

COMPLAINTS PROCEDURE UNDER THE PUBLIC PROCUREMENT ACT



NINE STEPS TO SEEKING REDRESS UNDER THE PUBLIC PROCUREMENT ACT

COMPLAINT PROCEDURE UNDER THE PUBLIC PROCUREMENT ACT
PART IX SECTION 54

Background:

The Public Procurement Act 2007 recognizes the possibility of complaints after every procurement process. It has therefore gone ahead to specifically provide a Recourse Mechanism for the complainants.

The Bureau has in the exercise of its functions gone further to highlight the Nine (9) Steps for easy reference by all Contractors/Consultants/MDAs.

THE NINE (9) STEPS!!!

Where any Contractor/Consultant/MDA is not pleased with the outcome of any procurement proceedings either because of a perceived breach or omission of the provisions of the Public Procurement Act 2007, he shall:

- Step 1: Make a formal and written complaint to the Accounting Officer of the procuring/disposing entity within fifteen (15) working days from when he became aware of the breach or omission.
- Step 2: The Accounting Officer shall review the complaint and communicate his decision on the matter to the complainant within fifteen (15) working days. He shall give reasons for his decision and the corrective measures to be taken where necessary.
- Step 3: If the Accounting Officer fails to make a decision within the given period or the complainant is not satisfied with his decision, the Act allows the complainant to forward his complaint to the Bureau within ten (10) working days from the date that decision was communicated to him.
- Step 4: Upon receiving the complaint, the Bureau shall:
- (a) Notify the procuring entity of the complaint and
 - (b) Suspend any further action by the procuring or disposing entity until the matter is settled
- Step 5: Unless the Bureau dismisses the complaint, it shall further

- (a) Prohibit the procuring/disposing entity from taking further action,
- (b) Nullify part or all of the unlawful act or decision of the procuring or disposing entity,
- (c) Declare or make known the rules and principles governing the subject matter of the complaint, and
- (d) Reverse any improper decision by the procuring or disposing entity or substitute its own decision for the improper one.

Step 6: The Bureau shall notify all interested bidders of the complaint before taking any decision on the matter and may consider representations from the bidders and the respective procuring or disposing entity.

Step 7: The Bureau shall make its own decision within twenty one (21) working days after receiving the complaint and shall give the reasons for its decision and the remedies granted if any.

Step 8: If the Bureau fails to make its decision within the given time or if the complainant is not satisfied with the Bureau's decision, the complainant may appeal to the Federal High Court within 30 days after receipt of the Bureau's decision or the expiration of the time specified for the Bureau to make a decision.

Step 9: The decision of the Federal High Court shall be final on the matter and no further appeals shall lie.

All Contractors/Consultants/MDAs are advised to strictly follow the above steps in seeking redress in any procurement process!!!