

(DOCUMENT INCLUDES TRACK CHANGES)

LEGAL NOTICE NO.:

REPUBLIC OF TRINIDAD AND TOBAGO
PUBLIC PROCUREMENT AND DISPOSAL OF
PUBLIC PROPERTY ACT, 2015

REGULATIONS

Made by the Minister of Finance and the Economy on the recommendation of the Office of Procurement Regulation hereinafter referred to as “**the Office**” under Section 63 of the Public Procurement and Disposal of Public Property Act, 2015, (as amended), subject to the affirmative resolution of Parliament.

THE PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC PROPERTY
REGULATIONS, 2019

Citation

1. These Regulations may be cited as the Public Procurement and Disposal of Public Property Regulations, 2019.

Interpretation

2. In these Regulations:

“Accounting Officer” means any person appointed by the Treasury and charged with the duty of accounting for any service in respect of which moneys have been appropriated by the Constitution or by Parliament, or any person to whom issues are made from the Exchequer Account in accordance with the Exchequer and Audit Act Chapter 69:01;

“Consultant” means a person who provides expert advice professionally;

“Domestic Preference” means a measure that gives an advantage to a domestic good or service (as compared to its foreign counterpart);

“invitation” means an often formal request to be present or participate;

“land” means the surface of the earth, the airspace above it, and things other than chattels, upon or below it, including—

(a) buildings and parts of buildings whether the division is vertical, horizontal, or made in any other way;

(b) mines and minerals whether or not held apart from the surface;

(c) the surface of the earth covered by water;

(d) a legal interest in land whether or not it gives a right to possession of the soil; and

(e) an equitable interest in land;

“life cycle costing methods” means a costing tool used to determine the one-time and recurring costs associated with a major purchase over the lifetime of the good or product;

“market knowledge” means the public body’s knowledge about the characteristics of goods, works and services that it requires, and of the suppliers, contractors and consultants that supply those requirements;

“net book value” means the original acquisition cost of an item less accumulated depreciation, depletion or amortization. Book value means the value of the firm as per the books of the company. It is the value at which the assets are valued in the balance sheet of the company as on the given date;

“participation of joint venture and other consortia” means an association of two or more individuals or entities which engage in a temporary partnership for the purpose of carrying out a procurement activity, but which otherwise retain their individual identities. It does not include sub-contractors;

“procurement activities” means the activities and events before and after the signing of a procurement contract as well as the general management activities associated with a range of procurement contracts;

“residual value” means an estimated amount that an entity can obtain when disposing of an asset after the useful life of the asset has ended. The estimated cost of disposing of the asset should be deducted;

“State Land” includes land held by the National Housing Authority, State Land vested in the Tobago House of Assembly, and any other land transferred to the State from time to time by any State agency for the purposes of State Land (Regularisation of Tenure) Act Chap 57: 05 or any other written law.

Part 1 Participation in Procurement

Domestic preference

3. Bidders participating in international competitive bids may benefit from domestic preference mechanisms set out in the bidding documents under the following conditions:

(1) In the case of goods contracts, preference may be applied to bids that propose the supply of:

- (a) goods manufactured exclusively in Trinidad and Tobago, or
- (b) goods partially manufactured or assembled in Trinidad and Tobago where the bidder establishes to the satisfaction of the contracting entity that the proportion of domestic value added to the total value of those goods is equal to or greater than 30% of the ex-works (EXW) price of the goods offered.

(2) In establishing the domestic value added in accordance with Regulation 3(1)(b) above, the contracting entity shall take account of the value of domestic labour, raw materials or components manufactured within Trinidad and Tobago as well as the value of any manufacturing and/or assembly carried out in facilities within Trinidad and Tobago.

(3) As part of their bids, bidders are required to certify that the necessary manufacturing capacity exists where domestic value is to be added.

(4) In the case of works contracts, preference may be applied to bids that proposed the employment of fifty percent (50%) or more of domestic labour. 'Domestic labour' includes:

- (a) skilled or unskilled labour and may include management input; and
- (b) may be provided by the bidder directly where it is a national contractor or indirectly by foreign contractors through sub-contracting of Trinidad and Tobago labour or through association with national contractors that employ Trinidad and Tobago labour.

(5) The nationality of the manufacturer/supplier or contractor shall not be a condition for eligibility.

(6) In establishing the eligibility of bids for the applicable preference, evidence may be required as appropriate. This may include:

- (a) in the case of goods, certificates of origin of raw materials and finished products, commercial invoices for imported components containing exporters' declarations of origin,

signed declarations of manufacturers testifying to the origin of the products or signed declarations of bidders in respect of the level of manufacture/assembly carried out in Trinidad and Tobago;

(b) in the case of works, signed statements regarding the identity of employees to be engaged on a contract, curricula vita (CVs) of relevant managers or key personnel to be engaged, copies of sub-contracts with local companies employing domestic labour, copies of association agreements with national contractors employing domestic labour and, in the case of sub-contracts or association agreements with national companies, copies of their registration documents.

4. A Margin of Domestic Preference may be applied to eligible bids where so indicated in bidding/solicitation documents once there is no conflict with existing international Treaties between Trinidad and Tobago and other international bodies. All bidding/solicitation documents permitting a margin of Domestic Preference to be applied to eligible bids shall clearly state the –

- i. Eligibility requirements for the margin of preference in terms of ownership, location of bidder or production facilities, origin of labour, raw materials or components, extent of sub-contracting or association with local partners, or any other relevant factor;
- ii. Documentation required as evidence of eligibility for the margin of preference; and
- iii. The percentage of the margin of preference and the manner in which it will be applied during the evaluation. The percentage of domestic preference permitted in solicitation documents shall be between five (5) and ten per cent (10%) and may be reviewed quarterly by the procuring entity.

4(2) Participation in procurement proceedings may be limited in order to promote local industry development and local content may not be appropriate for certain elements of national security.

Participation of Joint ventures and other consortia

5(1) For the purposes of this Regulation, a joint venture or consortium means an association of two or more individuals or entities which engage in a temporary arrangement for the purpose of carrying out a particular procurement activity, but which otherwise retain their individual identities. It does not include sub-contractors.

(2) A bidder may rely on the capacities of members of the joint venture or consortium to fulfil the legal, financial and technical requirements of a procurement activity where those members will perform the works or services for which these capacities are required.

(3) All members of a joint venture or consortium shall be jointly and severally liable for the execution of the entire contract in accordance with the contractual terms outlined in the bidding documents.

(4) A bidder participating as a joint venture (JV) or consortium may do so under an existing agreement or with the intent to enter into such an agreement supported by a letter of intent.

(5) Bidders participating as a joint venture or consortium shall provide a document in which:

(a) all parties commit to providing the goods, works or services at their disposal in performance of the procurement activity;

(b) all parties assume joint and several liability for the procurement activity; and

(c) they nominate a representative who shall have the authority to conduct all businesses for and on behalf of any and all parties of the joint venture during the bidding process and, in the event the joint venture is awarded the contract, during the contract execution.

(6) The members of a joint venture or consortium cannot at the same time participate in the same competition, individually or within another joint venture.

Procurement Depository

6(1) With a view to identifying reliable bidders for a subject matter of procurement activity or a class of procurement activity, the Office shall maintain a panel of registered bidders known as the Procurement Depository pursuant to Section 26 (1) of the Act.

(2) For the purpose of sub-Regulation 5 (1), the Office shall upon establishment of the Procurement Depository, and at least annually thereafter, advise prospective bidders of the opportunity to express their interest in participating in public procurement. In that regard, the Office shall publish an appropriate notice in one (1) or more national newspaper of wide circulation and on its website.

(3) The notice referred to in sub-Regulation 5 (3) above shall set out the minimum documentary evidence to be submitted by bidders to the Procurement Depository, in order to fulfil the requirements set out in Section 29 (1) (a-f) of the Act.

(4) Bidders may update their information submitted into the Procurement Depository, as may be necessary to ensure that the information remains current and valid.

(5) Bidders that are registered in the Procurement Depository will continue to maintain a registered status, unless they have been added to the Ineligibility List in accordance with Section 58 (6) of the Act.

(6) Notwithstanding sub-Regulation 5 (4) above, procuring entities shall, in accordance with Section 29 of the Act, establish and evaluate qualification criteria that demonstrate the ability of bidders to perform the procurement activity in question.

(7) As part of its due diligence process for pre-qualification, a procuring entity in verifying the information submitted into the Procurement Depository, shall ensure at a minimum to comply with requirements of section 29 of the Act.

(8) A person who knowingly and mischievously makes, causes to be made, or misleads the Office by giving false information or by making false statements to the Procurement Depository commits an offence and is liable on conviction to a fine of five hundred thousand dollars and to imprisonment for one year.

Part 2

Pre-qualification and pre-selection

Registers of prequalified bidders

7(1) Procuring entities may create a register of pre-qualified bidders for classes of procurement activity which they may require on a recurring basis, in accordance with Section 29(1) of the Act.

(2) The results of the registration process conducted by a procuring entity shall be communicated to the Office within fourteen (14) working days for inclusion in the central database of pre-qualified contractors and suppliers maintained by the Office in accordance Section 13(1)(q) of the Act.

Pre-qualification of Suppliers and Contractors

8(1) A public body may engage in pre-qualification proceedings for the procurement of any category of goods, works or services it requires, as follows:

In the case of suppliers and contractors registered in the procurement depository, the public body may-

a. Review the documents and information submitted into the Procurement Depository and assess, on a pass/fail basis, whether those suppliers or contractors meet the minimum requirements for pre-qualification in accordance with Section 29 (1) of the Act and

b. Engage with those suppliers or contractors, where applicable, to confirm that the documents and information uploaded into the Procurement Depository are accurate as required by Section 26 (3) of the Act.

8(2) The public body shall submit its listing of pre-qualified suppliers and contractors to the Office for publication in the database of prequalified suppliers and contractors within fourteen (14) business days from completion of the pre-qualification proceedings.

8(3) Thereafter, public bodies that require a particular good, work or service may invite the pre-qualified suppliers or contractors to submit a bid or quotation.

8(4) In the event that there are no prequalified suppliers or contractors for the category of good, works or service required, or where the number of prequalified suppliers or contractors is less than the required number (or deemed insufficient for a competitive process), the public body shall issue a public invitation to prequalify.

8(5) The invitation to prequalify shall be published in one (1) or more national newspapers of wide circulation, on its website and on the Office's website. Where applicable, the notice shall also be published in international publications.

8(6) The notice shall contain the deadline for submission of pre-qualification for the specific procurement activity, however it shall also advise potential applicants that registration into the Procurement Depository is continuous and ongoing.

8(7) In response to the invitation to prequalify, suppliers and contractors shall register in the Procurement Depository and upload the required information and supporting documents, to enable the public body to determine whether or not it meets the criteria for pre-qualification.

Pre-selection of Suppliers and Contractors

(9) A public body may engage in pre-selection proceedings for the procurement of any category of goods, works or services it requires, as follows-

(1) Where the listing of prequalified suppliers or contractors is prohibitively lengthy, and would result in the public body spending an inordinate amount of time on the evaluation of bids or proposals, all prequalified bidders shall be invited to participate in pre-selection proceedings in order to establish a short-list of bidders.

(2) Alternatively, for high-risk or high-value procurements, where there are no prequalified suppliers or contractors for the category of goods, works or service required, or where the number of prequalified suppliers or contractors is less than the required number (or deemed insufficient for a competitive process), the public body shall issue a public invitation for pre-qualification in accordance with the pre-qualification criteria as set out in Regulation 7(2).

(3) The invitation for pre-selection shall specify the minimum and maximum number of suppliers or contractors that would be invited to submit a bid or proposal.

(4) The invitation for pre-selection shall be issued as a pre-requisite to a specific procurement activity.

(5) The preselected applicants would subsequently be assessed against additional evaluation criteria relevant to the procurement proceedings in question. A maximum and minimum score would be applied to each criterion, and the applicants would be ranked in accordance with the overall scores obtained.

(6) The weighted evaluation criteria shall include, as applicable, the following:

- a. the supplier's or contractor's experience for the specific requirement;
- b. in the case of services, the quality of the understanding of the requirement under consideration and of the methodology proposed,
- c. the qualifications of the key staff proposed,
- d. transfer of knowledge, if such transfer is relevant to the procurement or is a specific part of the terms and conditions of the procurement,
- e. when applicable, the extent of participation by Trinidad and Tobago nationals among key staff in the performance of the services
- f. environmental conditions for sustainable procurement and or sustainable development
- g. requirements for contributing to local industry development,
- h. any other requirement specific to the procurement activity for which the pre-selection applications were invited.

(7) The number of pre-selected suppliers or contractors specified in the invitation for pre-selection shall be invited to submit a bid or proposal.

Part 3 Technical Requirements

Object of procurement

10(1) The procuring entity's detailed requirements with respect to quality and quantity, including any certification, testing methods or other means for evaluating the conformity of the performance of the contract to these requirements must be specified clearly in the bidding documents.

(2) All relevant bidding and pre-qualification documents shall provide objective descriptive information that do not favour a particular bidder, manufacturer or brand. Rather the document shall state the desired performance or output requirements of the object of the procurement activity wherever possible, and not necessarily design or descriptive characteristics.

Technical specifications

11(1) In designing technical specifications, the procuring entity should include as appropriate:

- (a) a full description of the requirements to an appropriate level of detail;
- (b) a functional description of the requirements, including any environmental or safety features;
- (c) performance parameters, including outputs, timescales and any indicators or criteria by which satisfactory performance can be assessed;
- (d) inspection and testing requirements; and
- (e) any applicable standards.

(2) References to standards shall, where possible, be references to national standards, approved by the Trinidad and Tobago Bureau of Standards (TTBS) or similar agency responsible for setting applicable standards. In the absence of national standards, international standards acceptable by the TTBS or similar agency shall be used.

(3) No requirement or reference is to be made in the technical specifications to a particular trademark or name, patent, design or type, specific original, producer or

service provider, unless there is no other practical way of describing the procurement requirements, and words “such as” or “equivalent” are included in the specifications.

Part 4

Procurement Methods

Strategic procurement

12. (1) Under Section 5(2) of the Act, a procuring entity is responsible for carrying out public procurement and disposal in a manner that is consistent with the objects of the Act. It does so by developing an overall procurement strategy and annual procurement plan that identifies and manages the risks and opportunities it faces in procuring the range of goods, services and works based on the underlying supply market at issue with a view to achieving value for money.

(2) In that regard, the named procurement officer pursuant to Section 61(2) of the Act shall be suitably qualified, experienced and competent to undertake the procurement and disposal functions of the procuring entity.

Thresholds

13. In some cases, threshold values may be used to trigger the appropriate procurement method and serve to ensure compliance with Sections 31 and 32 of the Act. The Office, through the general guidelines, will establish the thresholds to be used for open bidding and alternative bidding methods for the procurement of goods, works and services. Alternatively, procuring entities may establish appropriate threshold values under their special guidelines and handbooks.

14. For the purpose of calculating threshold values, the total value of a procurement shall be estimated as stated in items (a) - (d), below, or as from time to time may be specified by the Office:

(a) in the case of works, the total value of works and related services required to fulfil an economic and technical function shall be taken together, in order to ensure transparency of the total expenditure;

(b) in the case of repeat goods or services which are awarded over a given period of time, the total aggregate value of the contracts with similar characteristics to be awarded within twelve (12) months following the first award;

(c) in the case of framework agreements, the estimated value of all procurement contracts envisaged under the framework agreement; and

(d) in cases where options are specified, the estimated value of the options are to be included in the total estimation.

15. (1) A procuring entity shall not, with the intention of avoiding a particular method of procurement or the benefits of scale, split up procurement requirements which can be procured as a single contract.

(2) Splitting of procurement or disposal requirements, which are broadly similar or related, shall only be permitted when the split offers clear and calculable economic or technical advantages.

(3) A procuring entity may divide requirements allocated to a single procurement process into separate lots, where it is anticipated that the award of several separate contracts would result in the best overall value for the procuring and disposing entity.

(4) Where requirements are divided into lots, which may result in separate contracts, the choice of a procurement method shall be determined by the estimated value of each individual lot and not the total value of all the lots.

Open bidding

16. (1) Without limitation to Regulation 32, public bodies shall utilise the open bidding method as the default method for public procurement, except in circumstances where the complexity of the procurement and /or market conditions render other methods more appropriate for achieving best value for money.

(2) Open bidding may be conducted in multiple stages in appropriate cases such as

(a) where, because of the nature and complexity of what is to be procured, the procuring entity's needs are better met by allowing bidders to offer customized solutions that may vary in the manner in which they meet or exceed the requirement of the bidding document; or

(b) for large complex works or services and high value projects where it may be undesirable or impractical to prepare complete technical specifications in advance or detail design is of a high cost.

(3) The procedure for two-stage bidding shall be as follows:

First stage

(a) The solicitation documents shall call upon suppliers or contractors to present, in the first stage of two-stage-tendering proceedings, initial tenders containing their proposals without a tender price. The solicitation documents may solicit proposals relating to the technical, quality or performance characteristics of the subject matter of the procurement, as well as to contractual terms and conditions of supply and, where relevant, the professional and technical competence and qualifications of the suppliers or contractors.

(b) The procuring entity may, in the first stage, engage in discussions with suppliers or contractors whose initial tenders have not been rejected concerning any aspect of their initial tenders pursuant to the requirements of Section 29 (1) of the Act. When the procuring entity engages in discussions with any supplier or contractor, it shall extend an equal opportunity to participate in discussions to all suppliers or contractors.

Second Stage

(c) In the second stage of two-stage-tendering proceedings, the procuring entity shall invite all suppliers or contractors whose initial tenders were not rejected in the first stage to present final tenders with prices in response to a revised set of terms and conditions of the procurement.

(d) In revising the relevant terms and conditions of the procurement, the procuring entity may not modify the subject matter of the procurement but may refine aspects of the description of the subject matter of the procurement by:

(i) Deleting or modifying any aspect of the technical, quality or performance characteristics of the subject matter of the procurement initially provided and adding any new characteristics that conform to Part 3 (Technical Requirements) of these Regulations;

(ii) Deleting or modifying any criterion for examining or evaluating tenders initially provided and adding any new criterion that conforms to the requirements for fulfilling Section 29 (1) of the Act, only to the extent that the deletion, modification or addition is required as a result of changes made in the technical, quality or performance characteristics of the subject matter of the procurement;

(e) Any deletion, modification or addition made pursuant to subparagraph *d.* of this paragraph shall be communicated to suppliers or contractors in the invitation to present final tenders.

(f) A supplier or contractor not wishing to present a final tender may withdraw from the tendering proceedings without forfeiting any tender security that the supplier or contractor may have been required to provide.

(g) The final tenders shall be evaluated in order to ascertain the successful tenderer.

(4) Open bidding may be preceded by pre-qualification or pre-selection. These procedures are appropriate for large-scale, technically complex and high value projects for goods, works or non-consultancy services. Pre-qualification and pre-selection procedures are set out in Regulations Part 2.

(5) Other alternative bidding methods that may be utilised by procurement entities, along with the conditions of their use, shall be set out and described in the guidelines and handbooks issued by the Office.

Framework agreements

17. A procuring entity may establish a framework agreement if the procuring entity determines that-

(a) the need for the goods, works and services, as the case may be, is expected to arise on a repeated basis during a given period of time; or

(b) by virtue of the nature of the goods, works or services concerned, the need for the goods, works or services, as the case may be, may arise on an urgent basis during a given period of time.

18. A framework agreement shall be conducted in two stages, as follows-

(a) a first stage, during which the supplier is invited to be a party to a framework agreement with a procuring entity; and

(b) a second stage, during which a procurement contract is awarded under the framework agreement to a bidder that is a party to that agreement.

19. The framework agreement shall contain, in addition to information specified elsewhere in this section, all information necessary to allow the effective operation of the framework agreement, including information on how the agreement and notifications of forthcoming

procurement contracts thereunder can be accessed and appropriate information regarding connection, where applicable.

20. A procuring entity shall apply or negotiate a framework agreement in accordance with the guidance of the Office.

Limited bidding

21(1) Limited bidding restricts the number of bidders invited to bid and is appropriate where—

- (a) the goods, works or services, by reason of their highly complex or specialized nature, are available only from a limited number of suppliers or contractors; or
- (b) the time and cost required to examine and evaluate a large number of tenders would be disproportionate to the value of the goods, construction or services to be procured.

22(2) Limited bidding shall be in accordance with the pre-selection criteria.

Requests for quotation

23. Requests for quotation are appropriate for the procurement of readily available, relatively low priced, goods or services that are not specially produced or provided to the particular specifications of the procuring entity and for which there is an established market.

Direct contracting

24. A procuring entity may also opt to purchase directly from one, or where feasible, more than one supplier or contractor without competition where circumstances dictate. Such direct contracting is appropriate:

- (a) when no suitable or responsive bids have been submitted in response to an open or restricted bidding procedure, and re-inviting bids is expected to produce the same result, provided that the requirements of the initial bid are not substantially modified;

(b) where, for technical or artistic reasons, or for reasons connected with the protection of exclusive rights, the contract may be performed only by a particular supplier and no reasonable alternative or substitute exists;

(c) for reasons of extreme urgency brought about by events not attributable to and unforeseen by the procuring entity, the products or services could not be obtained in time by means of an open or limited bidding procedure;

(d) for additional deliveries of goods or services by the original supplier where-

(i) a change of supplier would compel the procuring entity to procure equipment or services not meeting requirements of compatibility with already existing equipment; or

(ii) services procured under the initial procurement and such separation would cause significant inconvenience or substantial duplication of costs to the procuring entity; and

(iii) provided that the total value of contracts awarded for the additional quantities shall not exceed thirty percent (30%) of the amount of the original contract and that such contract is entered into no later than eighteen months after the original contract;

(e) for additional services which were not included in the initial contract but which were within the objectives of the original bidding documents have, through unforeseen circumstances, become necessary to complete the services described therein provided that the total value of contracts awarded for the additional services shall not exceed fifty percent (50%) of the amount of the original contract;

(f) for new services consisting of the repetition of similar services which conform to a basic project for which an initial contract was awarded following an open or selective procurement method, and for which the procuring entity has indicated in the notice of intended procurement that a limited bidding method might be used in awarding contracts for such new services;

(g) for the procurement of prototypes or a first product or service which is developed at the request of a procuring entity in the course of, and for, a particular contract for research, experiment, study or original development; and

(h) for products purchased on a commodity market.

Electronic reverse auction

25. The procuring entity may opt to use an electronic reverse auction in the case of goods and services where-

- (a) it is feasible to formulate a detailed description of the subject matter of the procurement;
- (b) there is a competitive market of suppliers anticipated to be qualified to participate in the electronic reverse auction, such that effective competition is ensured; and
- (c) the criteria to be used in determining the successful submission are quantifiable and can be expressed in monetary terms.

Part 5 Procedural Safeguards

Compliance with objects of the Act

26. To ensure general compliance with Sections 5(1)(a) and (b) of the Act and achieve value for money, the procedures applied by procuring entities when using the procurement methods they have identified in accordance with their procurement strategy should provide for the consistent application of measures designed to promote integrity, transparency, efficiency, fairness, equity and public confidence.

Composition of the Procurement and Disposal Advisory Committee

27. (1) A procuring entity shall establish a Procurement and Disposal Advisory Committee. The Committee shall comprise a minimum of three (3) members who shall be:-

- (a) Corporate Secretary/Head of Legal
- (b) Head of Finance; and
- (c) Subject Matter Expert.

(2) Membership of the Committee may be sourced from other public bodies

(3) A Senior Officer shall be appointed Secretary to attend all meetings but shall not be a Member nor entitled to make any recommendations.

(4)The Procurement and Disposal Advisory Committee shall review reports, recommendations for contract award and procurement proceedings and property disposal files to determine the following:

- a) adherence to the Act and these Regulations;
- b) adherence to the approved internal processes as set out in the Handbook and Guidelines;
- c) adherence to the approved procurement/disposal strategy; and
- d) ensure that the objects of the Act are achieved.

(5)In the event that the Procurement and Disposal Advisory Committee determines that any of the above-mentioned has not been met, the Procurement and Disposal Advisory Committee shall return the file for the appropriate action as recommended to the named Procurement Officer pursuant to Section 61(1) of the Act with a written explanation providing the reason(s) for the return.

(6)The Procurement and Disposal Advisory Committee shall cause the written explanation of the return of the file to be forwarded to the Accounting Officer for noting. In the case of an agreement, the Procurement and Disposal Advisory Committee, shall give the Accounting Officer a written recommendation which must be accompanied by the procurement proceedings file and property disposal file.

(7) A member of the Procurement and Disposal Advisory Committee shall disclose his interest and not take part in reviewing, nor furnish any recommendation on any question where-

- (i) He is a member, director or shareholder of a company or other body corporate; or
- (ii) Is a proprietor of or partner in a firm, or partnership; or
- (iii) Is employed by or is otherwise a party to a contract for services; or
- (iv) Has a financial interest in or relationship; or
- (v) Is a relative of someone who submitted an offer for the consideration of the Committee.

(8) A member of the Procurement and Disposal Committee shall disclose his interest and not take part in reviewing , nor furnish any recommendation on any question where-

- (i) He is a member, director or shareholder of a company or other body corporate; or
- (ii) Is a proprietor of or partner in a firm, or partnership; or
- (iii) Is employed by or is otherwise a party to a contract for services; or
- (iv) Has a financial interest in or relationship; or
- (v) Is a relative of someone who submitted an offer for the consideration of the Committee.

Procedures adopted when opting for open bidding

- 28 (1) Open bidding is based on an invitation to bid that is advertised either nationally, or in appropriate cases, regionally or internationally.
- (2) When using an open bidding procedure, individuals, companies or joint ventures that are legally constituted and are capable of supplying goods, works or services being sought shall be given an equal opportunity of submitting bids.
- (3) Open bidding will normally be advertised regionally or internationally when:
- (a) the required goods, works or services are not available from qualified, competent and experienced local providers at competitive prices or
- (b) it may be necessary to fulfil the terms and conditions of regional or international treaties or agreements.
- (4) In the case of open bidding, invitations to bid and, where appropriate, invitations to prequalify, should be published at least:
- (a) in a national newspaper of wide circulation and on the website of the procuring entity and, where available, in a central website provided by the Office;
- (b) where international advertising is required, in addition to item (a) in an international English language newspaper or trade magazine, with adequate circulation to attract foreign competition and/or on widely read internet websites.

Procedures adopted when opting for limited bidding

- 29(1) In the case of limited bidding, the public advertisement of invitations to bid and, where appropriate, invitations to prequalify, through newspapers or websites is not required.
- (2) In all other respects, the procedures of the open bidding method apply.

Invitation to bid/Procurement notice

- 30(1) To ensure transparency and fairness, the invitation to bid or to prequalify should include information regarding:

- (a) the identity and address of the procuring entity and the contact details of the person from whom further information can be obtained;
- (b) nature and time-frame of the procurement, including the place of delivery of goods or services, and the location of any works;
- (c) manner and cost of obtaining the bidding documents, or, if applicable, the prequalification documents;
- (d) place and deadline for submission of bids, or of applications to prequalify; and
- (e) such other matters as may be required by the procuring entity.

(2) The procuring entity shall provide, in an expeditious and non-discriminatory manner, the bidding documents to all potential bidders that respond to the invitation to bid or, in the case of pre-qualification, to all bidders that have been prequalified, and the price, if any, that may be charged for the bidding documents shall reflect only the cost of printing and distributing the documents.

(3) The bidding documents shall be ready for distribution prior to the publication of the procurement notice. The bidding period starts on the date of the first publication of the procurement notice and ends on the date of the bid submission deadline.

Submission period

31(1) In order to provide equal opportunity to all bidders, the procuring entity shall set a fixed period for the submission of bids following the invitation to bid/procurement notice. No bidder shall be given advance notice.

(2) In determining the appropriate bidding period for each requirement, the procuring entity should take into account:

- (a) the time required for preparation of bids, taking into account the level of detail required and the complexity of bids;
- (b) any need for bidders to submit certified legal documents or similar documents as part of their bids and the time required to obtain such documents;
- (c) the location of potential bidders and the time required to obtain the bidding document and for the delivery and submission of bids to the procuring entity; and
- (d) any restrictions relating to the time the goods, works or services are required.

(3) To preserve fairness during open or limited bidding procedures, procuring entities shall respect minimum bidding periods which shall be as follows:

- (a) twenty (20) working days for open bidding;

- (b) forty (40) working days for open bidding which is advertised internationally;
- (c) thirty (30) working days following a notice to pre-qualify to submit pre-qualification applications;
- (d) twenty (20) working days for limited bidding; and
- (e) thirty (30) working days for limited bidding where international bidders are invited.

Bidding documents

32(1) The bidding documents shall provide bidders with all the information that they require in order to submit bids that are responsive to the needs of the procuring entity. In particular, the bidding documents shall inform bidders concerning:

- (a) the nature and time frame of the procurement, including, but not limited to the contractual terms of the procurement, and the manner of entry into force of the contract;
- (b) except where pre-qualification or pre-selection is used, bidder qualification requirements and the documentation required to satisfy those requirements in accordance with Section 29 of the Act;
- (c) information as to site visits and pre-bid meetings, where required;
- (d) instructions for preparation and submission of bids, including the deadline for submission of bids and, if applicable, time and place of bid opening;
- (e) components to be reflected in the price, the currency or currencies in which the bid price may be stated, the currency and related exchange rate to be used for comparison of bids, and any applicable taxes;
- (f) the criteria and methodology for evaluation of bids and the selection of the successful bidder;
- (g) the limitation, if any, of participation in procurement proceedings to promote local industry development and local content in accordance with section 28 of the Act;
- (h) any grouping of goods, works or services into lots and packages and the manner of evaluation of the lots and packages;
- (i) whether alternatives to the technical or contractual specifications would be considered and, if so, how those alternatives would be evaluated;
- (j) the required validity period of bids;
- (k) the amount and acceptable forms of any required bid, performance or other security, if required;
- (l) the conditions of contract which will be entered into with the successful bidder; and
- (m) such other matters as may be required by the procuring entity.

(2) Where open bidding is advertised internationally or where foreign bidders are invited to bid under a limited bidding procedure, the bidding documents shall indicate:

- (a) that bidders are permitted to express their bids, as well as any security documents to be presented by them, in a currency widely used in international trade and stated in the bidding documents;
- (b) the use of general and special conditions of contract of a kind generally used in international trade; and
- (c) that technical specifications shall, to the extent compatible with national requirements, be based on international standards.

(3) Procuring entities should avail themselves of standard bidding documents for all commonly procured items which should be available for both national and international procurement.

Clarifications

33(1) Any bidder may, in writing, seek clarification of the bidding documents from the procuring entity.

(2) The period within which the bidders may seek clarifications under sub Regulation 28(1), and the period within which the procuring entity shall respond to such requests for clarifications, shall be specified in the bidding documents.

(3) The procuring entity's response thereto shall be provided simultaneously in writing to all bidders without identifying the source of the request.

(4) The procuring entity may make modifications to the bidding documents as a result of the clarification or for any other reason at any time prior to the deadline for the submission of bids.

(5) Where required as a result of the modification, the procuring entity shall extend the deadline for submission of bids so as to allow bidders an opportunity to take such modifications into account in preparing their bids.

Submission of bids

34(1) It is the responsibility of bidders to ensure that bids are delivered to the procuring entity before the bid submission deadline and in the manner specified in the bidding documents.

(2) They must be delivered in the manner required by the procuring entity which may include delivery by hand, courier, messenger or by registered post in sealed envelopes to the addressee.

(3) Bidding documents may authorise other methods of submission of bids, such as electronic submissions including by electronic mail or e-tendering platforms, as long as the confidentiality and security of bids are assured, including the prevention of the opening and reading of bids by anyone until the opening of bids at the time set in the bidding documents.

(4) If bids are received after the closing date and time for submission of the bids, they must be returned unopened, accompanied by an explanatory letter indicating the time and date of receipt.

(5) The procuring entity should record the date and time of the receipt of bids from bidders.

Bid securities

35(1) A procuring entity may require bid securities, when appropriate, in order to deter irresponsible bids and encourage bidders to fulfil the conditions of their bids.

(2) Alternatively, the bidding documents may provide for the use of a bid securing declaration which is a written declaration, signed by an authorized representative of the bidder, acknowledging that in the event of the occurrence of a situation described in Regulation 35 (7), the bid security shall be forfeited.

(3) If a procuring entity requires a bid securing declaration, the bidding documents shall state that requirement and provide the form of declaration to be signed together with any requirements for signature.

(4) If a procuring entity requires a bid security, the bidding documents shall state that requirement for a bid security together with the required format and payment form acceptable to the procuring entity.

(5) The value of any required bid security should be expressed as a fixed amount, not exceeding 2% of the estimated value of the contract and be valid for the period specified

in the bidding document, normally twenty-eight (28) working days beyond the expiry of the bid validity period.

(6) In any event, the bid security or bid securing declaration shall be included with the bid and submitted by the deadline set for submission of bids.

(7) A bid security may be forfeited, or a bid securing declaration activated by the procuring entity, only in the event of:

(a) a modification or withdrawal of a bid after the deadline for submission of bids and during its period of validity;

(b) refusal by a bidder to accept a correction of an arithmetical error appearing on the face of the bid;

(c) failure by the successful bidder to sign a contract in accordance with the terms specified in the bidding documents; or

(d) failure by the successful bidder to provide a security for the performance of the contract if required to do so by the bidding documents.

(8) The procuring entity shall release bid securities promptly to unsuccessful bidders upon expiry of the term of the security or formation of a contract with the successful bidder and submission of any required performance security, whichever is sooner.

(9) The bid security of the successful bidder shall not be released until the signed contract, and any required performance security has been received.

Bid validity

36(1) Bidders shall be required to submit valid bids for a period specified in the bidding documents, which shall be sufficient to enable the comparison and evaluation of bids and obtain the necessary approvals so that the contract can be awarded within that period. An extension of bid validity may be requested from bidders if justified by exceptional circumstances. Any such request shall be made in writing to all bidders before the expiration date of the bid validity. The extension shall be for the minimum period required to complete the evaluation, obtain the necessary approvals, and award the contract.

(2) Whenever an extension of bid validity period is requested, bidders shall not be requested or permitted to change the quoted price or other conditions of the bid. Bidders shall have the right to refuse to grant such an extension without forfeiting their bid security, but those who are willing to extend the validity of their bid shall be required to provide an extension of bid security to cover the revised bid validity period.

Bid opening

37(1) Procuring entities shall set out in the bidding documents a procedure which guarantees the regularity of bid opening.

(2) If public bid opening is envisaged:

- (a) all bids shall be opened publicly at the time and place as specified in the invitation to bid;
- (b) in the presence of bidders' representatives who choose to attend; and
- (c) the procuring entity shall prepare a record of bid opening, which shall be dated and signed by the representatives of the procuring entity present. The record shall contain at least the identification of the bid, the date and time of opening, the names of the bidders, their prices, any discounts offered and the existence of any statutory documents and, if required, bid securities.

Preliminary Examination

38(1) Following bid opening, the procuring entity will conduct a preliminary examination of the bid to ensure compliance with Section 35 of the Act and to assess the substantial compliance of the bids with the terms and conditions set out in the bidding documents, and where required the furnishing of a bid security or bid-securing declaration or the signature of the authorized person.

(2) For these purposes, "substantially responsive bids" means bids that conform to the terms, conditions and specifications of the tender documents without material deviation that:

- (a) affects the scope, quality or performance of the work, supply of goods or services;
- (b) are inconsistent with the tender documents, the project owner's or procuring entity's rights or the bidder's obligations under the contract; or
- (c) affects unfairly the competitive position of other bidders presenting responsive bids.

(3) In accordance with Section 29(6) of the Act, a procuring entity shall disqualify a supplier or contractor if the information submitted concerning its qualifications was materially inaccurate or materially incomplete so as to constitute a misrepresentation.

(4) During preliminary examination, in accordance with Section 29(7) of the Act, a procuring entity may request a bidder to promptly remedy any inaccuracy or incompleteness concerning the qualifications of the bidder.

Clarifications and corrections

39(1) During evaluation of submissions deemed compliant pursuant to Regulation 41, the procuring entity may seek clarification in writing from any bidder to facilitate evaluation, but shall neither ask nor permit any bidder to change the price or any other aspect of the bid and if a bidder amends its bid in any manner, such bid shall be rejected and its bid security, if any, forfeited.

(2) The procuring entity may correct purely arithmetical or computational errors in bids and bidders shall be notified of any arithmetic corrections and be requested, in writing, to agree to the correction. Any bidder who does not accept the correction of an arithmetical error shall be rejected and its bid security, if any, may be forfeited.

Evaluation

40(1) The remaining substantially responsive bids will be evaluated in accordance with Regulations in Part 5 to determine the successful bidder.

(2) All communications generated between the procuring entity and the bidder during the preliminary examination and subsequent evaluation of bids shall be included in the record of the procurement proceedings.

Performance security

41(1) A procuring entity may request a performance security, where applicable, to secure the contractor's obligation to fulfil the contract and any requirement for a performance security shall be specified in the bidding documents and contract.

(2) The value of any required performance security may be expressed either as a fixed amount or as a percentage of the contract value and should be not less than five percent (5%) nor more than ten (10%) of the contract value.

(3) In determining the amount of performance security required, the procuring entity shall take into account the cost to the contractor of obtaining a performance security, the value of the contract, the risk of a contractor failing to fulfil his contractual obligations and the extent of protection offered to the procuring entity through alternative means, such as payment retentions.

(4) Where appropriate, the value of the performance security may be progressively reduced, in line with the contractor's progress in delivering or completing the goods, works or services to which the security relates.

(5) The bidding documents and contract shall state that the performance security shall be:

- (a) in accordance with the format and wording provided in the bidding document;
- (b) in a form acceptable to the procuring entity;
- (c) from a reputable financial institution acceptable to the procuring entity; and
- (d) valid for the period specified in the contract.

(6) The conditions for forfeiture of the performance security shall be specified in the contract.

(7) The procuring entity shall release the performance security promptly to the contractor upon completion of all the contractor's contractual obligations which are subject to the security or termination of the contract for a reason that is not attributable to any fault of the contractor.

Advance payment guarantee

42(1) If the bidding documents allow for an advance payment to the successful bidder, the full amount of the advance payment required by the bidder shall be secured by an advance payment guarantee. In any case, the amount of the advance payment shall not exceed ten (10) percent of the contract amount.

(2) The advance payment guarantee shall be provided by a reputable financial institution, and submitted to the procuring entity, along with the supplier's or contractor's invoice for the required amount, in the format required in the bidding document, or another form acceptable to the procuring entity.

(3) The advance payment guarantee shall be promptly released by the procuring entity to the contractor/supplier upon certification of the value of the work completed relating to the advance payment.

Procedures adopted when opting for requests for quotations

43(1) Where a request for quotations method is used, quotations shall be requested in writing from as many bidders as practicable, but from at least three (3) bidders, using standard documents prepared by the procuring entity, except that where only two bidders are available, justification for inviting less than the minimum three (3) bidders shall be provided in the record of the procurement proceedings.

(2) The written request for quotations shall contain a clear statement of the procuring entity's requirements as to quality, quantity, terms and time to delivery, as well as any other special requirements.

(3) Bidders should be given adequate time, usually no less than five (5) working days, to prepare and submit their quotations, but each bidder is permitted only one (1) quotation which may not be altered or negotiated.

Procedures adopted when opting for direct contracting

44(1) In the case of direct contracting, the invitation to bid will include the required quantities, technical specifications, contract terms and conditions.

(2) The bids received shall be reviewed for conformity with the specifications and contract terms and conditions contained in the solicitation document.

(3) The offers complying with the above shall be reviewed by the procuring entity to determine whether the price is fair and competitive. If the prices offered exceed the allocated budget, the procuring entity may negotiate a price reduction.

Procedures adopted when opting for electronic reverse auctions

45(1) Electronic reverse auctions are procured by way of open bidding up to the final stage preceding the award of the procurement contract when an electronic reverse auction may be used to determine the lowest price.

- (2) The electronic reverse auction shall be based on:
- (a) price, where the procurement contract is to be awarded to the lowest evaluated price;
- or
- (b) price and other criteria specified to suppliers under Regulations 42 and 43, as applicable, where the procurement contract is to be awarded to the best value for money bid.
- (3) In the case of an electronic reverse auction, the bidding documents shall include:
- (a) reference to the fact that the final stage will be carried out by way of electronic reverse auction;
 - (b) the mathematical formula that will be used in the evaluation procedure during the auction;
 - (c) instructions on how the auction can be accessed, including appropriate information regarding connection to the auction.

Part 6 Evaluation

Selecting evaluation criteria

46(1) The procuring entity shall select the successful bidder based on the evaluation criteria and methodology specified in detail in the bidding documents. The evaluation criteria and methodology shall be appropriate to the type, nature, market conditions, and complexity of the goods, works or services being procured.

- (2) Only those criteria explicitly mentioned in the bidding document may be used.
- (3) Evaluation criteria may include both price and non-price factors.

Price factors

47(1) Submitted prices may be adjusted for the quantifiable evaluation criteria if specified in the bidding documents. These may include:

- (a) period for completion of works and services and/or delivery of goods;
- (b) life-cycle operating costs;
- (c) after-sale services and technical assistance;
- (d) supply of spare parts related to the use of goods;
- (e) payment terms;
- (f) optional items required in the bidding documents;
- (g) extended warranties;

(h) optional items required in the bidding documents.

(2) Life-cycle costing methods (establishing total cost of ownership), should be used whenever possible, particularly when the costs of operation and/or maintenance over the specified life of the goods or works are estimated to be considerable in comparison with the initial cost and may vary among different submissions. It is evaluated on a net present value (NPV) cost basis.

(3) When using life-cycle costing, the procuring entity shall specify the following information in the bidding documents:

- (a) the number of years used in the life-cycle cost determination;
- (b) the discount rate, in percent, to be used to calculate the net present value (NPV) of future costs over the life-cycle period specified; and
- (c) the factors and methodology to be used for calculating the operation, maintenance, and disposal costs, including the information to be provided by the bidder in the bid.

Non-price factors

48(1) Procuring entities may also identify in the bidding documents the relevant non-price factors in addition to price factors that may be considered in bid evaluation and the manner of their application in order to determine the proposed best value for money bid.

(2) Non-price factors are those which are not monetarily quantifiable and are assessed using a scoring/weighting system. Non-price factors that cannot be monetized may include, but are not limited to, the following features as relevant:

- (a) quality of methodology and work plan;
- (b) performance, capacity, or functionality features; and
- (c) sustainability criteria.

(3) Non-price criteria are prioritized, assigned merit points, and weighted according to their relative importance in meeting the desired outcome. The method of assessment shall be set out clearly and precisely in the bidding documents.

Transmission of notice of award

49. For the purpose of a notice referred to in Section 35 of the Act notices shall be transmitted by any lawful mechanism that allows for subsequent confirmation of receipt, for example by registered mail, by a reputable commercial courier, or electronically, to the

address of the bidder and to the address of a person whose name and address is nominated by the bidder as an alternative recipient in respect of related correspondence as indicated in the submission documents by a bidder.

Standstill period

50. In accordance with Section 35(2) of the Act, notification of award shall be made at the end of the standstill period which shall be set by the procuring entity at no less than ten (10) working days and no more than fifteen (15) working days, in the first instance, in accordance with the general guidelines issued by the Office.

Part 7 Selection of Consultants

Procedure for the selecting consultants in a competitive process

51. Consultants may be selected competitively or sole sourced based on an initial shortlisting of consultants to be invited to submit proposals which are then evaluated based on the method of evaluation established by the procuring entity in its request for proposals and described in Regulation 55(1).

Shortlisting

52. (1) Where the value of the contract is estimated as being equal to or greater than the threshold set out in the guidelines and handbooks, the shortlist will be established by applying a pre-selection procedure carried out in accordance with the Regulations in Part 2. Contract values are estimated in accordance with Section 32 of the Act.

(2) Where the value of the contract is estimated as less than the threshold set out in the guidelines and handbook, the shortlist may be established from market knowledge or other sources of information.

(3) Shortlisted consultants will be sent a request for proposals which will include a letter of invitation, instructions to consultants, the terms of reference and the proposed draft contract.

Request for proposals

53(1) The letter of invitation will state, at a minimum, the intention of the procuring entity to enter into a contract for the provision of consulting services, the source of funds, the details of the procuring entity, and the date, time, and address for submission of proposals.

(2) The instructions to consultants will contain information that would help consultants prepare responsive proposals, providing information on the evaluation process and indicating the evaluation criteria and factors, their respective weights, and the minimum passing quality score as declared in the approved guidelines issued by the Office.

(3) The terms of reference will define clearly the objectives, goals, and scope of the assignment and provide background information to facilitate the consultants' preparation of their proposals.

(4) The draft contract will set out the standard terms and conditions of the engagement, including the roles, responsibilities and liabilities of the parties to the contract, applicable law and provisions for dispute resolution.

Submission of proposals

54(1) Consultants may be required to submit their technical and commercial proposals, either combined in a single envelope, or in separate envelopes in accordance with approved guidelines issued by the Office. Where relevant, for evaluation methods described in Regulation 50 (2) below, the weight accorded to each of the technical and financial proposals will depend on the nature of the consultancy services and must be defined in the requests for proposal.

(2) In all cases, the financial proposal shall be considered only after completion of the technical evaluation.

Evaluation methods

55(1) The procedure for evaluation will depend on the method of evaluation chosen by the procuring entity, which will depend on the nature and value of the services sought as well as the characteristics and risks inherent in the market for those services.

(2) The most common methods of evaluation and the reasons for adopting them are:

- (a) quality and cost-based selection (**QCBS**) which applies a competitive process among shortlisted consultants taking into account the combined quality of the proposal and the cost of the services in the selection of the successful consultant;
- (b) quality based selection (**QBS**) is appropriate when assignments are complex or highly specialized making it difficult to define precise terms of reference or for assignments that can be carried out in substantially different ways such that financial proposals may be difficult to compare;
- (c) selection under fixed budget (**FBS**) is a method used when the assignment is simple and can be precisely defined, and when the budget is fixed;
- (d) least cost selection (**LCS**) is a method that is appropriate for assignments of a standard or routine nature (financial audits, architectural and engineering design for non- complex works, etc.) where well-established practices and standards exist, and in which the contract amount is relatively small;
- (e) selection based on consultants' qualifications (**CQS**) may be used for small assignments where (i) highly specialized expertise is required for the assignment; (ii) recruitment time is critical and the assignment is, typically, short-term; (iii) few consultants are qualified; and (iv) the preparation and evaluation of competitive proposals is not justified;
- (f) individual consultants may be selected based on the consultants' qualifications method when (i) the qualification and experience of the individual are the paramount requirement; (ii) teams of personnel are not required; and (iii) no outside professional support is required.

Evaluation procedure

The following procedures for evaluation of proposals may be applied:

- 56(1) In the case of QCBS, cost and quality scores are weighted and added together to determine the highest total score with the weight for the "cost" element being chosen, taking into account the complexity of the assignment and the relative importance of quality (normally between 20 and 30 points out of a total score of 100);
- (2) In the case of quality-based selection (QBS), after evaluating the technical proposals, the procuring entity will open only the highest ranked technical proposal and negotiate the financial proposal with the selected consultant.
- (3) When using fixed budget selection (FBS), following evaluation of all technical proposals, the financial proposals will be opened and all financial proposals that exceed the indicated budget shall be rejected; the consultant who has submitted the highest ranked technical proposal among the rest shall be selected and invited to negotiate a contract.

(4) In the case of selection based on the consultants' qualifications (CQS), the procuring entity

a) will prepare the terms of reference and directly obtain expressions of interest from as many consultants as possible, and at least three (3) qualified consultants with relevant experience, except that where only two (2) bidders are available, justification for inviting less than the minimum three (3) bidders shall be provided in the record of the procurement proceedings.

b) Consultants having the required experience and competence relevant to the assignment shall be assessed and compared, and the best qualified and experienced consultant shall be selected;

c) only the selected consultant shall be asked to submit a combined technical and financial proposal and, if such proposal is responsive and acceptable, be invited to negotiate a contract.

(5) Individual consultants may also be selected based on the consultants' qualifications (CQS) method. In this case:

a) at least three (3) shortlisted candidates established from market knowledge or other sources of information must be invited to submit proposals, and where only two (2) bidders are available, justification for inviting less than the minimum three (3) bidders shall be provided in the record of the procurement proceedings.

b) the shortlisted consultants must meet all relevant qualifications and capacity for task performance set out in the terms of reference.

c) capacity will be assessed on the basis of academic background, experience and, where necessary, knowledge of local conditions and other relevant factors.

d) the selected consultant will be invited to submit technical and financial proposals before the conclusion of the agreement.

Part 8 Records

Requirement to keep records

57. The procuring entity shall maintain an easily accessible and retrievable individual record for each procurement activity, which shall be marked with the record management reference number.

Content of record

58. Where appropriate, the record shall contain the originals and copies of all information, documents and communications related to that procurement proceeding and shall, to the extent not already contained in the proposed procurement plan, also include at least the following:

- (a) documents indicating approvals to execute the various stages of the procurement process;
- (b) the complete bidding document;
- (c) a description of the object of the procurement;
- (d) a list of the participating bidders and their qualifications and any reasons for limiting participation;
- (e) any requests for clarifications and any responses thereto;
- (f) reasons for any cancellation of bids;
- (g) a statement of the reason for choice of a procurement method;
- (h) bid prices;
- (i) a summary of the evaluation of bids, including reasons for any rejection based on abnormally low bids;
- (j) any decision suspending the standstill period;
- (k) the signed contract;
- (l) any decision based on review by the Office, and the related decisions; and
- (m) any other information required by the Office, to be recorded.

Disclosure and retention

59(1) The record shall be prepared and disclosed in a manner that avoids disclosure of proprietary commercial information.

(2) The record shall, on request, be made available to any person after a bid has been accepted, unless any portion of the record is required to be disclosed earlier pursuant to law, or by order of the Office, Public Procurement Review Board, a competent court or a duly appointed arbitrator.

(3) Procurement records shall be kept for a minimum period of seven (7) years following completion or termination of the contract or cancellation of the procurement

proceedings save and except for any investigation, litigation or review by the Office or any competent authority.

Reporting

60. Procuring entities shall submit report summaries on their procurement activities to the Office in accordance with templates and instructions issued by the Office.

Part 9

Retention of Public Property and Disposal of Personal Property

Retention of public property and disposal of personal property

61 (1) Procedures for the retention of public property and disposal of personal property shall be set out in handbooks and guidelines approved by the Office, in accordance with the general procedures outlined below.

A risk-based approach to retention of public property

62(1) Each public body shall ensure that it protects and maintains the public property with which it is entrusted in a manner designed to maximise the use of, and where applicable, preserve or enhance the value of, the public property.

(2) To achieve the principles of good governance, namely accountability, transparency, integrity and value for money in the retention of public property, a public body shall adopt a risk-based approach.

(3) The public body shall consider the nature of each item of public property to determine the risks to which it may be exposed, e.g. risk of loss through theft or fire, risk of misuse (including wastage) or risk of obsolescence.

(4) For each item under consideration, the public body shall assess the significance and likelihood of all the risks that are likely to threaten the public property and shall determine the relevant controls to be implemented to protect the public property.

(5) The significance of the risk shall be assessed in terms of its replacement cost, its importance to the operations of the public body, and the perception of the general public of the item of public property.

(6) In assessing the likelihood of the occurrence of the risk event taking place, the public body shall consider issues such as the nature and function of the item of public property.

(7) In considering the mitigation strategy to be applied to the identified risks, the public body shall ensure that the mitigating action is in alignment with, and does not outweigh, the likelihood of the potential risk event.

Risk mitigation strategies

63(1) Each public body shall establish a written policy that highlights its objectives for the retention of tangible and intangible public property in accordance with the good governance principles of accountability, transparency, integrity and value for money. At a minimum, the policy shall address the following:

- a) General procedures and overall requirements for protecting the public property;
- b) Maintenance, preservation and performance related issues;
- c) The responsibilities, records and procedures necessary to achieve the policy objectives;
- d) The minimum value of public property to be monitored under its inventory control system;
- e) The thresholds for financial reporting; and
- f) Insurance against losses.

(2) Each public body shall assign a responsible public officer, who will be the single point of accountability, to perform the following functions in relation to the effective retention of public property:

- i. Monitoring the accuracy and usefulness of the public property records;
- ii. Establishing the procedures for the protection of the public property;
- iii. Conducting initial and periodic physical inventories of the public property and
- iv. Verifying items for disposal.

(3) The record of each item of personal property shall include, but not be limited to the following:

- (a) Coding classification to be used in tagging of item;
- (b) The name and description of the items;
- (c) Date of purchase;
- (d) Reference to source documents for example Invoice reference;
- (e) Assigned location;
- (f) The purchase price, depreciation amount and net book value;

- (g) Any residual value (where applicable);
- (h) Expiration date (where applicable).

(4) Each public body shall establish a stores and inventory management system and assign a trained technically capable public officer to effectively manage the receipt, storage, issuance and disposal identification of the personal property under its purview.

(5) The management system shall include economic order quantities, reorder levels, and where appropriate buffer stock. Where possible, such system shall be in electronic format to ensure maximum efficiency.

(6) The public body shall perform a physical stock count for comparison against its inventory records on an annual basis, or at shorter intervals where necessary to achieve the principles of accountability, integrity and value for money.

(7) Records of real property shall consist of information pertaining to the lands and buildings owned by the public body, or which fall under the purview of the public body, and shall include the following:

- (a) The description of the deed;
- (b) The location of the real property;
- (c) A photograph of the property;
- (d) The date of purchase (where applicable);
- (e) The purchase price, and the assessed and appraised value of the public property;
- (f) Current tenants (where applicable); and
- (g) Any other information deemed necessary, or that may be required by law.

Disposal of Stores and Equipment

64(1) Each public body shall be responsible for the disposal of its stores and equipment that are deemed unserviceable, obsolete or surplus.

(2) These items shall be disposed of by utilising the most appropriate means including, but not limited to, public sale or tendering, public auction, gift, lease, concession, transfer, destruction, trade-ins, recycling or donations. Where public sales or tendering and auctions are required and the net book value, market value or residual value is in excess of TT\$100,000, the public body shall, through public advertisement in at least two (2) daily newspapers of wide circulation, and on its website, list all items to be disposed of and the

date, time and venue of the said disposal. For other means of disposals the public body shall advertise on its website.

(3) The public body shall ensure that:

a) Items for disposal are identified and brought to the attention of its named procurement officer within a reasonable timeframe.

b) Items are disposed of:

i. Safely to protect the environment in accordance with Environmental Management Authority Standards (EMA); and

ii. In accordance with the manufacturer's instructions (where applicable)

(c) The net proceeds received from disposal through the sale of an asset, shall be accounted for as government revenue;

(d) All expenses related to the disposal of public property shall be accurately recorded in the relevant inventory and financial systems;

(e) Appropriate security arrangements are made for public auctions in order to protect public funds;

(f) All purchasers of any property disposed by sale or public auction shall provide a source of funds declaration and sufficient bio-data including but not limited to full name, date of birth, nationality, identification card/passport/driver's permit number, residential mailing address, business mailing address, mobile contact number;

(g) The advice of a technical/subject matter expert is sought in making recommendations for disposal; and

(h) The Office shall be notified of all disposal actions within six (6) weeks of completion; indicating details of the items, price, method of disposal and the provision of supporting documents as requested by the office from time to time.

Disposal to public employees

65(1) When disposal of public property is proposed to be made to a person who is an employee of a public body, or a member of a board or a committee of a public body (“**an identified person**”) either by way of direct sale, as a result of an auction or bidding process,

or any other means of alienation, the Procurement and Disposal Advisory Committee shall cause a notice to be sent to the accounting officer or equivalent in a public body seeking prior approval and setting out the following:

- a) the details of the item(s) earmarked for disposal;
- b) valuation report, where applicable, of the items earmarked disposal;
- c) the method to be adopted for disposal and, if by way of direct sale or transfer, the reasons for the proposed disposal to the identified person(s);
- d) the name of the identified person;
- e) the relationship of the identified person(s) to the procuring entity; and
- f) any other relevant details including the proposed disposal price.

66(2) The procuring entity shall, within ten (10) working days of the disposal of the assets where the net book value, market value or residual value is in excess of \$100,000.00 –

(a) notify the Office of Procurement Regulation of the disposal indicating details of the items, the disposal price and the name of the identified person(s);

(b) publish a notice on its website and, where required in the Guidelines, in one (1) daily newspaper of wide circulation.

Part 10 Challenge Proceedings

Procedure for review

67(1) An application for review shall be made in writing and addressed to the Office within the time limits set out in Section 50(2) of the Act.

(2) After receiving an application under Section 50(1) of the Act, the Office shall promptly register the review procedure in accordance with Regulation 67.

(3) The decision of the Office shall be binding on the bidder that lodged the application and the procuring entity whose tender procedure is the subject of the review.

(4) The Office shall dismiss the application where—

- a) the grounds for review do not constitute a valid basis for the review; or
- b) the bidder that lodged the application has failed to establish the grounds for review.

(5) Where the Office finds that a bidder that lodged an application for review has established valid grounds for the review, it may, as appropriate, apply the remedies provided for in Section 50(10) of the Act.

(6) The decision of the Office may be subject to review by the Public Procurement Review Board under Section 51A of the Act.

Duties of Office

68(1) The Office shall conduct the review independently and impartially in accordance with the Procedures.

(2) A member of the Office who has a direct or indirect personal interest in a matter being considered or to be considered shall, as soon as reasonably practicable after the relevant facts concerning the matter have come to his or her attention and/or knowledge, disclose the nature of his or her interest to the Office which shall appoint an alternative member.

Office

69(1) The Office shall be responsible for the organisation and management applications for review.

(2) The business of the Office and all clerical matters arising out of the conduct of a review under this procedure shall be carried out by the Office. In particular, all applications, replies and subsequent communications shall be addressed to the Office unless otherwise specified.

(3) Copies of all relevant forms to be used for the review procedure shall be available for collection at the Office, or for download from the website of the Office

(4) Following the receipt of an application for review, the Office shall prepare and provide the case file in an appropriate form.

Representation

70. A party may appear in person or may be represented by a lawyer or such other suitably qualified and experience representation which may include but not limited to an engineer, quantity surveyor, valuator or such person as shall be recognised by the Office for the purposes of such representation.

Submission of Application for Review

71(1) Any bidder wishing to submit an Application for Review shall submit the following documents to the Office:

- (a) a completed Review Application in the Form provided for by the Office clearly setting out the grounds for review;
- (b) copies of any documentary evidence relied upon in support of the claim set out in the Review Application Form;
- (c) where the request is made by an agent of the Applicant, an appropriate power of attorney, in a form acceptable to the Office.
- (d) where the request is made by a Company, an extract of the Minutes certified by the relevant personnel under resolution and seal of the Board.

(2) The Office shall record receipt of the Application in the Review Register and assign it a Case Reference Number.

(3) The Office shall immediately verify that the Application for Review is in conformity with the provisions of Regulations 61(1) and 65(1) of this Part.

(4) Any Application for Review found not to be in conformity with the above shall be rejected and returned to the Applicant together with a statement of the reasons for rejection. The Applicant may then, within seven (7) working days, re-submit its corrected Application for Review.

(5) Upon recording receipt, the Office shall, pursuant to Section 50(6) of the Act, notify the procuring entity in writing delivered to the attention of the procurement officer appointed pursuant to Section 61(2) of the Act, against whom the Application has been made, (the Respondent). The Application for Review shall include with the notice a complete copy of the Application.

(6) The Office shall simultaneously notify the suppliers, contractors, service providers and any governmental authority in writing whose interests are affected or are likely to be affected by the review in accordance with Section 50(3) of the Act.

Submission of Reply

72(1) In pursuance of Section 50(5) of the Act, within three (3) working days of the receipt of the notification from the Office, the Respondent shall submit to the Office the following documents:

- (a) a written reply to the Application for Review prepared and signed by the accounting officer or its equivalent in a public body ;
- (b) copies of any documentary evidence relied upon in support of the Reply;

(c) any other documents referred to in the Application for Review in the possession of the Respondent but not available to the bidder bringing the challenge;

(2) The failure to submit a Reply within the specified period will not prevent the conduct of the review procedure and the Respondent will remain bound by any decision of the Office

(3) Where the Respondent fails to submit a Reply within the specified time limit, the Office may proceed with the formal assignment of the case

(4) The Office shall, if it is satisfied that the Application for Review was duly served on the Respondent and the party has failed to serve a Reply without good cause, have power to proceed with its deliberations on the basis of the evidence before it as if such proceedings had been conducted in the presence of all parties.

Registration

73(1) Following receipt of the Reply, the Office shall collate all the relevant documents into a single case file, including the Application for Review, the Reply, the documentary evidence provided by the parties and the powers of attorney, if any.

(3) the Office shall register the commencement of the review procedure in the Review Register as the 'date of commencement'.

(4) The Office shall immediately notify the parties of the date of commencement and provide them with a copy of the case file and the procedural instructions for the review.

Suspension

74(1) Within three (3) working days of the Application for Review, the Office shall convene to consider whether or not the procurement proceedings should be suspended.

(2) The Office shall comply with the provisions of the Act, and in particular Sections 50(4) and 50(7).

Opening of Challenge Procedure

75(1) The Office shall, taking into account the nature of the case defined in the terms of reference, determine the order, time and place of any Hearing it intends to hold.

(2) At the written request of the parties, the Office may proceed to make its

decision in the absence of a Hearing. In such a case, the Office, if satisfied that it can reach a definitive opinion on the basis of the case file and without hearing the parties, may proceed to reach a decision without a Hearing.

(3) In determining the order and time of the Hearing, the Office shall give sufficient consideration to preventing the delay of the proceedings.

(4) The Office shall communicate this decision to the parties in the form provided.

Hearing

76(1) The Hearing shall take place in the manner provided for by the Office

(2) If one of the parties, despite having received notice of the Hearing, fails to appear, the Office, if satisfied that the notification was received and the party is absent without good cause, shall have power to proceed with the proceedings which shall be deemed to have been conducted in the presence of all parties.

(3) The Hearing shall be open to the public other than in the cases set out in Section 52 of the Act.

(4) The Office shall, for each Hearing, take and keep minutes or ensure that such are taken and kept stating the time, place and the names of those attending together with a summary record of the meeting or Hearing.

(5) Parties to the proceedings concerned shall have access to copies of the record within seven (7) days of the conclusion of the meeting or Hearing.

(6) Any request for access to the records must be made in writing to the Office and on notice to the other party or parties to the proceedings.

(7) The Office shall prescribe in the Hearing Rules and Procedure the format access to the records will be provided.

Evidence

77(1) All relevant documentary evidence relied upon by the parties in support of their claims and replies shall be put before the Office in the form of copies of the Application for Review and Reply Forms.

(2) Subsequent documentary evidence shall be admitted only where, in the opinion of the Office, it is relevant and only with the Office's consent.

(3) During the hearing, any party may submit oral evidence, or witness statements in writing which shall be subject to cross-examination, in support of its own contentions by way of the voluntary appearance of witnesses.

(4) The Office may, at its discretion, request the submission of further documentary evidence from the parties or request the presence of other witnesses or expert witnesses.

(5) The standard of proof to be applied in challenge proceedings shall be that required in a Court in civil cases.

Conclusion of the Proceedings

78(1) The Office shall, when satisfied that all contentions and evidence of the parties have been submitted, conclude the proceedings.

(2) The Office shall deliver its decision to the Office promptly after the completion of the proceedings.

(3) The decision of the Office shall be confined to the issues raised by the Application for Review and Reply.

(4) The decision shall be formulated in accordance with the provisions of Section 50(12) of the Act.

(5) The Office shall immediately notify the all parties of the decision in accordance with the provisions of Section 50(9) of the Act.

Part 11 Ineligibility Proceedings

Initiating the ineligibility procedure

79(1) If any officer of a procuring entity, or any bidder, or any member of the public, suspects that a bidder participating in a contract award procedure or an associate of such bidder has committed a prohibited practice defined in Sections 58(3) or 59(7) of the Act, or any other relevant section of the Act, or has been the subject of a civil judgment or criminal conviction in respect of a prohibited practice, he may bring this to the attention of the accounting officer or equivalent in a public body and/or to the Office in a report, together with any documentary evidence at his disposal.

(2) If, as a result of the information provided or of his own investigation, the accounting officer or equivalent in a public body is satisfied that there is sufficient evidence to support a finding of a prohibited practice, he may transmit the report and evidence to the Office.

(3) Within ten (10) working days of receiving the report, the Office shall review its contents and decide whether or not to proceed.

(4) If the Office determines that the report does not contain sufficient evidence to support the proposed ineligibility or sanction, it will notify the accounting officer or equivalent in a public body of its decision and of the reasons for the decision.

(5) If new facts or evidence come to light, the accounting officer or equivalent in a public body may, at his discretion, amend and resubmit a revised report for consideration by the Office.

(6) If the Office agrees with the conclusions of the accounting officer or equivalent in a public body as set out in the report, the institution of ineligibility proceedings may be considered.

(7) The Office shall have the task of determining whether there is sufficient evidence in each case to declare a bidder accused of a prohibited practice ineligible and to issue a Notice of Ineligibility.

Notice of Proposed Ineligibility

80(1) Once established, the Office shall prepare and send to the bidder (known as the 'Respondent') a Notice of Proposed Ineligibility based on the information and evidence

contained in the report. If an accusation is made against an associate of a bidder, such associate must also be named.

(2) The Notice of Proposed Ineligibility will be communicated to the named Respondent and any associate specifically named therein by registered mail and will inform the Respondent of the details of the proposed ineligibility, the evidence to be relied upon and the applicable procedure.

(3) If within ten (10) working days of confirmation of receipt of the Notice, the Respondent does not inform the Office, in writing, of its intention to contest the allegations, or respond to the Notice admitting all or part of the allegations, the Office will, and without need of a hearing, issue a decision imposing the sanction recommended in the Notice of Proposed Ineligibility, taking into account any mitigating factors disclosed by virtue of Regulation 77(3).

(4) If the Respondent informs the Office in writing that it intends to contest the allegations recommended in the Notice of Proposed Ineligibility, the Office will, within five (5) working days inform the Respondent in writing, of the procedure to be followed, including any hearing proposed.

Hearings and evidence

81 (1) The Hearing shall take place in the manner provided for by the Office

(2) A party may appear in person or may be represented by a lawyer or such other person as shall be recognised by the Office as suitable for the purposes of such representation.

(3) The Hearing shall be closed to the public.

(4) The Office shall, for each Hearing, take and keep minutes or ensure that such are taken and kept stating the time, place and the names of those attending together with a summary record of the meeting or Hearing. The minutes and summary record shall be confirmed by all participants within seven (7) working days after the completion of each Hearing.

(5) The Office retains the discretion to determine the relevance, materiality, weight, and sufficiency of all evidence offered.

Recommendation of the Office

82(1) At the conclusion of the hearing, the Office shall determine whether the proposed ineligibility is in the interests of the procuring entity, the State or the general public on the basis of the evidence presented.

(2) The existence of a proven cause for ineligibility does not necessarily require that the bidder be declared ineligible or receive the sanction proposed in the Notice of Proposed Ineligibility. The seriousness of the bidder's acts or omissions and any remedial measures or mitigating factors should be considered in making any ineligibility decision. The burden rests on the Respondent to provide evidence of mitigating factors which might tend to reduce or remove the desirability for ineligibility.

(3) Before arriving at any ineligibility recommendation, the Office should consider factors such as the following:

- a) the severity of the Respondent's conduct;
- b) the degree of involvement of the Respondent in the prohibited practice (including whether the conduct involved was "active" or "passive");
- c) the magnitude of any losses caused by the Respondent and damage caused by the Respondent to the credibility of the procurement process;
- d) the past conduct of the Respondent involving a prohibited practice;
- e) the extent to which the Respondent cooperated in the investigation and whether such cooperation is of substantial benefit to the procuring entity;
- f) whether the bidder has fully investigated the circumstances surrounding the cause for ineligibility and, if so, made the result of the investigation available to the Office and/or taken appropriate disciplinary action against the individuals responsible for the activity which constitutes cause for ineligibility;
- g) whether the bidder's management recognizes and understands the seriousness of the misconduct giving rise to the cause for ineligibility and has instituted or agreed to institute new or revised review and control procedures and ethics training programmes or other programmes to prevent recurrence;
- h) any other factor that the Office deems relevant.

(4) Where the Office determines that there is insufficient evidence to support the proposed ineligibility or sanction, it shall recommend to the Office that no ineligibility sanction be imposed.

(5) the Office shall notify the bidder and any associate of the decision not to impose any ineligibility sanction.

83(1) The ineligibility sanction shall be taken by the Office and may take one of the following forms:

(a) **Reprimand:** a formal “Letter of Reprimand” based on the Respondent’s conduct but which falls short of ineligibility. This may be used where it is the Respondent’s first offence *and* where the offence is relatively minor *or* where there are sufficiently compelling mitigating factors. It should not be used for a second or subsequent offence.

(b) **Suspended Ineligibility:** a sanction which threatens ineligibility where certain conditions are not met. Based on the gravity of the offences and the existence of mitigating factors, the Office may decide that the Respondent be required to comply with certain remedial, preventative or other measures as a condition to avoid ineligibility. In the event that the Respondent fails to demonstrate compliance with the conditions within the time periods established by the Office, ineligibility would automatically become effective.

(c) **Permanent Ineligibility:** this is the most serious sanction. It is appropriate only in cases of particularly egregious offences where the Respondent has consistently failed to correct its practices.

(2) Other than in the case of permanent ineligibility, the decision of the Office shall be final and shall take effect immediately, without prejudice to any other action taken by any other government organisation under applicable law.

(3) In the case of permanent ineligibility, the decision of the Office may be subject to the review of the Public Procurement Review Board.

Scope and consequences of ineligibility

84(1) The Office may extend the effect of the Notice of Ineligibility to include any associates of the bidder provided they are:

- (a) specifically named in the Notice of Proposed Ineligibility; and
- (b) given an opportunity to respond.

(2) Following ineligibility, the name of the ineligible bidder, director, manager, senior officer, partner or other similar officer, or any person who purports to act in such a capacity, as appropriate, shall be included in the Ineligibility List maintained by the Office.

(3) In respect of bidders and other persons properly included in the Ineligibility List, all procuring entities falling within the scope of the Act shall:

- (a) exclude such bidders and other persons from receiving contracts awarded by them;
- (b) not solicit offers from, award contracts to, or consent to subcontracts with them;

- (c) reject any bids received from them in response to an invitation for bids;
- (d) not evaluate any proposals, quotations, or offers received from them or enter into discussions with them during the period of ineligibility;
- (e) not consent to their appointment as a sub-contractor to a bidder which has not been declared ineligible.

(4) If the period of ineligibility expires or is terminated prior to award, the procurement officer may, but is not required to, consider such bids proposals, quotations, or offers.

(5) Notwithstanding the ineligibility of a bidder or other person, procuring entities may continue contracts or subcontracts in existence at the time of the ineligibility unless the accounting officer or equivalent in a public body directs otherwise.

Review and appeals

85(1) A bidder declared ineligible may seek review of a declaration of ineligibility with the Office at any time when:

- (a) newly discovered material evidence or facts come to light which tend to exculpate the ineligible bidder;
- (b) a conviction or civil judgment upon which the ineligibility was based has been reversed;
- (c) there has been a *bona fide* change in ownership or management of the bidder;
- (d) the bidder has successfully complied with any remedial, preventative or other measures imposed by the Office in the context of a Suspended Ineligibility.

(2) A request for review shall be made in writing and the procedure for review shall be determined by the Office at its discretion.

(3) Where a bidder is not satisfied with the decision of the Office in respect of a Permanent Ineligibility only, he may apply in writing to the Public Procurement Review Board within twenty-one(21) working days of the receipt of the declaration of ineligibility.

Reinstatement

86(1) The Office may withdraw the name of the bidder or associate from the Ineligibility List by notifying the bidder or associate and procuring entity in writing within seven (7) days of notice, whenever-

- (a) the Office determines that one or more of the conditions of Regulation 80(1) have been met; or
- (b) the Public Procurement Review Board overturns the Office's Notice of Ineligibility.

Part 12
Miscellaneous

Committee members

87(1) The Office shall from time to time, through public advertisement in at least one (1) daily newspaper of wide circulation, and on its website, invite suitably qualified and experienced individuals to serve on committees of the Board. A member of a committee shall have appropriate academic qualifications together with practical experience in the area in respect of the matters the Committee is required to inquire into by the Office, in order to provide effective support and relevant advice to the Office in the performance of the Office's functions and powers.

(2) Where the Office appoints a committee under Section 16(1) of the Act, that committee shall comprise a membership of no less than three(3) members including the chairperson and, in any event, any committee shall, at all times comprise an uneven number of members.

Criteria for membership of a committee

88.(1) A member of a Committee shall ensure that he performs his functions for which he is responsible in an effective and efficient manner and shall—

- (a) be fair and impartial in exercising his public duty;
- (b) afford no undue preferential treatment to any group or individual;
- (c) arrange his private interests whether pecuniary or otherwise in such a manner as to maintain public confidence and trust in his integrity.

(2) A member of a Committee shall not—

- (a) use his office for the improper advancement of his personal or financial interests or the interest of any person;
- (b) use public property or services for activities not related to his official work;
- (c) directly or indirectly use his office for private gain.

(3) A member of a Committee shall not use information that is gained in the execution of his office and which is not available to the general public to further or seek to further his private interests.

(4) A member of a Committee shall not use his office to seek to influence a decision made by another person or public body to further his own private interests.

(5) A member of a Committee shall not accept a fee, gift or personal benefit, except compensation authorised by law, that is connected directly or indirectly with the performance of the duties of this office.

(6) Matters of a confidential nature in the possession of persons to whom this Part applies, shall be kept confidential unless the performance of duty or the needs of justice strictly require otherwise, and shall remain confidential even after separation from service.

(7) Where there is a possible or perceived conflict of interest, to whom this applies, shall disclose his interest in accordance with prescribed procedures as set out in the Handbooks and Guidelines approved by the Office and disqualify himself from any decision-making process.

(8) Remuneration for committee members shall be established by the Board of the Office of Procurement Regulation.

Undertaking by committee member

89. A person appointed to a committee shall, on appointment, give to the Office a formal undertaking of commitment, punctuality and attendance for the effective performance of the committee.

Fee for information provided

90. (1) Any printed information provided upon request from a procuring entity from a member of the public, including information referred to in Section 27(1) (a) of the Act, shall be provided at a fee that represents the costs of reproduction and dispatch.

91. (1) Any person or public body who contravenes these Regulations pursuant to Section 63(2) of the Act is guilty of an offence and is liable on conviction to a fine of up to one million dollars and imprisonment for five years.

(2) Any person who contravenes these Regulations and Handbooks and Guidelines, in relation to public procurement, retention and disposal of public property made or approved by the Office under Section 30 and 54 of the Act is guilty of an offence and is liable on conviction to fine of up to one million dollars and imprisonment for five (5) years.

Dated this working day of , 2019

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Minister of Finance

Affirmed by the House of Representatives this working day of , 2019.

Clerk of the House

Affirmed by the Senate this

working day of

, 2019

Clerk of the Senate

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