

Procurement Complaints

A business guide on making a compliant

POWER AND WATER CORPORATION'S
PROCUREMENT FRAMEWORK





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Contents

1	Introduction.....	4
1.1	Overview of the guideline	4
1.2	Understanding complaints	4
1.3	The purpose of a complaints process	5
1.4	Power and Water’s responsibilities	5
2	How to make a complaint	6
2.1	Tender debriefings	6
2.2	Making an informal complaint	6
2.3	Making a formal complaint	6
2.4	Mediation.....	7
2.5	Ombudsman.....	7



1 Introduction

Power and Water are responsible for providing essential services to the people of the Northern Territory, including electricity distribution, gas supply, and water and sewerage services over a land area of 1.421 million kilometres. The majority of Power and Water's business activities can be classified as an asset management business. Assets are constructed, acquired, deployed, managed and operated in order to deliver these essential services in accordance with customer expectations and statutory or regulatory requirements at the most efficient cost achievable and each of these steps requires a 'procurement' activity of one sort or another.

Since 1 July 2014, Power and Water have operated under our own procurement framework, which sits outside the Northern Territory Government's Procurement Framework.

This shift reflects the need for a greater focus on commercialisation and allows us to procure goods, works and services in a way that better suits our customers and suppliers.

This guideline is for all suppliers that provide goods, works and services to Power and Water and wish to provide feedback or make a complaint about any aspect of a procurement process or Power and Water's Procurement Framework.

Please read this guideline in conjunction with our '*Selling to Power and Water: a guide for business*', which will provide additional information about Power and Water's procurement processes. As a supplier, it may be beneficial knowing where to find the rules that govern procurement at Power and Water and will ensure enquiries and complaints are well managed and responded to.

1.1 Overview of the guideline

The purpose of this guideline is to assist in:

- giving feedback on any aspect of procurement at Power and Water
- finding the best options to raise complaints
- raising a complaint about a specific Power and Water procurement activity or decision
- escalating a complaint when other options have been exhausted.

1.2 Understanding complaints

In order to effectively deliver quality utility services to the Northern Territory, Power and Water rely on maintaining operative partnerships with suppliers that provide goods, works and services. As either a supplier, or prospective supplier, there may be an instance where you wish submit a formal complaint to express your dissatisfaction about a Power and Water decision, action or process in relation to a procurement activity.

As a supplier, you have the right to be treated fairly, impartially, consistently and equitably throughout the procurement process - this is the very basis of our second key procurement principle. You also have the right to have complaints investigated promptly and without disadvantage. It is important to note that making a legitimate complaint will not jeopardise your involvement in ongoing or future procurement opportunities at Power and Water.

Equally, as a supplier you have a responsibility to attempt to resolve complaints with us before seeking external intervention.

Complaints regarding Power and Water's Procurement Sourcing Rules and principles are not dealt with by Power and Water and should be directed to the Ombudsman of the Northern Territory (refer 2.5).

Power and Water and all of its suppliers should at all times aim to conduct business from a foundation of mutual trust and respect.



1.3 The purpose of a complaints process

Power and Water is one of the largest buyers of goods and services in the Northern Territory, and with such a volume of transactions, it is reasonable to expect that some suppliers' procurement experiences won't meet their expectations. We see these experiences as valuable feedback to help us improve our procurement processes.

Having a comprehensive complaints process helps both suppliers and Power and Water by improving the procurement processes and strengthening our relationships. We are committed to setting and achieving high standards in our procurement activities, but with such a large number of transactions each year, we may not always get it right every time. We take every concern raised by a supplier seriously and our focus is on ensuring that Power and Water provide a full response to all issues raised.

It is important that you are aware that making a complaint will not result in delay, suspension or reversal of any procurement action unless expressly advised by the Chief Procurement Officer in writing.

We highly value suppliers' complaints and feedback because it helps us continually improve our service delivery.

1.4 Power and Water's responsibilities

Power and Water has a responsibility to create a successful, mutually beneficial procurement process, in order to deliver effective outcomes for all parties involved. Power and Water's responsibilities include:

- ensuring all staff understand Power and Water's procurement rules and demonstrate good procurement practice.
- undertaking market analysis before calling for tenders so that the scope of works is clearly defined and understood and the cost estimate is as accurate as possible. This may involve some contact with potential suppliers, refining the initial needs analysis and testing options and innovations with the market.
- being open to requests from suppliers for more information during a tender. In answering your request, we must avoid giving you an advantage. This usually involves issuing an addendum so all potential suppliers have equal access to the same additional information.
- offering you a debrief at the end of a tender process on how your submission was assessed. The debrief will include the relative strengths and weaknesses of your submissions but not those of other suppliers.
- resolving your concerns or queries as quickly as we can through open and honest communication.
- observing your right to a fair, impartial and prompt investigation of any complaint.

As a potential supplier, it is recommended that you:

- understand Power and Water's procurement processes before responding to any Power and Water approach to market;
- develop the skills and investing in the time required to respond to an approach to market in a competitive way; and
- act with integrity when dealing with Power and Water in relation to procurement activities.

Your right to raise a complaint

Power and Water will not stop giving you work or exclude you from future tenders just because you have made a complaint about the procurement process.

We recognise the right of all suppliers to be treated fairly, impartially and consistently at all stages of our procurement process.

This includes maintaining ethical standards of behaviour throughout that process.

Ask your contract manager for a copy of the six principles that govern all Power and Water's procurement activity.



2 How to make a complaint

2.1 Tender debriefings

If your complaint is in relation to a tender activity in which you made a submission to, before lodging a complaint, it is important to first attend a debriefing session hosted by the tender assessment panel to gain an understanding of the reasons behind the decisions taken. Details of how to arrange a debrief will be included in the advice from Power and Water of the outcome of your submission.

We encourage all suppliers to attend tender debrief sessions as they are an opportunity to understand the strengths and weaknesses of submissions, so suppliers can make improvements for future submissions.

The purpose of the debrief is not to justify the selection of the winning tender, it is to provide valuable and constructive feedback on your own response to help you submit a stronger submission in future.

Items that may be discussed at tender debriefings include:

- performance of your submission against the assessment criteria
- the strengths and weaknesses of your submission
- your experience, qualifications, references and past performance
- cost competitiveness
- adequacy of your quality management systems
- experience, skills and knowledge of your staff
- facilities and equipment issues
- sub-contracting issues.

Power and Water may also use the debrief as an opportunity to improve the quality of our own tender documentation and procurement processes, so you may also be asked to provide feedback during the debrief session.

2.2 Making an informal complaint

At the conclusion of a tender process and debriefing, you may still be concerned that the process was inconsistent or the assessment inaccurate or unfair. These concerns may arise from poor communication leading to misunderstandings about how the tender process was undertaken.

If you have concerns, it is recommended to first raise concerns informally with your contract manager or the Chief Procurement Officer at Power and Water before proceeding with a formal complaint.

To contact the Chief Procurement Officer email CPO@powerwater.com.au in the first instance.

2.3 Making a formal complaint

If you remain dissatisfied after the informal approach, you may choose to submit a formal complaint. Formal complaints should be addressed directly to Power and Water's Chief Procurement Officer in writing. It is important to document all relevant information to support your case and assist in the complaint investigation.

Complaints may be outlined in a letter or email, and include the following information:

- information about the tender in question and relevant dates, including date advertised, closing date and awarded date
- a brief summary of the problems or concerns you may have
- an outline of your dealings with Power and Water on this matter that gave rise to the complaint
- details of any related phone calls you have had, copies of any letters and emails you have sent or received and the names of people at Power and Water you have been dealing with



- a summary of the information you were given at the debrief and why this doesn't resolve the problem or complaint
- an explanation of what you would like Power and Water to action, such as provide more information, investigate specific facts or take a particular course of action
- your contact details, including business name, your position in the business, business address, phone numbers and email address.

When you address your letter or email to the Chief Procurement Officer at Power and Water, your letter will be acknowledged within five business days and you will be advised of the subsequent steps. This may involve a meeting to try to resolve the issues raised or a commitment by Power and Water to further examine and address the issues you have raised.

Power and Water will attempt to address your complaint as quickly as possible. The time required to do so will depend on the nature and complexity of the issues raised. Where the process is likely to be lengthy, the Chief Procurement Officer will advise you in writing of how long the process is anticipated to take. Most complaints can be addressed within three to four weeks, however if the complaint is complex or there is an unavoidable delay, the Chief Procurement Officer will advise of any extended timeframe.

Once Power and Water has investigated your complaint, you will be given a written response that will outline the internal review of the process and list findings and conclusions. The letter may state the decision made and, where appropriate, what additional steps will be taken to resolve the situation.

Formal complaints that are made through a Northern Territory Government Minister or their office are handled differently to the formal complaint process outlined above. Once a complaint is submitted to a Minister, Power and Water cannot liaise directly with the complainant, rather all correspondence, communication and responses to the complaint must go through the Minister's office before being relayed to the complainant. This process inherently adds to the timeframe in resolving the complaint, and it is recommended you note this if you decide to pursue this option.

If you remain unsatisfied in the formal complaints process, there are a number of other options to pursue your complaint, as detailed below.

2.4 Mediation

If you were unable to reach a satisfactory outcome with Power and Water's internal complaints process, the Community Justice Centreⁱ may be able to help resolve a dispute without going to court.

The Community Justice Centre was established by the Northern Territory Government to provide mediation services to the community to help people resolve their own disputes without legal action. The service is free, confidential, voluntary, timely and easy to use.

If you wish to try to resolve the matter through mediation, you first need to approach Power and Water and seek agreement to participate.

2.5 Ombudsman

The Ombudsman of the Northern Territoryⁱⁱ can investigate a complaint into an administrative action of all public authorities in the Northern Territory, including Power and Water.

To make a complaint to the Ombudsman:

- Call: 1800 806 380
- Email: nt.ombudsman@nt.gov.au
- Write to: PO Box 1344, Darwin NT 0801
- Complete an online complaint form: follow the links from www.ombudsman.nt.gov.au



A complaint may be made about any decision, recommendation, action or inaction by Power and Water within the Ombudsman's jurisdiction. For example, you may complain about:

- the procurement process Power and Water used to make a decision
- a delay in taking any action
- any requirement that Power and Water has placed on you in the delivery of a contract that you believe is unreasonable
- a harsh or wrong decision
- the Power and Water Procurement Sourcing Rules and principles
- any other action by Power and Water.

The Ombudsman can make recommendations to Power and Water but does not make enforceable orders. The Ombudsman may decline to deal with your complaint if you have not first taken your complaint to Power and Water or where the Ombudsman considers there is a more appropriate forum for dealing with the dispute. Complaints to the Ombudsman must set out why you remain dissatisfied with the outcome, define how the action was wrong or harsh, and make it clear what outcome is being sought. The Ombudsman cannot change a decision by Power and Water to engage with the successful supplier. In taking a complaint to the Ombudsman, you should provide copies of all relevant communications with Power and Water.

If you are still unsatisfied after this process, you may wish to progress your complaint through the formal judicial process.

You should only proceed to the formal judicial process once you have first tried in good faith to resolve the matter with Power and Water via mediation and through the Ombudsman.

ⁱ Community Justice Centre. www.nt.gov.au/law/processes/resolving-disputes-without-going-to-court

ⁱⁱ Ombudsman of the Northern Territory. www.ombudsman.nt.gov.au/complaints