed or potential tenderer or a confirmed or potential candidate;
- a subcontractor of a confirmed or potential tenderer or a confirmed or potential candidate; or
- a trade association.

Article 6: Handling of the complaint

1. The internal complaints committee consists of a chair, secretary and one or more members, depending on the nature of the complaint. The chair shall not appoint any members who are directly involved in the tendering procedure related to the complaint.
2. The complaints committee confirms the receipt of the complaint by email as soon as possible.
3. The complaints committee will assess the complaint’s substantive admissibility (eligibility for consideration) at their earliest convenience.
4. The complaint can be considered substantively if and when:
 - the requirements set out in Articles 3, 4, and 5 are met, and
 - if the tendering procedure has had sessions of questions, a question, comment or request with the same content as the complaint was submitted in the sessions of questions, prior to submitting the complaint. This does not apply to complaints about actions and documents dated after the last session of questions.

In case of any shortcomings pursuant to Article 3, the supplier that submitted the complaint is given a reasonable time to rectify the shortcoming.

5. The supplier may indicate that handling the complaint is only relevant if this occurs before the deadline for submitting bids in the tendering procedure. If the supplier has indicated this and, in the opinion of the complaints committee, there is insufficient time for diligent handling of the complaint, the committee will not take the complaint under consideration. In that case, the supplier will be made aware of other options for legal protection.

6. If, in the opinion of the complaints committee, the complaint cannot be handled substantively, the committee will notify the relevant supplier by email, accompanied by reasons.
7. If it is possible to handle the complaint substantively, the complaints committee will investigate the complaint. Parties will not be heard in a hearing.
8. The submission of a complaint does not suspend an ongoing tendering procedure.
9. The submission of a complaint about an award decision does not suspend the period of legal protection.
10. The complaints committee will issue an advise on the merits of the complaint and on any corrective or preventive measures to be taken. The committee will send its advise to the manager of the Contracting & Procurement Department. The advise is not legally binding.
11. The manager of the Contracting & Procurement Department will reach a decision regarding the complaint with all due consideration of the advice of the complaints committee. The manager will notify both the supplier and the complaints committee at their earliest convenience. Other suppliers competing in the tendering procedure will be informed simultaneously if measures are taken that affect them directly.

Article 7: Committee of Procurement Experts and the courts

1. The complaints committee may decide that, before a decision is reached, the complaint should be referred to the external Commission of Procurement Experts for mediation or advice.
2. If an supplier disagrees with the decision regarding their complaint, or if a decision regarding their complaint has not been reached within a reasonable time, they may refer their complaint to the committee mentioned in the previous paragraph.
3. If the supplier brings summary proceedings before the courts regarding the subject of their complaint, the handling of the complaint will be discontinued.

Article 8: Citation and entry into force

1. This procedure shall be cited as: Complaints Procedure for Public Tenders – LVNL 2025;
2. This procedure will enter into force on 1 April 2025.