Vendor Concern Process
SaskBuilds
Introduction

Through the application of this process, the Government of Saskatchewan (GOS) is committed to supporting our economy, environment, and society through the exercise of quality procurement by:

- Ensuring that the GOS requirements for goods, services, construction and facilities are met through an open, fair, and transparent process that maximizes competition and value for the public.
- Ensuring bidders have reasonable notice and opportunity to tender.
- Providing processes that encourage competitiveness and innovation by Saskatchewan businesses which in turn will contribute to the sustainable prosperity of the province.
- Ensuring GOS procurement decisions consider the benefit to the environment and social fabric of Saskatchewan.
- Adhering to all trade agreements which create economic opportunities for the citizens of the province.
- Adhering to all GOS policy in respect to procurement.
- Being accountable for procurement decisions.

The information in this guide is intended to provide government entities, industry and the general public with information on the process and procedures on how government responds to vendor concerns regarding government procurement competitions led by Single Procurement Service (SPS).

Questions and inquiries regarding this process may be directed to:

SaskBuilds
Single Procurement Service
Chief Procurement Officer
720 - 1855 Victoria Avenue
REGINA SK S4P 3T2
email: greg.lusk@gov.sk.ca
Scope of the Vendor Concern Process

A method to handle vendor concerns and to improve the government’s procurement process is an integral part of a fair and open procurement policy. The following facilitates this objective, allowing government to handle concerns in an organized, consistent manner and to ensure enhanced transparency in order to improve upon the procurement process.

A concern means a written objection submitted by a potential vendor regarding a procurement process, a bid solicitation, a contract award or a proposed contract award for goods, services, facilities or construction.

Vendor concerns and protests originate for a number of reasons, real or perceived.

Some reasons are:

- Specifications that are seen as vague or incomplete (concerns should be received prior to competition close);
- Bid preparation time too short to properly reply (concerns should be received prior to competition close);
- Specifications perceived as unfair, predetermined, or arbitrary (concerns should be received prior to competition close);
- Inconsistent application of procurement procedures;
- Incomplete or unfair evaluation process; and
- Violation of an applicable Trade Agreement.

To raise a concern on an open competition:

- Follow the communication protocol as detailed in the solicitation document.

To raise a concern on a closed competition:

- Vendors should first schedule a debriefing and obtain feedback on their proposal and request information as to why their proposal was not successful. If after the debrief process the vendor feels they have a valid concern or complaint, they should raise this concern with the supervisor of the procurement person listed in the competition.
- If a vendor still has a concern after following the process above, they can submit a written concern to the Chief Procurement Officer (CPO) to have a review of the competition.

Prior to initiating a concern, vendors are strongly encouraged to resolve problems by contacting the procurement contact listed in the solicitation. This should be the first step in the process. For the purpose of clarity, this process is not adjudicative in nature and does not establish mechanisms to adjudicate substantive disputes.

This process provides an opportunity for vendors to express concerns and may sometimes help to resolve concerns that involve no significant factual or interpretative disagreements between the parties. Fundamental disputes over facts or over legal rights and obligations are, however, beyond the scope of this process.
Applicability of the Process

The Vendor Concern Process applies to all procurement activity carried out by SPS.

Concern Submission (after the debrief process)

Concerns are to be submitted in written form to:

SaskBuilds
Single Procurement Service
Chief Procurement Officer
720 - 1855 Victoria Avenue
REGINA SK S4P 3T2

If a concern is being raised on a closed solicitation, the concern should be received within 20 working days after a notice of contract award (and only after the vendor has received a debrief and has raised the issue with the supervisor of the procurement contact). Contract notice is the date when the award is posted to the SaskTenders.ca website. Concerns should contain the following information:

- The name, phone number, email, address and contact person of the vendor submitting the concern;
- A description of the concern;
- A description of the background leading to the concern, including relevant dates, tenders reference numbers etc.;
- The government representative contacted initially to review the concern and the results of those discussions; and
- Action being requested of the GOS.

Concern Process Related to GOS Procurement Policy or Practice

On receipt of a concern, the CPO shall review the concern to determine if further action is appropriate. A concern may be dismissed without further consideration, where in the opinion of the CPO:

- the vendor is not a participant in the competitive process (i.e. did not submit a bid);
- is in respect of a procurement by an entity that is not a provincial government entity;
- is made more than 20 working days after a notice of a contract award;
- is otherwise inappropriate for consideration; or
- on its face is frivolous or invalid.

If at this point the concern is not dismissed the CPO will contact the procuring entity to determine if the concern has already been addressed. If not, the CPO, will gather the appropriate competition documents, conducts interviews with procurement officials and if deemed necessary, meet with the vendor.
At this point the concern may be resolved, withdrawn or dismissed if in the opinion of the CPO it is the result of a properly applied fair procurement process.

If dismissed, a reply to the concern will be prepared and forwarded to the vendor. A record of the dismissal of the concern will be retained by SPS.

Should the CPO find reason for a more comprehensive review, she/he may choose to form a review committee that may be formed with government representation deemed necessary.

After analysis of all information, the CPO will render a decision and reply to the vendor.

**Replies to a Concern**

SPS will make every effort to acknowledge a formal concern within 10 working days of receipt and to respond in writing no later than 10 working days after completion of any review. If the investigation extends longer than 20 working days, the vendor will be advised, in writing, when they may expect a response. Under all circumstances, responses are to be made in a timely fashion. Copies of the reply will be retained by SPS. Copies of all replies will be available to internal auditors, the Auditor General staff or to other officials as appropriate.

**Reports**

SPS shall ensure that complete documentation and records, including a signed and dated record of all communications with vendors, are maintained. This will allow later verification by participants, auditors or senior officials to show that the procurement process was carried out in accordance with the GOS procurement policy and that the concern was filed and handled in a timely fashion.

All concerns are tracked and records retained by SPS.