



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:

ZPPA/101/14/6

13th March, 2024

CIRCULAR NO. 8 OF 2024

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 Zambia Public Procurement Authority (the Authority) would like to advise all procuring entities and suppliers that following the amendment of the Public Procurement Act No. 8 of 2020 (the Act) through the Public Procurement (Amendment) Act No. 17 of 2023, it has become necessary to issue a revised Circular on the procedure for submission of Appeals to the Authority.

1.0 An appeal, shall be in writing using Form VIII set out in Regulation 241 (2) of the Public Procurement Regulations, 2022 (The First Schedule) and signed by the bidder, supplier or their representative and accompanied by proof of payment of the prescribed fee. In accordance with section 100(3) of the Public Procurement Act No. 8 of 2020 (as amended by section 32 of the Public Procurement [Amendment] Act No. 17 of 2023), an appeal should be submitted to the Authority within **five (5) 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. The appeal should:

- 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 ~~the~~ duty imposed on a procuring entity; ~~the~~ ~~the~~

- 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.
- 2.0 In addition to the contents specified in 1.0 above, 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; or
 - c) that a hearing be held, explaining the reasons why a hearing is needed to resolve the application.
- 3.0 An application for review or appeal shall be submitted to the Authority and accompanied by a payment of a one thousand kwacha (K1,000.00) non-refundable fee in the manner outlined in the guidelines for submitting appeals.
- 4.0 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 1.0 and 3.0 above.
- 5.0 A bidder or supplier may withdraw an application for appeal in writing at any time before the appeal committee renders a decision. However, a bidder or supplier that withdraws an appeal shall forfeit the application fee and shall not revive the appeal.
- 6.0 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.
- 7.0 Any documentation requested for 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. 13 of 2022.

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


Idah C. Chella (Mrs.)
DIRECTOR GENERAL

cc: The Secretary to the Cabinet
Cabinet Office
P. O. Box 30208
LUSAKA

The Secretary to the Treasury
Ministry of Finance and National Planning
P.O Box 50062
LUSAKA

The Principal Private Secretary
State House
Independence Avenue
LUSAKA

The Auditor General
Office of the Auditor-General
P.O. Box 50071
FC **LUSAKA** FC

ZAMBIA PUBLIC PROCUREMENT AUTHORITY



GUIDELINES FOR SUBMITTING APPEALS

PLEASE READ THESE GUIDELINES CAREFULLY BEFORE COMPLETING THE APPEAL SUBMISSION FORM

To be eligible to submit an appeal, 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;
- 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 decision including an 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 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 appeal submission form.
2. The duly completed form should be accompanied by a non-refundable fee of one thousand Kwacha (K1, 000.00).
3. The appeal submission form, together with the supporting documents, should be submitted to the Zambia Public Procurement Authority within five (5) working

PC

PC

days of notification of the decision by the procuring entity, through any of the following means:

- (a) Online submissions should be sent to: info@zppa.org.zm or appeals@zppa.org.zm; or
 - (b) Physical submission to the Zambia Public Procurement Authority, Procurement House, Stand No. Sub J-11790, Longacres Lusaka, Zambia
 - (c) Postal address: Zambia Public Procurement Authority, Off Alick Nkhata Road, Longacres, P.O. Box 31009, Lusaka, Zambia.
4. Payment of the appeal fee should be through cash deposit or bank transfer to the following bank account:

Bank name	:	Zambia National Commercial Bank Plc
Account name	:	Zambia Public Procurement Authority
Account No.	:	0579595300177
Branch	:	Cairo Road Business Centre

Notes

1. Suppliers/bidders should channel their appeal to the Zambia Public Procurement Authority only.
2. Complaints should point to specific alleged breaches under the Public Procurement Act and the Public Procurement Regulations,
3. Any incomplete appeal submission form submitted to the Zambia Public Procurement Authority will not be considered.
4. All information will be treated in confidence.

DEBRIEFING AND PROCUREMENT CHALLENGES FREQUENTLY ASKED QUESTIONS (FAQS)

Zambia Public Procurement Authority hereby advises all bidders who participate 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, 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 five (5) 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 are unsatisfied can file an appeal to the Zambia Public Procurement Authority within ~~PC~~ five (5) working days of the debrief. ~~PC~~