

Who attends the hearing?

Both the complainant and the procurement authority may bring an advisor or assistant to the hearing. Only one person from each side may speak at the hearing. You may confer with your advisor either in the room or outside.

What will happen at a hearing?

The chair will outline the complaint and confirm the rules and procedures for the hearing. Both the complainant and the procurement authority will make a verbal presentation. Written documentation may also be presented at this time. If documentation is made available to the panel at the hearing then, subject to Access to Information and Protection of Privacy Act, the same information has to be made available to all parties. The panel may ask questions for clarification. Both the complainant and the procurement authority are given the opportunity to present additional information and closing statements.

When the panel has heard both sides, the complainant and the procurement authority are dismissed. The panel will then review the documents and details provided in the hearing or from advisors. They may or may not make recommendations based on the events.

The panel will submit a report to the Deputy Minister of the procurement authority detailing its findings and recommendations, if any. Copies of the report to the Deputy Minister will be forwarded to the complainant and the procurement authority. Panel members will keep confidential all information and discussions relating to the hearing that are declared to be confidential.

Can the panel call advisors?

The chair may call upon people from outside the Bid Challenge Committee to advise the panel on any matter.

What about redress/compensation?

At the hearing the complainant may request compensation for his/her reasonable costs in preparing a bid or proposal; and/or his/her reasonable costs for participating in the inquiry or hearing (but not for an advisor). The panel may recommend if compensation is to be paid but it is the Deputy Minister of the procurement authority who makes the final decision.

What will happen after a hearing?

The Deputy Minister of the procurement authority responds to recommendations and advises the panel of action that may be taken including changes to policies and procedures, if appropriate. A copy of the Deputy Minister's response to the committee will also be given to the complainant.

For more information contact:

Bid Challenge Committee Secretariat at:

101-104 Elliott Street,

Whitehorse, Yukon Y1A 2C6

Phone: 667-3680, **Fax:** 393-6218

Toll free: 1-800-661-0408, ext. 3680

Email: bccsecretariat@gov.yk.ca

Website: hpw.gov.yk.ca/bidchallenge

BID CHALLENGE PROCESS

A GUIDE FOR BIDDERS / PROPONENTS AND
PROCUREMENT AUTHORITIES

Yukon
Highways and Public Works
enabling yukon

What is a Bid Challenge?

A Bid Challenge is a complaint registered when a bidder/proponent feels a procurement authority has not followed the Contracting and Procurement Regulation or Contracting and Procurement Directive during the tendering process. The bidder/proponent and procurement authority are encouraged to discuss their concern(s) first, so issues can be resolved at that level, if possible.

Who can register a complaint?

A bidder/proponent can register a complaint.

What can a bidder/proponent challenge?

A bidder/proponent can submit a challenge concerning the tendering and evaluation process on all requests for bids and proposals issued under the Contracting and Procurement Regulation and Contracting and Procurement Directive except decisions made under Section 18 (Exceptions) of the Directive.

How is a complaint registered?

A complaint letter, addressed to the Deputy Minister of Highways and Public Works, can be mailed to:

Box 2703, Whitehorse, Y1A 2C6;

or hand delivered to:

**1st Floor, Suite 101-104 Elliott St. Whitehorse;
or the Regional Offices in Watson Lake,
Dawson City and Haines Junction.**

The letter should contain the full details of the complaint and state that it is a Bid Challenge.

Are there time limits?

A complaint can be registered up to sixty days after the tender closing date, or up to fifteen days following the award of the contract or standing offer agreement, whichever is later. In the event of an extension of a standing offer agreement, the time limit is up to thirty days following the date of the extension.

Will the contract award be delayed?

A Bid Challenge will not result in a delay or overturn a contract award. The process is intended to be an after-the-fact review of decisions made by procurement authorities. Recommendations are taken into account for future tenders.

Who hears a Bid Challenge complaint?

The Bid Challenge Committee has twelve members: a chair and alternate chair/member, both chosen from the private sector, five members representing the private sector and five representing Yukon government. Each panel appointed to hear a complaint consists of the chair, a member representing the private sector and a member representing Yukon government.

Will a hearing always be held?

The panel may refuse to hear a complaint if the complaint is found to be trivial, frivolous, and vexatious or not made in good faith.

Can a complaint be withdrawn?

A complaint can be withdrawn at any time by writing to the Deputy Minister of Highways and Public Works.

Where are hearings held?

Most hearings are held in Whitehorse. If the complainant lives outside Whitehorse, he/she may request that the hearing be held in the complainant's community. The panel decides where the hearing is to be held.

What information must the complainant provide to the panel?

The complainant must provide details of the complaint in writing. During the hearing, the complainant is requested to verbally provide the details of the complaint and to respond to any questions the panel may have.

What information must the procurement authority provide to the panel?

The procurement authority must provide a written report about the circumstances relating to the complaint to the chair without delay. The chair uses this report with the complaint letter to decide if a hearing will be held. The procurement authority also provides all documentation relating to the tender to the panel: specifications, complainant's bid/proposal and evaluation (if relevant). At the hearing the procurement authority is required to verbally provide the details of what occurred and how the decisions were made.

What happens to the information the complainant and procurement authority provides to the panel?

The procurement authority is given a copy of the complainant's letter and the complainant is given a copy of the procurement authority's report. After the hearing one copy of the information is retained on file and all other copies are destroyed.