

Guidelines on How to Submit a Complaint to the Accounting Officer and the Complaints Review Committee

Preamble

To achieve fairness in the procurement and disposal of assets processes the Public Procurement and Disposal of Assets Act 2018, and the Regulations 2024 provides for an opportunity for bidders to apply for administrative review of their submitted bids to the Accounting Officers and if not satisfied with the action taken, they can then apply for review by the Complaints Review Committee of the Public Procurement and Disposal of Assets Authority (PPDAA)

This guideline is intended to guide Bidders on how to submit their applications for administrative review of bids to the Accounting Officers and to the Complaints Review Committee of the PPDAA (herein referred as the Committee).

Bidders are also advised to read Sections 77 to 79 of the PPDA Act 2018, and Chapter XVI of the PPDA Regulations 2024.

Debriefing by the Procuring Entity

In accordance with Section 51(2) of the PPDA Act 2018, the Accounting Officer is required, before the award of the contract, to issue a notice of intention to award the contract which shall include the name of the winning bidder, the contract amount and completion/delivery period. It shall also include, for each bidder, the reasons why its bid was not selected.

Once the notice of intention of award is issued, and you are not satisfied with the reasons provided therein for losing the bid, you may request for a debriefing by the Procuring Entity in accordance with Regulation 131 of PPDA Regulations 2024.

So instead of rushing to submit a complaint relating to the award of contract, it is advisable first to seek a debriefing which will enable you to understand in details why your bid was not successful. The debriefing, not only will it provide you with enough information to prepare and submit a winnable complaint but will also a feedback for improvement in future bids.

Review By the Accounting Officer

1. A bidder may seek administrative review of any decisions taken by omission of the provisions of bidding documents by a procuring entity as follows:
 - Complaints concerning the terms of advertisement or other forms of solicitation, pre-qualification or short-listing or decisions or actions taken by the procuring entity in pre-qualification or shortlisting proceedings shall be submitted within ten (10) working days from the date the bidder first became aware of the circumstances giving rise to the complaint and prior to the deadline for submission of bids. ;
 - complaints concerning other decisions, award recommendations, or omissions in the evaluation of bids shall be submitted within the standstill period;
 - Where no standstill period has been applied, a complaint must be submitted within ten (10) working days from the date the bidder first became aware of the circumstances giving rise to the complaint
2. A complaint by a bidder must first be submitted in writing to the Accounting Officer of a PE to which the bidder is participating in the bid process in accordance with Regulation 214 of PPDA using **Form PPDA/CR/01**;
3. Upon receipt of the Complaint, the Accounting Officer shall, within three days, determine the timeliness of the submission of the complaint. If the complaint is determined to be submitted out of time, the Accounting Officer shall dismiss it and notify the Complainant using **Form PPDA/CR/02**.
4. For complaints found to be timely submitted, the Accounting Officer shall within ten (10) working days from the date of receipt of the complaint issue a decision stating corrective measures taken, including suspension of the procurement proceedings if he/she deems it necessary. The Accounting Officer shall give reasons for the decision taken.
5. The Decision of the Accounting Officer shall be issued using **Form PPDA/CR/03**, a copy of which shall be submitted to the Authority.

Review by the Complaints Review Committee

6. A bidder may apply for review by the Committee if:
 - Not satisfied with the decision of the Accounting Officer following its submission of a complaint to him/her;
 - The Accounting Officer fails to issue a decision within ten (10) days as required by the PPDA Act 2018.
7. The application for review by the Committee must be submitted within ten (10) working days following the communication of the decision, or expiry of the deadline for issuance of the decision by the Accounting Officer.
8. Once the review proceedings by the Committee is commenced, consideration of the relevant application shall not be within the competence of the Accounting Officer of the respective Procuring Entity.
9. The Bidder's application for review by the Committee shall include all the information stated in Regulation 197(2) & 3 of the PPDA Regulations 2024, and shall be submitted using **Form PPDA/CR/04**
10. The Bidder shall submit evidence of payment of application fees in accordance with Schedule One of this Guideline. The Committee shall not entertain an application of review if the fee has not been paid.
11. After receiving the application for review, the Committee shall notify the Procuring Entity and all known bidders of the application and its contents and shall publish a notice about the application for review on the Authority's Website using **Form PPDA/CR/05**
12. Any bidder participating in the procurement proceedings whose interests are or could be affected by the review proceedings has a right to participate in the review proceedings. A bidder duly notified of the proceedings that fails to participate in the review proceedings is barred from subsequently making the same type of claim. Bidders wishing to join in the review proceedings shall submit their application through **Form PPDA/CR/06** and shall be required to pay review fees.
13. The Committee not later than three working days after receipt of the complaint decide, whether the complaint shall be entertained or dismissed.
14. The Committee may dismiss the complaint if it decides that the complaint is manifestly without merit, was not submitted within the deadlines set out in the Regulations or the applicant is without standing to submit a complaint. The dismissal of a complaint shall be made using **Form PPDA/CR/07**
15. The Committee shall notify the applicant, the procuring entity and all other participants in the procurement proceedings of the complaint's rejection and its reasons, as well as termination of the current suspension.

16. If the Committee decides to proceed with the review of the complaint, it shall notify the applicant and any other bidder who has joined in the review proceedings using **Form PPDA/CR/08**, and shall required to pay a complaint processing fee in accordance with Schedule One of this Guideline
17. The Committee shall order the suspension of the procurement proceedings or of the performance of a procurement contract or of the operation of a framework agreement, as the case may be, for a period of ten working days.
18. The Complaint Review Committee may also order that any suspension applied be extended or lifted, where necessary.
19. The Committee may conduct the review by examination of documents submitted to it without conduct of any hearing of the parties. However, if hearing is found necessary the Committee shall inform the parties and fix the date, time and place of hearing as soon as an application is received, but not later than three working days after such a receipt. A notice for hearing shall be given by the Committee using **Form PPDA/CR/09**.
20. Any hearing shall be held in public within fifteen days of receipt of the application for review, and the applicant may appear in person or be represented by a legal practitioner.
21. The Committee shall issue its decision within 21 days from the date of the application, stating the reasons for the decision and remedies granted in Accordance with Regulation 207 of PPDA Regulations 2024.
22. A copy of the decision of the Committee shall be provided to the applicant; any other bidders or parties who participated in the review proceedings; and the Accounting Officer.
23. A public version of the decision omitting the confidential information shall be published on PPDA's website.
24. A decision of the Committee shall be binding on all parties concerned. However a party not satisfied with the decision may appeal to the High Court.

SCHEDULE ONE

FEES PAYABLE

(in accordance with Regulation 198 of PPDA Regulations, 2024)

Application for Complaints Review by the Committee	USD 50
On Opting to join in the Complaints Proceedings	USD 50
Complaints Processing Fee	USD 100

