

REGULATIONS PROCUREMENT COMPLAINTS DESK ENEXIS 2023

Whereas:

- the writing group established by the Minister of Economic Affairs adopted the advice "Complaint Handling in Tendering" on March 1, 2013;
- Enexis Group decided in May 2013 to establish a Complaints Committee in accordance with this advice as mentioned in the "Regulations Procurement Complaints Committee Enexis 2013";
- on February 17, 2022, the Ministry of Economic Affairs and Climate published the "Handreiking klachtenafhandeling bij aanbestedingen" (Handbook for Handling Complaints in Procurement);
- the Regulations Complaints Committee 2022 was replaced by the Regulations Procurement Complaints Desk 2023 as of January 2023.

COMPLAINTS DESK

Enexis Group has established a Complaints Desk for complaints related to procurement procedures (below or above the European procurement threshold) of Enexis Netbeheer B.V. or another company belonging to the Enexis Group (hereinafter: Enexis).

COMPOSITION OF THE ENEXIS PROCUREMENT COMPLAINTS DESK

The Enexis Procurement Complaints Desk (hereinafter: Complaints Desk) is independent. Persons handling the complaint have not previously been involved in the content of the Tender to which the complaint relates. This ensures that these employees are free to give an independent opinion on the complaint. This is important to maintain the confidence of entrepreneurs in adequate complaint handling.

The Complaints Desk usually consists of the Director of Regulation of Enexis Group and the Manager of Legal Affairs of Enexis Group. Each member can appoint a substitute within the same area of expertise.

WHO CAN FILE A COMPLAINT?

Only a stakeholder can file a complaint. Stakeholders are the entrepreneurs who have a direct interest in obtaining an assignment from Enexis Group.

The following categories of stakeholders (complainants) can be distinguished:

- candidates;
- (potential) tenderers;
- subcontractors of (potential) tenderers;
- sector organizations.

Anonymous complaints will not be considered.

This complaints procedure does not serve as a substitute for the usual point of entry via the memorandum of information.

REGULATIONS PROCUREMENT COMPLAINTS DESK ENEXIS 2023

WHAT CAN BE COMPLAINED ABOUT?

The entrepreneur can complain about:

- the phase before the submission deadline of a current tender (design complaints);
- a case in which Enexis did not tender when, according to the entrepreneur, it should have done so (rejection complaint);
- a selection or award decision of an ongoing tender (rejection complaint).

CORRESPONDENCE ADDRESS

The entrepreneur shall submit its complaint to the Complaints Desk at the address:
klachtenloket.aanbesteden@enexis.nl

RIGHT TO PRELIMINARY RELIEF PROCEEDINGS

An entrepreneur who has filed a complaint retains its right to go to court within the applicable period to have the matter settled in preliminary relief proceedings. In that case, the handling of a complaint already filed with Enexis Group will be suspended until after the judgement of the Court in preliminary relief proceedings.

THE PROCEDURE

Before a complaint can be filed, the complainant must have asked questions to Enexis (the contracting authority), for example through the memorandum of information. The complainant shall submit the complaint in writing. A complaint must be submitted no later than five working days after the decision or action of Enexis from which the complainant believes it has been adversely affected, respectively the publication of the latest memorandum of information or the moment the complainant reasonably became aware of this fact.

The complaint shall contain at least the following information:

- a) the name and (e-mail) address of the complainant;
- b) the date including the date of dispatch;
- c) the name and reference of the tender to which the complaint relates;
- d) a description and justification of the complaint;
- e) a proposed solution of the complaint;
- f) any relevant information necessary to deal with the complaint.

Complaints that do not meet these requirements will be declared inadmissible. Once the information is complete, the Complaint Desk will process the complaint:

- The Complaints Desk will send an acknowledgement of receipt of the complaint within two working days of its receipt, including a deadline by which the Complaints Desk will issue an advice.
- The Complaints Desk investigates whether and to what extent the complaint is admissible. If necessary, the complainant will be given the opportunity to provide further information. The Complaints Desk will then investigate, possibly on the basis of additional information provided by the complainant and Enexis, whether the complaint is well-founded. The Complaints Desk will

REGULATIONS PROCUREMENT COMPLAINTS DESK ENEXIS 2023

issue its advice to Enexis and the complainant within 20 working days of receipt of the complaint at the latest. Enexis will make a decision within 10 working days after the Complaints Desk has advised. If more time is needed, this will be notified.

- The advice of the Complaints Desk will be adopted by Enexis. Enexis will depart from the advice only if it cannot accept it on reasonable grounds, and will give careful reasons for doing so and, in the case of a tender procedure, disclose this to all entrepreneurs involved.
- If necessary, the Complaints Desk will indicate to Enexis whether the tender procedure in question should be suspended.
- The Complaints Desk may, at the request of the complainant or Enexis, propose that the complaint, before it is decided on by Enexis, be submitted to the Committee of Procurement Experts (in Dutch: Commissie van Aanbestedingsexperts) for mediation or advice. See also: <https://www.commissievanaanbestedingsexperts.nl>.
- After the complaint has been decided on, or the situation where Enexis has been unable to make a decision on the complaint within the specified period, a complainant may also refer the complaint to the Commission of Procurement Experts without the consent of Enexis.

REPORTING AND ACCOUNTABILITY

The Complaints Desk reports internally for its complaint handling on an annual basis and reports to the Board of Directors. This reporting serves to promote transparency in Enexis' actions as a Contracting Authority and to provide insight into the learning effect. It is explicitly not intended to provide exhaustive substantiation of past choices made by Enexis.

EXPLANATORY NOTES

The Ministry of Economic Affairs and Climate's 'Handreiking Klachtafhandeling bij Aanbesteden' (Handbook for Handling Complaints in Procurement), published on February 17, 2022, serves as an explanation of the "Regulations Procurement Complaints Desk Enexis 2023".