

Complaints procedure for tenders conducted with N.V. Nederlandse Gasunie, applicable from 1 July 2021

1. Introduction

Good communication between parties in a tendering procedure is essential for achieving a satisfactory result. When parties disagree, it is important to find a solution quickly and easily. Handling complaints properly is essential to this process and this complaints procedure can help with this.

2. Scope

A complaint is a written notification from the tenderer or candidate concerned in which he/she states, with reasons, why he/she does not agree with the tendering procedure (or part of the procedure). Complaints about N.V. Nederlandse Gasunie's purchasing policy or proposals for its improvement are outside the scope of this complaints procedure. Comments relating to this can be sent to: procurement@gasunie.nl.

Complaints that are within the scope of this framework must relate to concrete tendering procedures. Not every issue raised during a tendering procedure needs to result in a complaint and not every complaint needs to set the complaints procedure in motion. In principle, a complaint can only be submitted if a question has first been asked about the concerned subject.

Questions and requests aiming to obtain clarification on certain aspects of the tendering procedure must be submitted to N.V. Nederlandse Gasunie's tendering team in good time so that they can be addressed in the note of information (or, if there is a legitimate commercial interest in confidentiality, in a written response not included in the note of information) or, in the case of a question submitted after the publication of the information note, in a separate response. If the candidate or tenderer still does not agree with the response given in the note of information or the answer provided in confidence, or the separate response, the candidate or tenderer may then submit a complaint to N.V. Nederlandse Gasunie. Complaints may be submitted at any time during the tender procedure, but: ask questions first, then complain.

3. What is a complaint

A complaint is a written notice in which the complainant substantiates that he does not agree with the tender or a part thereof. Complaints relate to aspects of tendering that come within the scope of the Dutch Public Procurement Act 2012 and may concern, among other things:

- The transparency of the process;
- Equal treatment;
- Proportionality;
- The tender documents;
- The specified deadlines;
- The actual conduct of N.V. Nederlandse Gasunie during the tendering procedure.

4. Who can submit a complaint?

Complaints can be submitted by:

- A (potential or actual) candidate; or
- A (potential or actual) tenderer; or
- An association with full legal capacity whose aim is to promote both the collective and individual interests of its members, insofar as at least one or more of these members is actually involved in the tendering procedure; or
- Subcontractors may submit a complaint insofar as the complaint does not relate to the main contractor-subcontractor relationship, or
- A sectoral organisation on behalf of an operator.

It is not possible to submit a complaint anonymously.

5. The complaints desk

Anyone who is entitled to file a complaint needs to know the point of contact for submitting a complaint to N.V. Nederlandse Gasunie. According to the complaints procedure, this point of contact is the complaints desk. N.V. Nederlandse Gasunie's complaints desk can be reached via klachtenmeldpunt.aanbestedingen@gasunie.nl. Complaints desk employees are appointed by the Manager Corporate Legal and the Manager Procurement (FP). Complaints are handled by two complaints desk employees who are not directly involved in the tendering procedure concerned.

6. The complaint process

The complaint is submitted in writing (digitally) to the complaints desk. This complaint states the name of the tender and clearly explains the nature of the complaint. The complaint contains the grounds for the complaint and a proposal for resolving the issue. The complaint also contains the date, name, address and telephone number of the complainant together with their email address and, if possible, the reference used by N.V. Nederlandse Gasunie (the WS number) for the tendering procedure.

The complaints desk confirms receipt of the complaint immediately and gives a target date for reaching a decision. If the complaint has not previously been submitted to the tendering team as a question, the complaints desk will forward the complaint to the tendering team for settlement. In these cases, the complaints desk will inform the tenderer by e-mail.

6.1 Complaints

- a. N.V. Nederlandse Gasunie's contact person for the tendering procedure concerned is informed of the complaint by the complaints desk as soon as possible. This contact person informs N.V. Nederlandse Gasunie's tendering team.
- b. The complaints desk then investigates whether the complaint is justified, possibly by reference to additional information provided by the complainant and N.V. Nederlandse Gasunie's tendering team. The complaints desk will begin this investigation as soon as possible, and will pursue it actively, whilst taking account of the tendering procedure's planning schedule.
- c. The complaints desk informs N.V. Nederlandse Gasunie of the outcome of the investigation and makes this information available.
- d. If, following the investigation by the complaints desk, N.V. Nederlandse Gasunie comes to the conclusion that the complaint is justified, or partially justified, and N.V. Nederlandse Gasunie takes corrective and/or preventive measures, the complaints desk will inform the complainant concerned in writing on behalf of N.V. Nederlandse Gasunie as soon as possible. The other candidates or tenderers involved in the tendering procedure are informed if the principles of transparency or equality so require. Depending on the stage of the tendering procedure, N.V. Nederlandse Gasunie's contact person for the tendering procedure concerned may inform all those involved in the tendering procedure of the measures (via a note of information) at the same time as the complainant receives the notice.
- e. If, following the investigation, N.V. Nederlandse Gasunie comes to the conclusion that the complaint is not justified, or that the complaint was submitted too late given the status of the tendering procedure, the complaints desk will reject the complaint on behalf of N.V. Nederlandse Gasunie, stating reasons, and it will notify the complainant.

Submission of a complaint does not automatically suspend the tendering procedure.

This complaints procedure does not affect the right to have a tender-related dispute with N.V. Nederlandse Gasunie settled by the summary trial judge of the North Netherlands court, Groningen, in accordance with the provisions of ARN 2016 (Dutch Procurement Regulations for the Utilities Sectors).