



ZAMBIA PUBLIC PROCUREMENT AUTHORITY

Stand No. 11790 SUB-J, Procurement House, Off Alick Nkhata Road, Longacres,

P.O. Box. 31009, Lusaka-Zambia

OFFICE OF THE DIRECTOR GENERAL

Our Ref:

CIRCULAR NO. 13 OF 2022

ZPPA/101/14/6

16th June, 2022

To: All Permanent Secretaries and Controlling Officers
All Chief Executives of Parastatal and Statutory Bodies
All Town Clerks and Council Secretaries of Local Authorities
Suppliers of Goods, Works and Services

RE: APPEAL PROCEDURE

The above caption refers.

- 1.0 The Zambia Public Procurement Authority (the Authority) would like to advise all procuring entities and suppliers that in accordance with Section 100 (1), (2) and (3) of the Public Procurement Act No. 8 of 2020 (the Act) and Regulation 241 of Statutory Instrument No. 30 of 2022 (The Public Procurement Regulations, 2022), all bidders contesting a procurement decision will be required to follow the procedure outlined below.
- 2.0 An application for appeal, shall be in writing using Form VIII set out in Regulation 241 (2) of the Public Procurement Regulations (The First Schedule) and signed by the bidder, supplier or their representative and accompanied by proof of payment of the prescribed fee. The appeal should be made within ten (10) working days from the date the bidder submitting the application was informed of or became aware of the circumstances giving rise to the application or from the date the bidder should have become aware of those circumstances, whichever is earlier, and shall:
 - a) state the name and contact details of the bidder or supplier;
 - b) state the name of the procuring entity to which the application relates;
 - c) provide details of the procurement requirement to which the appeal relates, including any reference number;
 - d) state the legal and factual grounds of the appeal, including documentary or other evidence supporting the application for appeal;
 - e) provide information establishing that the bidder is an actual or prospective bidder, who has suffered, or that may suffer, loss or injury, due to a breach of duty imposed on a procuring entity;
 - f) provide information establishing the timelines of the appeal, including the date that the bidder or supplier became aware of the circumstances giving rise to the appeal and the dates of any contract award; and
 - g) the remedy sought.

3.0 In addition to the contents specified in 2.0, a bidder or supplier who lodges an appeal may request -

- a) special measures of the handling of proprietary, commercial or other confidential information;
- b) specific documents required by the bidder for the effective prosecution of its application, explaining the relevance of such documents to the grounds of the complaint or application;
- c) that a hearing be held, explaining the reasons why a hearing is needed to resolve the application.

4.0 An application for review or appeal shall be submitted to the Authority and accompanied by a payment of the one thousand kwacha (K1,000.00) non-refundable fee in the manner outlined in the Guidelines for Submitting Appeals.

5.0 Bidders and suppliers are advised that complaints should relate to specific alleged breaches of the Public Procurement Act and the Regulations and be submitted in accordance with guidance provided under 2.0 and 4.0 above,

6.0 A bidder or supplier may withdraw an application for appeal at any time before the appeal committee renders a decision. However, that bidder or supplier who withdraws an appeal shall forfeit the application fee and shall not revive the appeal.

7.0 The Authority shall immediately on receipt of an appeal, inform the Controlling Officer or Chief Executive Officer of the procuring entity to which the appeal relates to suspend the procurement proceedings.

8.0 Any documentation requested by the Authority from a procuring entity for the purposes of an appeal shall be submitted to the Authority **within two working days** of receipt of the request unless the procuring entity can show reasonable cause why the documents cannot be submitted within two working days.

This Circular supersedes the Zambia Public Procurement Authority Circular No. 2 of 2015 (Fee for Review or Appeal).

Comprehensive guidelines, including submission forms of appeals can be accessed from the Authority's website: www.zppa.org.zm.



Justin Matimuna (Mr.)

ACTING DIRECTOR GENERAL

cc. The Secretary to the Cabinet
Cabinet Office
LUSAKA

The Secretary to the Treasury
Ministry of Finance
LUSAKA

The Principal Private Secretary
State House
LUSAKA

The Auditor General
Office of the Auditor General
LUSAKA



GUIDELINES FOR SUBMITTING APPEALS

PLEASE READ THESE GUIDELINES CAREFULLY BEFORE COMPLETING THE COMPLAINT FORM

To be eligible to submit a complaint form, your company should have participated in a procurement with a procuring entity (in Zambia to which the complaint is related). Your submission should contain the following information:

- a) the supplier's name (name of the company), name and title (e.g. Chief Executive Officer, Manager, Legal Counsel, etc.) of the person representing the company, postal and e-mail addresses, telephone and fax number;
- b) the name of the procuring entity to which the application relates;
- c) details of the procurement requirement to which the complaint or application relates including any reference number (e.g. ZPPA/ORD/007/15 – Tender for the supply and delivery of twenty desk top computers: Zambia Public Procurement Authority);
- d) a detailed statement including:
 - (i) facts;
 - (ii) grounds (reasons why your company disagrees with the award including explanation of how your company was prejudiced or affected and the part of the law that has been violated); and
 - (iii) relief/remedy/action sought.
- e) copies of relevant documents supporting the supplier's statement (e.g. copy of complaint submitted to the procuring entity, copy of the regret letter or letter of rejection/disqualification, or equivalent notification by fax or email);
- f) a declaration establishing that the supplier is an interested party for the purpose of filing a procurement challenge (proof of submission of a bid or offer, etc.); and
- g) all information establishing the timeliness of the procurement challenge (date of Notification and date of debrief, etc.).

Instructions for submission

1. All the supporting documents should be sent to the Zambia Public Procurement Authority expeditiously and submitted together with the complaint form;

2. The duly completed form should be accompanied by a non-refundable fee of one thousand Kwacha (K1, 000.00).

The complaint form, together with the supporting documents, should be submitted to the Zambia Public Procurement Authority within ten (10) working days of notification of the decision by the procuring entity, through any of the following means.

- (a) Online submissions should be made to: info@zppa.org.zm, appeals@zppa.org.zm and payments in any of the following ZPPA bank accounts; Standard Chartered Bank, North end Branch, Account No. 0100122103700, Lusaka or Zambia National Commercial Bank Plc, Cairo Road Business Centre, Account No. 0579595300177, Lusaka.
- (b) Postal Address: Zambia Public Procurement Authority, P.O. Box 31009, Lusaka, ZAMBIA.

Notes

1. Suppliers/bidders should channel their appeal to the Zambia Public Procurement Authority.
2. For Procurements funded by Zambia's Cooperating Partners (CPs), Suppliers/Bidders are encouraged to copy the respective cooperating partners, as they wish, on their complaints to the Zambia Public Procurement Authority. This move enhances further transparency and accountability of Zambia's procurement system.
3. Complaints should point to specific alleged wrongs under the Public Procurement Act and the Regulations.
4. Any incomplete complaint form submitted to the Zambia Public Procurement Authority will not be processed.
5. All information will be treated in confidence.

DEBRIEFING AND PROCUREMENT CHALLENGES FAQs

Zambia Public Procurement Authority hereby advises all bidders who participated in any procurement proceeding, to obtain additional information on why their proposals or bids were unsuccessful from the respective procuring entities.

1. What is a debriefing?

The debrief is not an adversarial proceeding; rather, it is a collaborative learning opportunity for unsuccessful bidders to obtain additional information during a meeting on the reason(s) why the bid failed. The debrief may also provide valuable information for future use by the procuring entity.

2. What questions/documents can be asked?

The purpose of the debrief is to discuss the unsuccessful bidder's submission and the applicable evaluation process and procedure. It is not a forum to discuss the submissions of other bidders or other issues or complaints which the bidder should raise with a more appropriate office, such as the Anti-Corruption Commission, Drug Enforcement Commission, and Zambia Police Service etc.

3. When and to whom can a request be made?

An unsuccessful bidder may request for a debrief in writing after receiving Notice of Best Evaluated Bidder. Upon timely receipt, the procuring entity will notify the bidder of the scope of the debrief, as well as the date, time and place for the debrief, which normally will be conducted in person.

Bidders are encouraged to request for debrief within the ten (10) working days from the Notice of Best Evaluated Bidder.

4. How and where is a debrief conducted?

The debrief is a meeting generally conducted in person but can also be held via telephone. The debrief will be conducted in English and should be reduced in writing.

5. What steps should be followed?

- Step 1:** The Notice of Best Evaluated Bidder is issued within two (2) working days of a decision to award a contract.
- Step 2:** Unsuccessful bidders may request a debriefing in writing after receipt of the Notice of Best Evaluated Bidder.
- Step 3:** The procuring entity shall inform the unsuccessful bidder of the details pertaining to the debrief.
- Step 4:** Bidders who have been formally debriefed and remain unsatisfied can file an appeal to the Zambia Public Procurement Authority within ten (10) working days of the debrief.



The Public Procurement Act, 2020
(Act No. 8 of 2020)

The Public Procurement Regulations, 2022
APPEAL SUBMISSION FORM

This form should be duly completed **when lodging an appeal** with the Authority. Please refer to the guidelines for submitting Appeals accessible at www.zppa.org.zm/guidelines.

PART A: TENDER DETAILS

Supplier's Name	
Name of Procuring Entity	
Name of the Tender	
Tender Number	

PART B: CONTACT INFORMATION OF THE REPRESENTATIVE

Name	
Title in the Company	
E-mail	
Phone Number	
Physical Address	
Postal Address	

PART C: DEBRIEFING AND REVIEW BY PROCURING ENTITY

Date of Notice of Best evaluated bidder	
Did you receive a debrief?	Yes <input type="checkbox"/> No <input type="checkbox"/>
If yes, please enter the date of debrief	
Date: (dd/mm/yyyy)	
Did you apply for review of the procuring entity's decision?	Yes <input type="checkbox"/> No <input type="checkbox"/>

If yes, please enter the date of the review decision	
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PART D: APPEAL GROUNDS

Appeal Ground 1

(a) Full details of appeal ground	
(b) State Violation (legal provisions/clauses violated)	
(c) Remedy sought	

Appeal Ground 2

(d) Full details of appeal ground	
(e) State Violation (legal provisions/clauses violated)	
(f) Remedy sought	

Note:

Additional factual grounds can be attached as appropriate. All additional grounds attached should be stated in the format as above.

DECLARATION

By submitting this form, I declare that the information contained in this form is correct to the best of my knowledge and belief and that I am a bidder/prospective bidder (Cross which is not applicable) in the said procurement.

Name and Title

Date: _____

Signature: _____

Please submit this form through:

Email: info@zppa.org.zm

Mail: Zambia Public Procurement Authority, Procurement House, Stand No. Sub-J 11790, Off Alick Nkhata Road, Longacres, P.O. Box 31009, Lusaka, ZAMBIA.

FOR OFFICIAL USE ONLY

Lodged at Zambia Public Procurement Authority on day of 20.....

SIGNED:

Director-General