

Complaints procedure for tenders conducted with N.V. Nederlandse Gasunie, applicable from 3 April 2023

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.

N.V. Nederlandse Gasunie's ("Gasunie") complaints desk can be reached via klachtenmeldpunt.aanbestedingen@gasunie.nl.

2. Scope

This complaints procedure applies if it has been declared applicable in the tender documents. If another contracting authority uses this complaints procedure, references to "N.V. Nederlandse Gasunie" must read "the contracting authority in question". For the sake of completeness, it is noted that a complaint under this regulation about a tender procedure conducted by an entity affiliated to Gasunie will be handled by Gasunie.

Complaints about 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.

Questions first, then complain!

In general, a complaint can only be submitted if a question has first been asked on the related subject. An exception applies if the complaint arises in response to the (last) note of information and could not reasonably have arisen earlier, up to 10 days before the deadline for submission of the tender.

Questions and requests aiming to obtain clarification on certain aspects of the tendering procedure must be submitted to Gasunie's tendering team in good time. This will allow, the tendering team to respond to it within the framework of the tender procedure (as, for example, in the note of information).

If the candidate or tenderer still does not agree with the response given, the candidate or tenderer may then submit a complaint to Gasunie. Complaints may be submitted at any time, but: question first, then complain.

3. What is a complaint

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 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 Gasunie. According to the complaints procedure, this point of contact is the complaints desk. Gasunie's complaints desk can be reached via klachtenmeldpunt.aanbestedingen@gasunie.nl.

Complaints are handled by at least persons who are not directly involved in the tendering procedure concerned.

6. Requirements regarding the form and content of the complaint

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 complaint. 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 Gasunie (the WS number) for the tendering procedure.

7. The complaints procedure

The complaints desk confirms receipt of the complaint immediately and gives a target date for reaching 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 tenderer by e-mail.

7.1 Complaints

- a. 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 Gasunie's tendering team.
- b. The complaints desk may advise the contact person to consult with the complainant at short notice.
- c. The complaints desk then investigates whether the complaint is justified, possibly by reference to additional information provided by the candidate or tenderer and 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.
- d. The complaints desk informs Gasunie's tendering team of the outcome of the investigation and makes the advice available to it and to the complainant.
- e. If, following the investigation by the complaints desk, Gasunie comes to the conclusion that the complaint is justified, or partially justified, and Gasunie takes corrective and/or preventive measures, Gasunie will inform the complainant concerned in writing on behalf of 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.
- f. Gasunie will only deviate from the advice if it cannot agree with it on reasonable grounds and will communicate this to the complainant stating reasons.

Submission of a complaint does not automatically suspend the tendering procedure. If necessary, the complaints desk will indicate to Gasunie whether the tender procedure or the standstill period should be suspended. Gasunie may deviate from this, stating its reasons.

This complaints procedure does not affect the right to have a tender-related dispute with Gasunie settled by the summary trial judge of the North Netherlands court, Groningen.