

OLG Bid Dispute Process

Purpose

OLG's bid dispute process is intended to respond in a timely, effective, transparent and non-discriminatory manner to concerns and complaints from vendors who participate in a competitive OLG procurement process.

Informal Dispute Resolution

There are opportunities for vendors to raise concerns throughout the OLG competitive procurement process, including during the question-and-answer period, or through a debriefing meeting after the contract award.

Vendors should address concerns at the earliest possible opportunity by first contacting the Procurement Contact Person named in the procurement document.

Prior to initiating a formal complaint, vendors are encouraged to attempt to resolve concerns through consultation with OLG.

OLG will accord timely consideration to the vendor's concern during consultations.

Filing a Formal Bid Dispute

If a vendor concern with an OLG procurement process cannot be resolved through consultation, a vendor can request a formal review ("First Stage Review").

Vendors can initiate a First Stage Review by submitting a completed Dispute Complaint Form (attached) and all supporting documentation, not later than 10 calendar days from the time when the basis of the challenge became known, or reasonably should have become known, to the vendor.

OLG reserves the right not to consider a complaint that is not raised by a vendor in a timely manner and shall notify the vendor in writing of any such decision.

All documentation should be addressed to the Vice President of Enterprise Procurement and submitted either by email or physical hard copy delivery to:

Ontario Lottery and Gaming Corporation
4120 Yonge Street, Suite 600
Toronto, Ontario M2P 2B8
Attention: James Lin, Vice President of Enterprise Procurement
Email: jalin@olg.ca

First Stage Review and Determination

Upon receipt of a written complaint by a vendor, the Vice President of Enterprise Procurement will:

- send acknowledgement of receipt of the formal complaint;
- review the complaint and all supporting documentation;
- seek clarification from the vendor, where necessary;
- make a determination with respect to the complaint; and
- notify the vendor in writing by email of the determination and the reasons thereof.

OLG's Response Commitment

OLG will send an acknowledgement of receipt by email of the formal bid dispute documentation to the vendor within 10 calendar days of its receipt, including the anticipated date the review will be completed.

OLG's First Stage Review determination will be issued to the vendor by email within 25 calendar days of its receipt or the receipt of requested clarification if required. If an extension of time is warranted in OLG's opinion, a determination will be issued within 45 calendar days.

Second Stage Review

If a vendor disputes the determination at the First Stage Review, the vendor may request that the complaint proceed to a Second Stage Review before an independent, impartial third-party arbiter appointed by OLG (the "Arbiter").

The request for a Second Stage Review must be made by the vendor not later than 10 calendar days from the date the First Stage Review determination is provided to the vendor. All documentation, including detailed reasons for the vendor's dispute with the determination at the First Stage Review should be addressed to the Vice President of Enterprise Procurement and submitted either by email or physical hard copy delivery to:

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Toronto, Ontario M2P 2B8
Attention: James Lin, Vice President of Enterprise Procurement
Email: jalina@olg.ca

OLG reserves the right not to consider a request that is not raised by a vendor in a timely manner and shall notify the vendor in writing of any such decision.

Second Stage Review Procedures

OLG will send an acknowledgement of receipt by email of the vendor's request for Second Stage Review within 5 calendar days of its receipt. OLG shall respond to the challenge and disclose all relevant, non-privileged documents in its possession to the Arbiter.

The participants to the proceeding shall be OLG and the vendor.

The Second Stage Review shall proceed on a documents-only basis, unless a participant elects an in-person process. In the event of such an election, participants shall have:

- the right to be heard prior to a decision of the Arbiter being made;
- the right to be represented and accompanied;
- access to all proceedings; and
- the right to present witnesses.

The Arbiter shall make its determination within 90 calendar days after the filing of the request for a Second Stage Review. If an extension of time is warranted in the Arbiter's opinion, the decision of the Arbiter will be issued within 135 calendar days.

In reaching a decision, the Arbiter shall consider only the material that has been filed or presented by the participants in accordance with this process and the obligations of the applicable procurement-related process or trade commitment.

The Arbiter's decision shall be issued to the vendor and OLG in writing and shall include an explanation of the basis for the decision.

The determination by the Arbiter is the final determination to be afforded to the vendor pursuant to this process.

Remedies

If the Arbiter has determined that there has been a failure by OLG to follow an applicable procurement policy, related process and/or trade commitment, compensation in the amount of the reasonable costs for the preparation of the tender (as determined by the Arbiter) may be awarded to the vendor.

Scope of Bid Dispute Process

The bid dispute process set out herein:

- is meant to provide an opportunity for vendors to raise complaints and to assist OLG in identifying any gaps in its procurement practices;
- will not result in any contract award being set aside by OLG; and
- is not available to challenge a procurement process in respect of which the vendor has commenced legal proceedings against OLG.

A vendor may request that OLG postpone or suspend a procurement process in order to facilitate resolution of a vendor concern raised before the contract is awarded. OLG will, where appropriate and practicable, implement measures to preserve the vendor's opportunity to participate in the procurement. OLG may refuse any such a request after taking into consideration the merits of the complaint and any overriding adverse consequences for OLG, the government, other bidders or third-party stakeholders.

A vendor's legal rights related to a competitive OLG procurement process remain unchanged following a review hereunder.