
VI COMPLAINT & APPEAL PROCESS

COMPLAINTS

Process

1. All Complaints against General Contractors and Trade Contractors will be accepted at any time.
2. The complaint must be in writing (the '[Complaint Form](#)' at the end of the Complaint & Appeal process may be used). It is the complainant's responsibility to make their case that a contravention has occurred, and must provide all supporting substantiation and documentation (such as appropriate sections of the specifications, instructions to bidders, addenda, etc.) The complaint must be submitted to the Regional Bid Depository Administrator (regional administrator) together with the [complaint fee](#), or authorization to charge the fee to a regional or local construction association membership account. The regional administrator will ensure that all the information is in order and forward to the Provincial Bid Depository Administrator (provincial administrator).
3. The provincial administrator will determine if the material provided is sufficient to initiate an investigation. The provincial administrator will also determine whether there is sufficient basis to proceed further.
4. The provincial administrator advises the contractor of the following: that a complaint has been received; the alleged contravention; the process that will be implemented; and, if appropriate, gives the contractor an opportunity to respond to the allegation in writing with supporting documentation.
5. Upon request, copies of the complaint or response may be provided to the parties to the complaint, as appropriate.
6. The provincial administrator will determine if the investigation necessitates opening any or all other bid envelopes and acts accordingly.
7. The complainant's bid envelope will be automatically opened and the bid reviewed, together with the subject(s) of the complaint, and the appropriate action taken if a contravention is found.
8. All decisions on complaints will be made by the provincial administrator, who may seek advice from appropriate experts on technical/construction issues forming the basis of a complaint. In the absence of the provincial administrator, all decisions on complaints will be made by a designated regional administrator, who may form a committee from authorized volunteers, or seek advice from appropriate experts on technical/construction issues forming the basis of a complaint. In the event that a complaint is of the nature that a competitive advantage may or may not exist and the decision requires a subjective opinion, the provincial administrator may choose to form a committee from the authorized volunteers and request a written opinion from the volunteers.
9. In accordance with the Rules, a decision will be made within fifteen (15) working days of receipt of a written complaint. Complaints will be dealt with in the order they are

received by the provincial administrator. Complaints will be dealt with in as timely a manner as possible, but there is no guarantee that a decision will be made four (4) hours prior to the General Contractors' closing.

Decisions

A. Trade Contractors

- (a) If there is a decision to disqualify a Trade Contractor for a contravention of the rules, General Contractors should be so notified four (4) hours or more before the General Contractors closing.
 - (i) The provincial administrator will notify all General Contractors by fax (marked URGENT) of the disqualification and advise them they will be in contravention of the rules if they use the disqualified bid. General Contractors must consider the disqualification valid if the fax is received prior to the General Contractors' closing time. Every effort will be made to provide notifications as early as possible.
 - (ii) The provincial administrator will notify the Tendering Authority, by fax, of any disqualified Trade Contractors bids; and that any General Contractor who uses a disqualified bid will be in contravention of the rules and their tender shall be disqualified.
 - (iii) When through circumstances not defined in the Rules, and where a disqualification is not enforced, other sanctions may be applied.
- (b) If a decision is made less than four (4) hours before the General Contractors' closing that a bid is in contravention of the rules, a penalty and/or other sanctions will be imposed. In accordance with the rules, a bid cannot be disqualified after this time period, and is considered a valid bid.
 - (i) Any penalty must be paid within thirty (30) days of the date of the notice of the decision (or within the same time period if a suspension from bidding is imposed and is less than thirty (30) days). Suspension of bidding will begin seven (7) working days from the date of notice of the decision, or the date of receipt of an advice that the contractor does not intend to appeal the decision, whichever is sooner. However, suspension of bidding will continue beyond the original sanction period until any penalty is paid. Where only a financial penalty was levied and such fine remains unpaid after thirty (30) days, a suspension of bidding may be applied. The amount of penalties may escalate with repeat of a contravention.
 - (ii) The provincial administrator will notify the parties to the complaint, and the regional administrator involved, of the decision and the resulting actions. The regional administrator will return the complaint fee to the appropriate party.
 - (iii) The provincial administrator will notify all regional administrators of any suspensions from bidding, and when bidding may be resumed. The

regional associations will provide the information to all bid depositories in their region.

- (c) If a decision is made that the rules were not contravened, the provincial administrator will notify the parties to the complaint and the regional administrator involved of the decision. The complaint fee will be retained by BCCA.
- (d) An appeal may be filed, in writing, with the provincial administrator within seven (7) working days of the date of notice of the decision.
- (e) If a decision is made four (4) hours or more before the General Contractors' closing that the contractor has contravened the rules, but did not have a competitive advantage (as allowed under Rule 6.G. Bid Irregularities), a penalty and/or other sanctions may be imposed.
 - (i) Any penalty must be paid within thirty (30) days of the date of the notice of the decision (or within the same time period if a suspension from bidding is imposed and is less than thirty (30) days). Suspension of bidding will begin seven (7) working days from the date of notice of the decision, or the date of receipt of an advice that the contractor does not intend to appeal the decision, whichever is sooner. However, suspension of bidding will continue beyond the original sanction period until any penalty is paid. Where only a financial penalty was levied and such fine remains unpaid after thirty (30) days, a suspension of bidding may be applied. The amount of penalties may escalate with repeat of a contravention.
 - (ii) The provincial administrator will notify the parties to the complaint, and the regional administrator involved, of the decision and the resulting actions. The regional administrator will return the complaint fee to the appropriate party.
 - (iii) The provincial administrator will notify all regional administrators of any suspensions from bidding, and when bidding may be resumed. The regional associations will provide the information to all bid depositories in their region.
- (f) Where a complaint is of the nature that it is not defined by the process herein, the procedures will be as determined by the Provincial Bid Depository Committee having regard to the particular circumstances of the issue under consideration.

B. General Contractors

- (a) The provincial administrator will notify the Owner of any disqualified Trade Contractors bids, and that any General Contractor who uses a disqualified bid will be in contravention of the Rules and request that their tender be disqualified.
 - (i) When through circumstances not defined in the Rules, and where a disqualification is not enforced, other sanctions may be applied.
- (b) If a decision is made prior to tender award that a General Contractor contravened the Rules and provided an unfair competitive advantage:
 - (i) the provincial administrator will notify the Owner and request that the Owner disqualify that General Contractor's tender.
 - (ii) The provincial administrator will notify the parties to the complaint and the regional administrator involved, of the decision and the resulting actions. The regional administrator will return the complaint fee to the appropriate party.
- (c) If a decision is made after the tender award that a General Contractor contravened the Rules the General Contractor will be subject to penalties, suspensions from use of Bid Depository and/or other sanctions that may be imposed:
 - (i) The provincial administrator will notify the parties to the complaint, and the regional administrator involved, of the decision and the sanctions imposed. The regional administrator will return the complaint fee to the appropriate party.
 - (ii) Any penalty must be paid within thirty (30) days of the date of the notice of the decision (or within the same time period if a suspension from use of Bid Depository is imposed and is for less than thirty (30) days). Suspension of use will begin seven (7) working days from the date of notice of the decision, or the date of receipt of an advice that the contractor does not intend to appeal the ruling, whichever is sooner. However, suspension of use will continue beyond the original sanction period until any penalties are paid.
 - (iii) The provincial administrator will notify all regional administrators of any suspensions from use of Bid Depository, and when use may be resumed. The regional associations will provide this information to all bid depositories in their region.
- (d) If a decision is made that the General Contractor did not contravene the Rules, the provincial administrator will notify the parties to the complaint, and the regional administrator involved, of the decision. The complaint fee will be retained by BCCA.
- (e) A written appeal may be filed with the provincial administrator within seven (7) working days of the date of notice of the decision.

- (f) Where a complaint is of the nature that it is not defined by the process herein, the procedures will be as determined by the Provincial Bid Depository Committee having regard to the particular circumstances of the issue under consideration.

APPEALS

1. An appeal must be received by the provincial administrator within seven (7) working days of the date of notice of the decision. The appeals must be in writing and accompanied by the appropriate fee, or authorization to charge the [fee](#) to a local or regional construction association membership account.
2. The other party(s) involved will be notified of the appeal, provided with the appeal documentation and given an opportunity to provide a response.
3. An appeal Review Committee of three (3) authorized regional association volunteers will be formed to consider the appeal.
4. The provincial administrator will schedule a telephone conference meeting of the review committee. Appropriate arrangements will be made if any of the parties involved wish to make a verbal presentation of their case.
5. In accordance with the Rules, a decision will be made within ten (10) working days of receipt of a written appeal.

If the appeal is upheld and the initial decision over-turned:

- (a) The appeal fee will be returned.
- (b) Any penalties and/or other sanctions imposed will be rescinded.
- (c) The provincial administrator will notify the parties to the complaint of the decision.

Note: Trade Contractors should be aware that if their bid has been disqualified and the appeal subsequently upheld, Bid Depository has no authority to require that the named contractor be replaced.

6. If the initial decision is upheld, any penalties and/or other sanctions imposed will become effective from the date of notice of the Appeal Review Committee's decision.
7. The Appeal Review Committee's decision is final.

PUBLICITY

The provincial administrator will inform the regional associations of any contravention of the rules, actions taken and decisions regarding appeals. The associations will publicize the information to their members only after any appeal process has taken place.

Bid Depository Complaint Form

Please Print All Information Clearly

Complete & return this form with attachments to your Regional Construction Association Bid Depository Administrator.

Complainant _____ Date _____

Company _____

Address _____ Phone _____

_____ Fax _____

Project _____

Complaint Against *(Name of Contractor(s))* _____

Nature of Complaint *(if more space is required, attach of Complainant letterhead)*

Identify Specific Rule(s) Contravened

Itemize Supporting Documentation Attached

NOTE: all appropriate documentation to substantiate complaint must be provided. Bid Depository will only provide copy of bid form if necessary.

Filed by: _____

Signature

PRINT Name & Title

Complaint Fee

Charge to applicable Membership No. _____

Cheque Attached