

ANSTO Procurement Complaints Management Process

Information contained on this page outlines the process for submitting and having a procurement related complaint dealt with by ANSTO.

As a potential or current *supplier* to ANSTO, you have the right to be treated in a fair, equitable and non-discriminatory manner in connection with a procurement / tender process, and to have concerns and/or complaints regarding a procurement process investigated quickly and without disadvantage.

In the first instance, you can raise your concern informally with the relevant procurement contact officer or the ANSTO Sourcing and Procurement Team on +61 2 9717 3111 or procurement@ansto.gov.au. If you are not satisfied with the response, you can make a formal written complaint.

ANSTO manages all formal (written) procurement complaints, including concerns arising during a tender process, in a manner consistent with the [Commonwealth Procurement Rules \(CPRs\)](#) and statutory obligations under the *Government Procurement (Judicial Review) Act 2018* (the *JR Act*).

There are two types of procurement complaints that may be submitted:

- a complaint regarding something that ANSTO proposes to do, or has done, during a procurement process, that does not satisfy the requirements for a JR Act complaint (i.e. a *general complaint*)
- a complaint under section 18 of the JR Act (i.e. a *JR Act complaint*).

General complaint

A *general complaint* is a procurement complaint that does not satisfy the requirements for a JR Act complaint.

A *general complaint* can be made about any aspect of a procurement process and can relate to any procurement activity.

JR Act complaint

A *JR Act complaint* only applies to alleged contraventions of *relevant CPRs* relating to ‘covered procurements’.

A ‘covered procurement’ under *the JR Act* is a procurement where:

- Division 1 and Division 2 of the *CPRs* apply, and
- the estimated value of the procurement is at or above the relevant procurement thresholds values specified in the *CPRs* - ANSTO’s relevant procurement thresholds values are:
 - \$400,000 (incl. GST) for the procurement of goods and / or services
 - \$7.5 million (incl. GST) for the procurement of construction services

Relevant CPRs (relating to a ‘covered procurement’) for the purpose of making a complaint under the *JR Act* include all paragraphs in Division 2 of the *CPRs*, and specific paragraphs in Division 1 of the *CPRs*, as listed below.

In addition to Division 2 of the <i>CPRs</i> (which apply for covered procurements at or above the relevant procurement threshold) the following Division 1 paragraphs are also declared relevant for the purposes of making a <i>JR Act</i> procurement complaint.	
Division 1	
4. Value for money	
Third-party procurement	4.18
5. Encouraging competition	
Non-discrimination	5.4
7. Accountability and transparency in procurement	
Records	7.2
Notifications to the market	7.10, 7.13- 7.15
Providing information	7.16 - 7.17
Reporting arrangements	7.18, 7.20
9. Procurement method	
Requirement to estimate value of procurement	9.3 -9.6

Further information about the operation of the *Government Procurement (Judicial Review) Act 2018* (Cth) and the lodgement and handling of a *JR Act* procurement complaint can be found in *Resource Management Guide 422 (Handling complaints under the Government Procurement (Judicial Review) Act 2018)* on the Department of Finance's website.

How do you lodge a ‘general’ or ‘JR Act’ procurement complaint?

If you wish to make a *JR Act complaint* or a *general* procurement complaint concerning a procurement activity conducted by ANSTO (including a tender process) you should complete the [ANSTO Procurement Complaint Form](#) and send it to ANSTO at: -

ProcurementComplaints@ansto.gov.au

For a *JR Act complaint*, your complaint should be lodged as soon as you become aware of a suspected (alleged) or proposed contravention of a relevant *CPR*.

Note: Other avenues to raise complaints which are separate to the complaint mechanism established by the *JR Act* and ANSTO's general procurement complaints process continue to be available to potential and current suppliers, including the [Australian Government Procurement Coordinator](#) and the [Commonwealth Ombudsman](#).

Once we receive your procurement complaint

The ANSTO complaint ‘*receiving officer*’ will acknowledge receipt of your complaint and assess if the complaint is a *general* procurement complaint, or a complaint that is intended to be a formal complaint under section 18 of the *JR Act*. Where necessary, the *receiving officer* will contact you to obtain additional information to help make this determination.

You will be advised if the complaint does not meet the requirements of section 18 of the *JR Act* and the reasons for this decision. The complaint will then be dealt with as a *general* procurement complaint in accordance with ANSTO’s internal procurement complaints resolution process, and paragraph 6.8 of the [CPRs](#).

Similarly, you will be advised if your complaint is assessed as meeting the requirements of section 18 of the *JR Act*, and you will be provided with an expected timeframe for resolving the complaint.

At this point the ‘*covered procurement*’ process will be *suspended* while the complaint is investigated. However, if a *Public Interest Certificate (PIC)* has been issued for that procurement, a suspension will not occur. In such instances, you will be informed in writing that a *PIC* is in force and provided with a copy of the *PIC*.

All past and current *PICs* issued for ANSTO procurements are listed on the [ANSTO PIC notification page](#).

Further information about what a *PIC* is; in what circumstances (and when) a *PIC* can be issued and obligations to publish a *PIC* can be found on the [ANSTO PIC notification page](#) and in *Resource Management Guide 422 (Handling complaints under the Government Procurement (Judicial Review) Act 2018)* on the Department of Finance’s website.

How will your JR Act complaint be handled?

All *JR Act complaints* will be investigated and progressed in a timely manner. In doing so, ANSTO will engage with you to resolve the complaint as promptly as possible.

You will be informed of the findings and outcome of the investigation and any proposed remedial action or other actions to resolve the complaint.

At any time, you may inform ANSTO (in writing) that the complaint is resolved or withdraw the complaint.

If you and ANSTO are unable to resolve the complaint, you have the option to seek a remedy from the court. In this case, if the *covered procurement* is *suspended* it **will** remain suspended until the court makes a finding on whether the *relevant CPRs* have been contravened (unless a *public interest certificate* is issued).