

**PUBLIC PROCUREMENT AND DISPOSAL OF  
PUBLIC PROPERTY ACT**

**ACT NO 1 OF 2015**

**Act  
1 of 2015**

Amended by  
5 of 2016  
3 of 2017  
\*27 of 2020  
13 of 2023

(\*See Note on page 2)

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UNOFFICIAL VERSION

UPDATED TO DECEMBER 31ST 2022

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**Note on Commencement**

At the date of revision of this Act—

- A. Sections 1, 2, 3, 4, 5(1), 8 to 12, 13(1)(a), (b), (c), (d), (k), (p) and (r), 13(2), 14(3), 15 to 23, 25, 62 and 63 took effect on the 31st July 2015 by LN 150/2015.
- B. Sections 5(2), 6, 7, 13(1)(e), (f), (g), (h), (i), (j), (l), (m), (n), (o), (q) and (s), 14(1), 14(2), 24, 26 to 61, 64 to 70, Schedules 1 and 2 took effect on 26th April 2023 by LN 106/2023.

**Note on Act No. 27 of 2020**

Amendments made to this Act by Act No. 27 of 2020 took effect on 12th May 2023 by Legal Notice 150/2023.

**Note on Validation**

Pursuant to Act No. 13 of 2023, all statutory instruments including Legal Notices No. 206/2023 and No. 164/2023 purported to be made under section 7(6) of the Public Procurement and Disposal of Public Property Act and all acts or contracts done and things purported to be done pursuant to those instruments, are deemed to be lawfully and validly made and done to the extent that they would have been lawfully and validly made and done had the instruments complied with the requirements of section 7(7) of the Act.

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CHAPTER 71:91

**PUBLIC PROCUREMENT AND DISPOSAL OF  
PUBLIC PROPERTY ACT**

**An Act to provide for public procurement, and for the retention and disposal of public property, in accordance with the principles of good governance, namely accountability, transparency, integrity and value for money, the establishment of the Office of Procurement Regulation, the repeal of the Central Tenders Board Act, Chap. 71:91 and related matters.** 1 of 2015.

[ASSENTED TO 14TH JANUARY 2015]

WHEREAS it is enacted by section 13(1) of the Constitution that an Act of Parliament to which that section applies may expressly declare that it shall have effect even though inconsistent with sections 4 and 5 of the Constitution and, if any Act does so declare, it shall have effect accordingly: Preamble.

And whereas it is provided in section 13(2) of the Constitution that an Act of Parliament to which that section applies is one the Bill for which has been passed by both Houses of Parliament and at the final vote thereon in each House has been supported by the votes of not less than three-fifths of all the members of that House:

And whereas it is necessary and expedient that the provisions of this Act shall have effect even though inconsistent with sections 4 and 5 of the Constitution:

ENACTED by the Parliament of Trinidad and Tobago as follows: Enactment.

PART I

PRELIMINARY

**1.** This Act may be cited as the Public Procurement and Disposal of Public Property Act. Short title.

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- Commencement.       \*2. This Act comes into operation on such date as is fixed by the President by Proclamation.
- Act inconsistent with Constitution.       3. This Act shall have effect even though inconsistent with sections 4 and 5 of the Constitution.
- Interpretation. [27 of 2020].       4. In this Act—
- Ch. 22:02.       “bid-rigging” means collusive price-fixing and anti-competitive behaviour which is designed to unfairly influence the outcome of a competitive tender process in favour of one or more bidders;
- “Board” means the Board established under section 10;
- “classified information” means information that is exempted from disclosure under this Act, the Freedom of Information Act or any other written law;
- “committee” means a committee appointed under section 16;
- “disposal of public property” includes the transfer without value, sale, lease, concession, or other alienation of property that is owned by a public body;
- “document” includes an electronic document;
- “electronic means” means the use of electronic equipment for the processing, including digital compression, and storage of data which is transmitted, conveyed and received by wire or radio or by optical, electromagnetic or any other means;
- “electronic reverse auction” means an online real time purchasing technique utilised by a procuring entity to select the successful submission, which involves the presentation by suppliers or contractors of successively lowered bids during a scheduled period of time and the automatic evaluation of tenders;
- “framework agreement” means an agreement or other arrangement between one or more procuring entities and one or more contractors or suppliers which establishes the terms, in particular the terms as to price and, where appropriate, quantity, under which the contractor or supplier will enter into one or more contracts with the procuring entity during the period in which the framework agreement or arrangement applies;

\*See Note on Commencement on page 2 for dates on which various sections of this Act came into force. (LN 150/2015; LN 106/2023).

“local content” means the local value added to goods, works or services measured as the amount of money or percentage of each dollar of expenditure remaining in Trinidad and Tobago after the production of the good or the performance of the work or service;

“local industry development” includes those activities that serve to enhance local capacity and competitiveness by involvement and participation of local persons, firms and capital market and knowledge transfer during the conduct of the programme of goods, works or services that are being procured;

“member” means a member of the Board;

“Minister” means the Minister with responsibility for finance;

“pre-qualification” means the procedure to identify, prior to solicitation, suppliers or contractors who are qualified;

“pre-selection” means the procedure to identify, prior to solicitation, a limited number of suppliers or contractors who best meet the qualification criteria for the procurement concerned;

“private party” means an individual, a body corporate or an unincorporated entity, other than a public body;

“procurement” or “public procurement” means the acquisition of goods, works or services involving the use of public money;

“procurement contract” means a contract concluded between a procuring entity and a supplier or a contractor;

“procurement involving classified information” means procurement in which a procuring entity may be authorised under this Act or any other written law to take measures and impose requirements for the protection of classified information;

“procurement proceedings”, in relation to public procurement, includes the process of procurement from the planning stage, soliciting of tenders, awarding of contracts, and contract management to the formal acknowledgement of completion of the contract;

“procuring entity” means a public body engaged in procurement proceedings;

“public body” means—

- (a) the Office of the President;
- (b) the Parliament;
- (c) the Judiciary;
- (d) a Ministry or a department or division of a Ministry;
- (e) the Tobago House of Assembly, or a division of the Tobago House of Assembly;
- (f) a Municipal Corporation established under the Municipal Corporations Act;
- (g) a Regional Health Authority established under the Regional Health Authorities Act;
- (h) a statutory body, responsibility for which is assigned to a Minister of Government;
- (i) a State-controlled enterprise;
- (j) a Service Commission established under the Constitution or other written law; or
- (k) a body corporate or unincorporated entity—
  - (i) in relation to any function which it exercises on behalf of the State; or
  - (ii) which is established by virtue of the President’s prerogative, by a Minister of Government in his capacity as such or by another public authority; or
- (l) a body corporate or unincorporated entity in relation to any function, project, scheme or arrangement which involves the use by it, of public money;

Ch. 25:04.

Ch. 29:05.

“public money” means money that is—

- (a) received or receivable by a public body;
- (b) raised by an instrument from which it can be reasonably inferred that the State accepts ultimate liability in the case of default;
- (c) spent or committed for future expenditure, by a public body;

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- (d) distributed by a public body to a person;
- (e) raised in accordance with a written law, for a public purpose; or
- (f) appropriated by Parliament;

“public-private partnership arrangement” includes an arrangement between a public body and a private party under which—

- (a) the private party undertakes to perform a public function or provide a service on behalf of the public body;
- (b) the private party receives a benefit for performing the function or providing the service, either by way of—
  - (i) compensation from a public fund;
  - (ii) charges or fees collected by the private party from the users of a service provided to them; or
  - (iii) a combination of such compensation and such charges or fees; and
- (c) the private party is generally liable for the risks arising from the performance of the function or the provision of the service depending on the terms of the arrangement;

“public property” means real or personal property owned by a public body;

“Regulations” means regulations made under section 63;

“Regulator” means the person referred to in section 10(1)(a);

“services” means any objects of procurement or disposal other than goods and works and includes professional, non-professional and commercial services as well as goods and works which are incidental to, but not exceeding, the value of those services;

“socio-economic policies” means environmental, social, economic and other policies of Trinidad and Tobago authorised or required by the Regulations or other provisions of the laws of Trinidad and Tobago to be taken into account by a procuring entity in procurement proceedings;

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“solicitation” means an invitation to tender, present submissions or participate in request-for-proposals proceedings or an electronic reverse auction;

“solicitation document” means a document issued by, or on behalf of a procuring entity, including any amendments thereto, that sets out the terms and conditions of the procurement;

“standstill period” means the period from the dispatch of a notice as required by section 35(2), during which a procuring entity cannot accept the successful submission and suppliers or contractors can challenge the decision so notified;

“State-controlled enterprise” means —

(a) a company incorporated under the laws of Trinidad and Tobago which is owned or controlled by the State;

(b) a company incorporated under the laws of Trinidad and Tobago which is owned or controlled by a company referred to in paragraph (a); or

(c) a body corporate or unincorporated entity which is supported, directly or indirectly, by public money and over which the State, a statutory body or a company referred to in paragraph (a) or (b) is in a position to exercise control directly or indirectly;

“submission” means a tender, a proposal, an offer, a quotation or a bid referred to collectively or generically, including, where the context so requires, an initial or indicative submission;

“supplier” or “contractor” means, according to the context, any party or potential party to procurement proceedings with a procuring entity;

“sustainable procurement” means a process whereby public bodies meet their needs for goods, works or services in a way that achieves value for money on a long-term basis in terms of generating benefits not only to the public body, but also to the economy and the wider society, whilst minimising damage to the environment;

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“tender security” means a security required from suppliers or contractors by a procuring entity and provided to a procuring entity to secure the fulfilment of an obligation and includes such arrangements as bank guarantees, indemnities, surety bonds, standby letters of credit, cheques for which a bank is primarily liable, cash deposits, promissory notes, bills of exchange and other like instruments;

“Tobago House of Assembly” means the Tobago House of Assembly established by section 141A of the Constitution;

“unfulfilled contract” includes a contract that is incomplete, terminated or delayed;

“value for money” includes the value derived from the optimal balance of outcomes and input costs on the basis of the total cost of supply, maintenance and sustainable use;

“works” includes construction and engineering works of all kinds.

5. (1) The objects of this Act are to promote—

Objects.

- (a) the principles of accountability, integrity, transparency and value for money;
- (b) efficiency, fairness, equity and public confidence; and
- (c) local industry development, sustainable procurement and sustainable development,

in public procurement and the disposal of public property.

(2) A public body shall carry out public procurement and the disposal of public property in a manner that is consistent with the objects of this Act.

6. (1) Subject to subsection (2), any procurement of goods, works or services or retention or disposal of public property that is not done in accordance with this Act and any procurement contract or agreement that is not entered into in accordance with this Act shall be void and illegal.

Illegality of  
procurement or  
disposal.

(2) Nothing in subsection (1) shall affect the rights of an innocent third party.

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Application of  
the Act.  
[27 of 2020  
13 of 2023].

7. (1) This Act applies to public bodies and public-private partnership arrangements.

(2) To the extent that this Act conflicts with an obligation of the State under or arising out of the following:

- (a) a treaty or other form of agreement to which Trinidad and Tobago is a party with one or more States or entity within a State;
- (b) an agreement entered into by the Government of Trinidad and Tobago with an international financing institution; or
- (c) an agreement for technical or other cooperation between the Government of Trinidad and Tobago and the Government of a foreign State,

the requirements of the treaty or agreement shall prevail.

(3) A procuring entity engaged in procurement proceedings relating to a treaty or agreement referred to in subsection (2)(a) shall comply with section 29 and submit a report on such compliance to the Office.

(4) The Office shall, within twenty-one days of receiving a report under subsection (3), forward a copy of the report to the Speaker of the House of Representatives who shall cause the report to be laid in Parliament at the earliest opportunity.

(5) Subsection (3) shall not apply to reports regarding matters of national security.

(6) This Act shall not apply to the following services provided to public bodies or State-controlled enterprises:

- (a) legal services;
- (b) debt financing services for the national budget;
- (c) accounting and auditing services;
- (d) medical emergency or other scheduled medical services; or
- (e) such other services as the Minister may, on the recommendation of the Office or upon the initiative of the Minister with the agreement of the Office, by Order, determine.

(7) An Order under subsection (6)(e) shall be subject to negative resolution of Parliament.

(8) The Minister shall submit to the Office annual guidelines which outline the circumstances under which exempted services in subsection (6) may be procured.

(9) The Office shall forward a copy of the guidelines in subsection (8) to the Speaker of the House of Representatives who shall cause the guidelines to be laid in Parliament at the earliest opportunity.

8. This Act binds the State.

Act binds the State.

## PART II

### THE OFFICE OF PROCUREMENT REGULATION

9. There is hereby established as a body corporate the Office of Procurement Regulation (hereinafter referred to as “the Office”).

Establishment and incorporation of the Office.

10. (1) The Office shall be governed by a Board which shall be appointed by the President after consultation with the Prime Minister and the Leader of the Opposition and shall comprise no less than eight and no more than eleven members as follows:

Procurement Board.

(a) the Procurement Regulator (hereinafter referred to as “the Regulator”), who shall be the Chairman and who shall have at least ten years’ experience in matters relating to procurement and possess—

(i) a degree from an accredited University in a field relating to finance, economics or law; or

(ii) a degree from an accredited University in accounting or an equivalent professional qualification in accounting;

(b) a member with qualifications and experience in accounting;

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- (c) a member with qualifications and experience in finance;
- (d) a member with qualifications and experience in business management;
- (e) a member with qualifications and experience in civil engineering;
- (f) an Attorney-at-law of at least ten years' standing;
- (g) a member with qualifications and experience in any other field relating to procurement; and
- (h) no more than four members who represent the interests of the community, women, youth, religion or civil society.

(2) The President, after consultation with the Prime Minister and Leader of the Opposition shall appoint a member as Deputy Chairman of the Board who shall exercise the powers and functions of the Regulator in the event of the Regulator's absence or inability to exercise his powers or perform his functions.

(3) The names of all members of the Board as first constituted and every change in the membership of the Board thereafter shall be published in the *Gazette* and at least one newspaper in daily circulation in Trinidad and Tobago.

(4) The Office shall have an official seal which shall be authenticated by the signatures of—

- (a) the Regulator or in his absence, the Deputy Chairman; and
  - (b) any other member authorised by the Board,
- and shall be judicially noticed.

Tenure and remuneration of members. [3 of 2017].

**11.** (1) The Regulator shall be appointed for a term of five years and is eligible for reappointment, except that he shall not serve more than two consecutive terms.

(2) The Regulator shall be entrusted with the day-to-day management, administration, direction and control of the business of the Office with authority to act in the conduct of the business of the Office.

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(3) A person who has served as the Regulator for two consecutive terms shall not be eligible to become a member.

(4) The appointment of members, other than the Regulator, shall be as follows:

(a) of the six members appointed under section 10(1)(b) to (g)—

(i) three members shall be appointed for a term not exceeding four years and shall be eligible for reappointment for not more than one consecutive term; and

(ii) three members shall be appointed for a term not exceeding three years and shall be eligible for reappointment for not more than one consecutive term; and

(b) the members appointed under section 10(1)(h) shall be appointed for a term not exceeding three years and shall be eligible for reappointment for not more than one consecutive term.

(5) The appointment of a member shall be by instrument in writing.

(6) The Regulator may resign his office by letter addressed to the President.

(7) A member, other than the Regulator, may resign his office by letter addressed to the Regulator who shall immediately cause it to be forwarded to the President.

(8) The resignation of the Regulator shall take effect from the date of receipt of his letter of resignation by the President, and in the case of a member, other than the Regulator, by the Regulator.

(9) The salaries and allowances of the Regulator and other members shall be determined by the Minister, subject to the approval of Parliament.

(10) All expenses incurred by the Office for the purposes of this Act shall be a charge on the Consolidated Fund.

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Removal of  
member.  
[5 of 2016].

**12.** (1) The President may remove a member from office upon being satisfied that the member—

- (a) is declared to be bankrupt;
- (b) is incapable of performing the duties of a member;
- (c) has neglected his duties or has engaged in conduct that would bring his office into disrepute;
- (d) has been absent, without the leave of the Board, from three consecutive meetings of the Board;
- (e) has been convicted of an offence involving dishonesty;
- (f) has been convicted of an offence under the Integrity in Public Life Act;
- (g) has been convicted of an offence punishable by imprisonment for one year or more or an offence under this Act; or
- (h) has traded with the Government without the prior approval of the Minister.

(2) For the purposes of this section, a member trades with the Government if, while holding office, he becomes a party to, or is a partner in a firm or a director or manager of a company which to his knowledge becomes a party to any contract with the Government for or on behalf of the public service.

Functions of  
the Office.  
[27 of 2020].

**13.** (1) The functions of the Office are to—

- (a) establish a comprehensive database of information on public procurement, including information on tenders received, the award and value of contracts, and such other information of public interest as the Office thinks fit;
- (b) set training standards, competence levels and certification requirements to promote best practices in procurement;
- (c) issue and review guidelines in relation to public procurement and the retention and disposal of public property, including model guidelines for special guidelines under sections 30(1)(b) and 54(1)(b);

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- (d) prepare, update and issue model handbooks, incorporating standardised bidding documents, procedural forms and relevant documents for use in public procurement and the retention and disposal of public property;
- (e) approve, in respect of each procuring entity, special guidelines and handbooks in relation to public procurement and the retention and disposal of public property;
- (f) promote the use of technology in public procurement and the retention and disposal of public property;
- (g) provide best practice advice in the conduct of procurement activities, including the promotion of electronic transactions;
- (h) audit and review the system of procurement and disposal of public property to ensure compliance with the objectives of the Act;
- (i) harmonise policies, systems and practices in relation to public procurement activities and the disposal of public property;
- (j) review procurement practices and delivery systems on an annual basis to identify best practices;
- (k) determine, develop, introduce, maintain and update related system-wide databases and technology;
- (l) promote the awareness of public bodies and the public to issues relating to public procurement and disposal of public property;
- (m) undertake research and surveys with respect to public procurement and disposal of public property;
- (n) investigate, on its own initiative or upon complaint from any party involved in public procurement or disposal of public property or any member of the public, any alleged or suspected breach of this Act;

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- (o) *(Deleted by Act No. 27 of 2020);*
  - (p) create and publish standard form contracts for public procurement and disposal of public property;
  - (q) prepare and maintain a database of pre-qualified contractors and suppliers;
  - (r) prepare and maintain a list of pre-qualified mediators, arbitrators and experts for the purposes of alternative dispute resolution under this Act; and
  - (s) provide advice on best practice on the aggregation of the procurement or disposal of goods for the purpose of obtaining value for money.
- (2) In the exercise of its functions, the Office shall—
- (a) act expeditiously and take such other steps as it thinks fit in order to minimise any negative economic impact arising out of the performance of its functions; and
  - (b) not be subject to the direction or control of any other person or authority in the performance of its functions, but shall be accountable to the Parliament.

Powers of the Office.

- 14.** (1) In the performance of its functions, the Office may—
- (a) monitor the procurement of goods, works and services, and the disposal of public property, by public bodies to ensure compliance with this Act;
  - (b) conduct audits and periodic inspections of public bodies to ensure compliance with this Act;
  - (c) issue directions to public bodies to ensure compliance with this Act; and
  - (d) carry out such other activities and do such other acts as it considers necessary or expedient for carrying out its functions.

(2) A public body or person who, without reasonable justification, fails to comply with a direction issued

under this Act commits an offence and is liable on summary conviction to a fine of one hundred thousand dollars.

(3) At all times the Office shall, in the performance of its functions and exercise of its powers, act in an objective and non-discriminatory manner.

**15.** (1) The Board shall meet at least once every month and as often as is required to effect its business. Meetings.

(2) The Regulator shall preside at meetings of the Board and, in the absence of the Regulator, the Deputy Chairman shall preside.

(3) The quorum of a meeting of the Board shall be six members, including either the Regulator or the Deputy Chairman.

(4) The minutes of each meeting of the Board shall be kept in proper form and be confirmed at the next meeting.

(5) The Board may regulate its own proceedings.

**16.** (1) The Board may appoint such committees as it considers necessary. Committees.

(2) A committee may—

(a) inquire into and advise the Board on any matter within the scope of the Board's functions;

(b) exercise such of the powers of the Board as the Board delegates to it in writing; or

(c) perform such other duties as the Board assigns to it.

(3) Membership of a committee may include or consist of persons who satisfy the fit and proper criteria as prescribed by the Regulations and who are not members of the Board, except that the chairperson of a committee shall be a member of the Board.

(4) The Board shall appoint the chairperson of a committee.

(5) A committee shall be subject to the control of the Board and may be discharged or reconstituted at any time by the Board.

(6) A committee may regulate its own procedure, subject to any directions that may be given by the Board.

Declaration of interest.

**17.** (1) A member of the Board or a committee who has a direct or indirect interest in a matter under consideration by the Board or committee shall disclose the fact of his interest at the earliest opportunity and shall not participate in the consideration of, or vote on, any question relating to the matter.

(2) A member of the Board or committee who knowingly or wilfully fails to disclose his interest in accordance with subsection (1) commits an offence and is liable on summary conviction to a fine of five hundred thousand dollars and imprisonment for one year.

Staff of the Office.

**18.** (1) The Office shall appoint such staff as it considers necessary for the efficient performance of the functions of the Office.

(2) The staff of the Office shall be appointed on such terms and conditions as the Office may determine.

Secondment from and to the service of the Office.

**19.** (1) A public officer or any person in the employ of any public body may, with the approval of the appropriate Service Commission or public body and with the consent of the officer or employed person, be seconded to the service of the Office.

(2) Where any secondment is effected, the Office shall make, with the appropriate public body, such arrangements as may be necessary to preserve the rights of the officer or employed person to superannuation benefits for which the officer or employed person would have been eligible had that officer or employed person remained in the service from which the secondment was effected.

(3) A period of secondment under this section shall not exceed five years.

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**20.** (1) The Office shall, within five years of the date of assent to this Act, establish a pension fund plan. Establishment of pension fund plan.

(2) All staff of the Office shall be members of the pension fund plan.

**21.** The funds of the Office shall consist of moneys appropriated by Parliament for the purposes of the Office. Funds of the Office.

**22.** Section 116 of the Constitution shall apply to the accounts of the Office. Accounts and audit.

**23.** The Office shall be exempt from stamp duties, corporation taxes, customs duties, value added taxes, motor vehicle taxes and all other taxes, charges, levies and imposts. Exemptions.

**24.** (1) The Regulator shall submit his reports annually to the Speaker of the House of Representatives, the President of the Senate and the Minister. Report of the Regulator. [5 of 2016].

(2) A report under subsection (1) shall include—

- (a) a figure representing the total value of contracts as awarded by public bodies, and another figure representing the cost of the total value of procurement contract variances for that year;
- (b) the number of unfulfilled contracts awarded by public bodies in respect of procurement;
- (c) a summary of transactions in respect of each public body specifying in respect of public procurement—
  - (i) the number of procurement contracts awarded;
  - (ii) the number of procurement contracts varied;
  - (iii) the quantum of those variances;
  - (iv) the number of unfulfilled procurement contracts and the quantum of cost incurred;
  - (v) with respect to the procurement for a project, a brief description, the awardee,

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- the value, the scope of works and the expected deliverables of the project; and
- (vi) lessons learnt as a consequence of the management of procurement contracts;
- (d) a summary of transactions in respect of each public body concerning the disposal of public property—
- (i) in respect of real property, the address and other identifying details of the property disposed of, including value, to whom it was disposed, date of disposal, means of disposal and consideration; and
  - (ii) in respect of property other than real property, details of the property disposed of, including value, to whom it was disposed, means of disposal, and consideration;
- (e) details of changes implemented to ensure current best practice for procurement, and disposal of public property;
- (f) the names of public bodies that have failed to comply with this Act;
- (g) an assessment of the overall performance of the procurement system;
- (h) a summary of unresolved issues that are to be dealt with; and
- (i) any recommendations requiring action on the part of a procuring entity.

(3) A report under subsection (1) need not include details of contracts less than two million dollars or contracts for the settlement of legal liability other than the total number and quantum.

(4) The President of the Senate and the Speaker of the House of Representatives shall cause the report to be laid before the Senate and the House of Representatives, respectively, at the next sitting of the Senate and the House of Representatives after the receipt thereof, respectively and the report shall be referred forthwith to the Public Accounts Committee.

(5) The Minister may, on the recommendation of the Office, vary the amount specified in subsection (3), by Order subject to negative resolution of Parliament.

**25.** The financial year of the Board shall be the twelve-month period ending on 30th September each year.

Financial year.

### PART III

### GENERAL PROVISIONS

**26.** (1) The Office shall establish a database, to be known as “the Procurement Depository”, to which suppliers or contractors can submit information with respect to, among other things, their qualifications and experience.

Procurement Depository.

(2) The Procurement Depository shall be accessible by the public for viewing.

(3) A supplier or contractor who submits information to the Procurement Depository shall be responsible for ensuring its accuracy.

(4) In conducting its due diligence, pursuant to section 29(1)(e), a procuring entity may require a supplier or contractor who has submitted information to the Procurement Depository to confirm the accuracy of the information submitted.

**27.** (1) A procuring entity shall—

- (a) no later than six weeks after the approval of the National Budget, publish on its website or in any other electronic format, information regarding all planned procurement activities for the following twelve months;
- (b) update the information referred to in paragraph (a) as necessary; and
- (c) provide a printed copy of the information referred to in paragraph (a) upon request and payment of the prescribed fee.

Information on possible forthcoming procurement.

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(2) Where the information referred to in subsection (1) is unavailable or not forthcoming, a complaint may be made to the Office which shall conduct an investigation in accordance with section 41, and if justified, grant an extension of time or issue such direction as it thinks fit.

(3) Publication under this section does not—

- (a) constitute a solicitation;
- (b) oblige a procuring entity to issue a solicitation; or
- (c) confer any rights on suppliers or contractors.

(4) Subsection (1) shall not apply to a procuring entity involved in the procurement of goods and services for the purpose of national security.

Participation by  
suppliers or  
contractors.

**28.** (1) A procuring entity may limit participation in procurement proceedings to promote local industry development and local content.

(2) A procuring entity, when first soliciting the participation of suppliers or contractors, shall declare whether the participation of suppliers or contractors is limited pursuant to this section and the nature of, and reason for the limitation.

(3) A declaration made under subsection (2) shall not be altered.

(4) A procuring entity that decides to limit the participation of suppliers or contractors pursuant to this section shall include in the record of the procurement proceedings a statement of the reasons and circumstances on which it relied.

Due diligence.  
[27 of 2020].

**29.** (1) A procuring entity shall ensure that suppliers and contractors—

- (a) have the legal capacity to enter into the procurement contract;
- (b) are not insolvent, in receivership, bankrupt or being wound up, their affairs are not being administered by a court or a judicial officer,

- their business activities have not been suspended and they are not the subject of legal proceedings for any of the foregoing;
- (c) have not been convicted within the past ten years of corruption or fraud related offences locally or internationally —
    - (i) as individuals; or
    - (ii) as directors or officers of a company;
  - (d) have fulfilled their obligations to pay all required taxes and contributions in Trinidad and Tobago;
  - (e) have the necessary professional and technical qualifications and competence, financial resources, equipment and other physical facilities, managerial capability, reliability, experience and personnel to perform the procurement contract; and
  - (f) meet relevant industry standards.

(2) Subject to the right of suppliers or contractors to protect their intellectual property or trade secrets, a procuring entity shall require suppliers or contractors to provide appropriate documentary evidence or other information to satisfy itself that the suppliers or contractors are qualified in accordance with subsection (1).

(3) Any requirement established pursuant to this section shall be set out in the pre-qualification or pre-selection documents, if any, and in the solicitation documents and shall apply equally to all suppliers or contractors.

(4) A procuring entity shall evaluate the qualifications of suppliers or contractors in accordance with the qualification criteria specified in subsection (1) and procedures set out in the pre-qualification or pre-selection documents, if any, and in the solicitation documents.

(5) Notwithstanding subsection (4), a procuring entity may require the supplier or contractor presenting the successful

submission to certify on oath that the documentary evidence provided to demonstrate his qualifications for the particular procurement is true and correct.

(6) A procuring entity shall disqualify a supplier or contractor if the information submitted concerning the qualifications of the supplier or contractor was materially inaccurate or materially incomplete so as to constitute a misrepresentation.

(7) A procuring entity may disqualify a supplier or contractor if the information submitted concerning the qualifications of the supplier or contractor was inaccurate or incomplete in any respect and the supplier or contractor fails to promptly remedy the inaccuracy or incompleteness upon the request of the procuring entity.

(8) A procuring entity may require a supplier or contractor that was pre-qualified in accordance with this Act to demonstrate his qualifications again in accordance with the same criteria used to pre-qualify such supplier or contractor.

(9) A procuring entity shall disqualify any supplier or contractor who, without reasonable cause, fails to demonstrate his qualifications when requested to do so.

(10) A procuring entity shall promptly notify each supplier or contractor who is requested to demonstrate his qualifications again as to whether or not he has done so to the satisfaction of the procuring entity.

Guidelines and handbooks in relation to public procurement.

- 30. (1)** A procuring entity shall comply with—
- (a) such general guidelines in relation to public procurement as the Office may issue;
  - (b) such special guidelines in relation to public procurement as the Office may approve for that procuring entity; and
  - (c) such handbooks in relation to public procurement as the Office may approve for that procuring entity for the purposes of ensuring compliance with this Act and guidelines under paragraphs (a) and (b).

- (2) Special guidelines under subsection (1)(b)—
- (a) shall be prepared by the procuring entity and submitted to the Office for its approval; and
  - (b) may provide that general guidelines under subsection (1)(a) shall apply to a procuring entity subject to such exemptions or amendments as are specified in the special guidelines.

(3) Handbooks under subsection (1)(c) shall be prepared by the procuring entity and submitted to the Office for its approval.

**31.** A procuring entity shall not split procurement requirements for a given quantity of goods, works or services to avoid obligations under the Act.

Splitting of procurement.

**32.** (1) A procuring entity shall not divide its procurement or use a particular valuation method for estimating the value of procurement so as to limit competition among suppliers or contractors or otherwise avoid its obligations under this Act.

Estimation of the value of procurement.

(2) In estimating the value of procurement, a procuring entity shall include the estimated maximum total value of the procurement contract, or of all procurement contracts envisaged under a framework agreement over its entire duration, taking into account all forms of remuneration.

- 33.** (1) A procuring entity may cancel a procurement—
- (a) at any time prior to the acceptance of the successful submission; or
  - (b) after the successful submission is accepted under the circumstances referred to in section 35(6).

Cancellation of the procurement.

(2) A procuring entity shall not open any tenders or proposals after taking a decision to cancel the procurement.

(3) The decision of a procuring entity to cancel a procurement and the reasons for its decision shall be included in the record of the procurement proceedings and promptly communicated to any supplier or contractor who presented a submission.

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(4) A procuring entity shall promptly publish a notice of the cancellation of the procurement in the same manner and place in which the original information regarding the procurement proceedings was published, and return any tenders or proposals that remain unopened at the time of the decision to the respective suppliers or contractors.

Rejection of abnormally low submissions.

**34.** (1) Where a procuring entity is of the opinion that a submission is abnormally low, it shall request, in writing from the supplier or contractor, details of the submission that gives rise to concerns as to the ability of the supplier or contractor to perform the procurement contract.

(2) Where a procuring entity, having taken into account any information provided by the supplier or contractor following its request under subsection (1) and the information included in the submission, is still of the opinion that the price, in combination with other constituent elements of the submission, is abnormally low in relation to the subject matter of the procurement and raises concerns with the procuring entity as to the ability of the supplier or contractor who presented that submission to perform the procurement contract, the procuring entity may reject the submission.

(3) The decision of a procuring entity to reject a submission in accordance with this section, the reasons for that decision, and all communications with the supplier or contractor under this section shall be included in the record of the procurement proceedings and the decision of the procuring entity and the reasons therefor shall be promptly communicated to the respective supplier or contractor.

Acceptance of the successful submission and entry into force of the procurement contract.

**35.** (1) A procuring entity shall accept the successful submission unless—

- (a) the supplier or contractor presenting the successful submission is disqualified in accordance with section 29;
- (b) the procurement is cancelled in accordance with section 33; or

(c) the submission found successful at the end of evaluation is rejected as abnormally low under section 34.

(2) A procuring entity shall promptly notify each supplier or contractor who presented submissions of its decision to accept the successful submission at the end of the standstill period.

(3) The notice referred to in subsection (2) shall contain, at a minimum, the following information:

- (a) the name and address of the supplier or contractor presenting the successful submission;
- (b) the contract price; and
- (c) the duration of the standstill period as set out in the solicitation documents.

(4) Subsection (2) shall not apply to awards of procurement contracts where a procuring entity determines that urgent public interest considerations require the procurement to proceed without a standstill period.

(5) The decision of a procuring entity that urgent public interest considerations exist and the reasons for the decision shall be included in the record of the procurement proceedings.

(6) Upon expiry of the standstill period or, where there is none, promptly after the successful submission is ascertained, a procuring entity shall dispatch the notice of acceptance of the successful submission to the supplier or contractor who presented that submission, unless the Office orders otherwise.

(7) Unless a written procurement contract is required, a procurement contract in accordance with the terms and conditions of the successful submission enters into force when the notice of acceptance is delivered to the supplier or contractor concerned, so, however, that the notice is dispatched while the submission is still in effect.

(8) Where the solicitation documents require the supplier or contractor whose submission has been accepted to

sign a written procurement contract conforming to the terms and conditions of the accepted submission—

- (a) the procuring entity and the supplier or contractor concerned shall sign the procurement contract within a reasonable period of time after the notice of acceptance is dispatched to the respective supplier or contractor; and
- (b) the procurement contract enters into force when the contract is signed by the respective supplier or contractor and by the procuring entity.

(9) Neither a procuring entity nor the respective supplier or contractor shall take any action that interferes with the entry into force of the procurement contract or its performance during the time between the dispatch of the notice of acceptance and the entry into force of the procurement contract.

(10) If the supplier or contractor whose submission has been accepted fails to sign any written procurement contract as required or fails to provide any required security for the performance of the contract, a procuring entity shall withdraw the award and either—

- (a) select the next highest ranked submission from among those remaining in effect, in accordance with the criteria and procedures set out in this Act and in the solicitation documents; or
- (b) terminate the procurement proceedings.

(11) Notices under this section are dispatched when they are promptly and properly addressed or otherwise directed and transmitted to the supplier or contractor or conveyed to an appropriate authority for transmission to the supplier or contractor by any reliable means specified in accordance with the Regulations.

Public notice of the award of a procurement contract or framework agreement.

**36.** (1) Upon the entry into force of a procurement contract or conclusion of a framework agreement, a procuring entity shall promptly publish on its website or in any other electronic format, notice of the award of the procurement contract or the framework agreement, specifying the name of any supplier or contractor with

whom the procurement contract or framework agreement was entered into, the goods or services to be supplied, the works to be effected and, in the case of procurement contracts, the date of the award of the contract and the contract price.

(2) Where the information referred to in subsection (1) is unavailable, a complaint may be made to the Regulator.

**37.** A procuring entity shall submit to the Office no later than three weeks after the end of each quarter a report of all contracts awarded during the immediately preceding quarter.

Report of  
procuring  
entities.

**38.** (1) Notwithstanding any other law for carrying out the purposes of this Act, public procurement under this Act may be undertaken using electronic means.

Use of  
electronic  
means in public  
procurement.

(2) Nothing in subsection (1) shall affect the validity of procurements effected by means that were lawful before the coming into force of this Part.

**39.** (1) In its communications with suppliers or contractors or with any person, a procuring entity shall not disclose any information if non-disclosure of such information is necessary for the protection of essential security interests of the State or if disclosure of such information would be contrary to law, would impede law enforcement, would prejudice the legitimate commercial interests of the suppliers or contractors or would impede fair competition, unless disclosure of that information is ordered by the court and, in such case, subject to the conditions of such an order.

Confidentiality.

(2) Other than when providing or publishing information pursuant to this Act, a procuring entity shall treat submissions in such a manner as to avoid the disclosure of their contents to competing suppliers or contractors or to any other person not authorised to have access to this type of information.

(3) Any discussions, communications, negotiations or dialogue between a procuring entity and a supplier or contractor shall be confidential, unless the disclosure is ordered by the court or required by law.

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(4) Subject to subsection (1), in procurement involving classified information, a procuring entity may—

- (a) impose on suppliers or contractors requirements aimed at protecting classified information; and
- (b) demand that suppliers or contractors ensure that their sub-contractors, directors, officers and employees comply with the requirements aimed at protecting classified information.

Prohibition of victimisation.

**40.** A person shall not be dismissed, suspended, demoted, disciplined, harassed, denied a benefit or otherwise negatively affected because—

- (a) he, acting in good faith and on the basis of a reasonable belief, has—
  - (i) notified the Director of Public Prosecutions, the Police, the Integrity Commission or the Office that his employer or any other person has contravened or is about to contravene this Act;
  - (ii) done or stated the intention of doing anything that is required to be done in order to avoid having any person contravene this Act; or
  - (iii) refused to do or stated the intention of refusing to do anything that is in contravention of this Act; or
- (b) his employer or any other person believes that he will do something described in paragraph (a).

#### PART IV

### INVESTIGATION AND ENFORCEMENT

Complaints.

**41.** (1) The Office may on its own initiative, or shall as a result of a complaint made under this Act, consider, inquire into and investigate any alleged breach of this Act.

(2) A person who wishes to allege or make a complaint that—

- (a) bid-rigging or other forms of collusion between all or any of the interested parties to procurement proceedings has occurred; or
- (b) an irregularity in procurement proceedings or a breach of this Act has occurred,

may do so in writing to the Office.

(3) Notwithstanding any other written law, where a person has a reasonable belief that bid-rigging or other forms of collusion between all or any of the interested parties to procurement proceedings has occurred, that person shall report the matter in writing to the Office.

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

**42.** (1) Where the Office considers it necessary or desirable for the purposes of performing or exercising its functions, powers, or duties under this Act, it may, by written notice served on any person, require the person—

- (a) to supply to the Office, within the time and in the manner specified in the notice, any book, record, document or information specified in the notice;
- (b) to produce to the Office, or to a person specified in the notice acting on its behalf in accordance with the notice, any book, record, document or information specified in the notice within the time and in the manner specified in the notice;
- (c) if necessary, to reproduce, or assist in reproducing, in usable form, information

Power to obtain information and documents.

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recorded or stored in any book, record or document within the time and in the manner specified in the notice; or

- (d) to appear before the Office, or a specified person, at a time and place specified in the notice to provide information, either orally or in writing, and produce any book, record or document specified in the notice.

(2) Information supplied in response to a notice under subsection (1)(d) shall, if given in writing, be signed in the manner specified in the notice.

(3) If a book, record or document is produced in response to a notice under subsection (1), the Office, or the person to whom the book, record or document is produced may examine and make copies of the book, record or document or extracts thereof.

(4) The Office may require a person to give orally or in writing, information on oath or affirmation and may administer an oath or affirmation at any place.

(5) A person who is required to provide information under this section may be represented by counsel and may claim any privilege to which the person is entitled.

(6) Where a person who is required to appear before the Office or give information fails or refuses to appear or provide information without lawful justification, the Office may make an application to the High Court to compel the person to do so.

Investigations  
by the Office.

**43.** (1) Any officer in the service of the Office and authorised by the Regulator in writing (hereinafter referred to as an “authorised officer”) may, for the purpose of conducting an investigation into any alleged or suspected breach of this Act—

- (a) examine and inquire into the affairs of a public body or person in respect of whom the investigation is being conducted;
- (b) examine and make copies of, or remove from the premises, all such books, records and

documents or other things relating to the subject of the investigation, whether or not they are in the possession or control of the person in respect of whom the investigation is ordered or of any other person; or

(c) subject to subsection (3), enter the premises of a public body or person during reasonable hours.

(2) Any book, record or document removed under subsection (1)(b) shall be returned to the public body or person from whom or to the premises from which it was removed, as soon as practicable.

(3) An authorised officer shall not enter the premises of a public body or person, unless the Office first obtains, on an *ex parte* application to a Judge of the High Court, an order authorising him to enter the premises to conduct an investigation under subsection (1).

(4) An authorised officer shall provide the Office with a full and complete written report of the investigation including any transcript of statements and any material in his possession relating to the investigation.

**44.** After conducting an investigation under this Act, the Office shall without delay, in writing, inform the affected parties and the Minister, the Chief Secretary or public official having responsibility for that body, of the result of that investigation and make such recommendations as it considers necessary in respect of the matter which was investigated.

Outcome of investigation.

**45.** Where, after the conduct of an investigation, the Office is satisfied that there are reasonable grounds for suspecting that an offence has been committed, it shall make a report to the Director of Public Prosecutions who may take such action as he thinks appropriate.

Report to Director of Public Prosecutions.

**46.** No person shall withhold, conceal, destroy or refuse to produce any book, record or document required for the purpose of an examination or investigation under this Act.

Restrictions on withholding or concealing.

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No breach of  
duty.

**47.** Notwithstanding any other written law, no person shall be regarded as having breached any duty to which he may be subject by reason of his communication in good faith to the Office, of any information or opinion on a matter which is relevant to any function of the Office under this Act, whether or not in response to a request made by the Office.

Notice of  
adverse report.

**48.** The Office shall not make a report which concludes that a public body or a person has failed without reasonable justification to fulfil a duty or obligation under this Act unless reasonable notice has been given to the public body or person of the alleged failure and the public body or person has been allowed full opportunity to be heard either in person or by an Attorney-at-law.

**PART V**

**CHALLENGE PROCEEDINGS**

Right to  
challenge and  
appeal.

**49.** (1) A supplier or contractor may bring challenge proceedings where it is alleged that—

- (a) a procuring entity made a decision or took action that is not in compliance with this Act; and
- (b) the supplier or contractor has suffered or is likely to suffer loss or injury because of the decision or action of the procuring entity.

(2) Challenge proceedings may be made by way of an application for review by the Office under section 50.

(3) Subject to section 52, all hearings under this Part shall take place in public.

Application for  
review by the  
Office.  
[5 of 2016  
27 of 2020].

**50.** (1) A supplier or contractor may apply to the Office for review of a decision or an action taken by a procuring entity in the procurement proceedings.

(2) Applications for review shall be submitted to the Office in writing within the following time periods:

- (a) applications for review of the terms of solicitation, pre-qualification or pre-selection or

of decisions or actions taken by a procuring entity in pre-qualification or pre-selection proceedings, prior to the deadline for presenting submissions; or

- (b) applications for review of other decisions or actions taken by a procuring entity in the procurement proceedings—
- (i) within the standstill period applied pursuant to section 35(2); or
  - (ii) where no standstill period has been applied, within seven working days after the publication of the notice of the decision or action that is taken in accordance with this Act.

(3) Within three days of receiving an application for review the Office shall publish a notice of the application in at least two newspapers in daily circulation in Trinidad and Tobago and on its website or any other electronic format.

(4) The Office may, within three days of the receipt of an application for review—

- (a) order the suspension of the procurement proceedings at any time before the entry into force of the procurement contract; or
- (b) order the suspension of the performance of a procurement contract or the operation of a framework agreement that has entered into force, if and for as long as it finds such a suspension necessary to protect the interests of the applicant.

(5) Promptly upon receipt of an application for review, the Office shall notify the procuring entity of the application and upon receipt of the notice, the procuring entity shall provide the Office with effective access to all documents in its possession relating to the procurement proceedings, in a manner appropriate to the circumstances.

(6) Within seven days of receiving an application for review the Office shall notify the procuring entity and all qualified suppliers and contractors of the application and its substance and of its decision on suspension pursuant to subsection (4).

(7) Where the Office decides to suspend the procurement proceedings, the performance of a procurement contract or the operation of a framework agreement, as the case may be, it shall specify the period of the suspension and where it decides not to suspend the procurement proceedings, it shall provide the reasons for its decision to the applicant and to the procuring entity.

(8) The Office may dismiss an application and shall lift any suspension applied, where it is of the opinion that the application is manifestly without merit or was not presented in compliance with the deadlines set out in subsection (2).

(9) The Office shall promptly notify the applicant, the procuring entity and all qualified suppliers and contractors in the procurement proceedings of the dismissal and the reasons therefor and that any suspension in force is lifted and such a dismissal constitutes a decision on the application.

(10) In making its decision with respect to an application that it has entertained, the Office may take one or more of the following actions, as appropriate:

- (a) prohibit a procuring entity from acting in a manner, or taking a decision or following a procedure, that is not in compliance with this Act;
- (b) require a procuring entity that has acted or proceeded in a manner that is not in compliance with the provisions of this Act to act, to take a decision or to proceed in a manner that is in compliance with the provisions of this Act;
- (c) confirm a decision of a procuring entity;
- (d) overturn the award of a procurement contract or a framework agreement that entered into force in a manner that is not in compliance with this Act

and, if notice of the award of the procurement contract or the framework agreement has been published, direct that the notice of the overturning of the award be published;

- (e) direct that the procurement proceedings be terminated;
- (f) dismiss the application;
- (g) require the payment of compensation for any reasonable costs incurred by the supplier or contractor submitting an application as a result of an act or decision of, or procedure followed by, a procuring entity in the procurement proceedings that is not in compliance with the provisions of this Act, and for any loss or damages suffered, which shall be limited to the costs of the preparation of the submission or the costs relating to the application, or both; or
- (h) take such other action as is appropriate in the circumstances.

(11) The decision of the Office under subsection (10) shall be issued within twenty working days after receipt of the application and the Office shall immediately thereafter communicate its decision to the procuring entity, to the applicant, to all other participants in the application for review and to all other participants in the procurement proceedings and all persons shall comply with the decision and directive of the Office.

(12) The Office shall give all its decisions and actions taken in writing and shall, no more than thirty days after the making of its decision, provide written reasons for the decision and action taken and they shall promptly be made part of the record of the procurement proceedings, together with the application received by the Office under this section.

(13) The suspension of procurement proceedings under subsection (4)(a) shall be lifted immediately upon the issuance of the decision of the Office under subsection (11).

**51.** (1) Any supplier or contractor participating in the procurement proceedings to which the application relates, as

Rights of participants in challenge proceedings.

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well as any public body whose interests are or could be affected by the application, shall have the right to participate in challenge proceedings under this Part.

(2) A supplier or contractor who is notified of an application for review and who fails to participate in proceedings relating to the application is barred from subsequently challenging the decisions or actions that are the subject matter of the application.

(3) The participants in challenge proceedings under this Part shall have the right to—

- (a) be present, represented and accompanied at all hearings during the proceedings;
- (b) be heard;
- (c) present evidence, including witnesses; and
- (d) seek access to the record of the challenge proceedings subject to section 52.

Establishment  
of Public  
Procurement  
Review Board.  
[5 of 2016].

**51A.** The Public Procurement Review Board, hereinafter referred to as the “Review Board”, is hereby established to review decisions made by the Office.

Composition of  
Review Board.  
[5 of 2016].

**51B.** The Review Board shall comprise—

- (a) a retired judge, who shall be the chairman;
- (b) a registered engineer with at least ten years’ experience in matters relating to procurement; and
- (c) a chartered accountant or quantity surveyor with at least ten years’ experience in matters relating to procurement.

Appointment of  
members of  
Review Board.  
[5 of 2016].

**51C.** (1) The members of the Review Board shall be appointed by the President, after consultation with the Prime Minister and the Leader of the Opposition, for a period of three years.

(2) The name of each member of the Review Board as first constituted and every change in the membership of the Board thereafter shall be published in the *Gazette*.

Resignation of  
member of  
Review Board.  
[5 of 2016].

**51D.** A member of the Review Board may resign his office by letter addressed to the President.

**51E.** The President may remove a member of the Review Board from office upon being satisfied that the member—

Removal of member of Review Board. [5 of 2016].

- (a) is declared to be bankrupt;
- (b) is incapable of performing the duties of a member;
- (c) has neglected his duties or has engaged in conduct that would bring his office into disrepute;
- (d) has been absent, without leave of the Review Board, from three consecutive meetings of the Board;
- (e) has been convicted of an offence involving dishonesty;
- (f) has been convicted of an offence under the Integrity in Public Life Act;
- (g) has been convicted of an offence punishable by imprisonment for at least one year; or
- (h) has been convicted of an offence under this Act.

**51F.** The Minister may make Regulations, subject to negative resolution of Parliament, with respect to staffing, remuneration, funding and other operational matters of the Review Board.

Minister to make Regulations for operation of Review Board. [5 of 2016].

**51G.** (1) A procuring entity or any other person who is entitled to be given an opportunity to make representations under section 50(1) or 51(1), may request the Review Board to review the order or decision of the Office made under section 50(4) or 50(10).

Request for review. [5 of 2016].

(2) A request for a review shall be made within twenty-one days of the making of the order or decision.

(3) A request for a review shall be accompanied by the prescribed fee.

(4) The right to request a review under this section is in addition to any other legal remedy available to a person.

**51H.** The Review Board may dismiss a request for a review if it is of the opinion that the request is frivolous or vexatious.

Frivolous or vexatious request. [5 of 2016].

**51I.** The Review Board shall meet to conduct a review within twenty-one days of receiving the request for a review.

Time limit for review. [5 of 2016].

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Party to a  
review.  
[5 of 2016].

**51J.** The parties to a review shall be—

- (a) the person who requests the review;
- (b) the relevant procuring entity; and
- (c) such other person who has an interest in the order or decision of the Office, as the Review Board may determine.

Time for  
completion of  
review.  
[5 of 2016].

**51K.** The Review Board shall complete its review within twenty-eight days of receiving the request for the review.

Outcome of  
review.  
[5 of 2016].

**51L.** Upon completing a review, the Review Board may—

- (a) confirm, vary or overturn the decision of the Office; and
- (b) order the payment of costs as between parties to the review.

Appeal from  
Review Board.  
[5 of 2016].

**51M.** A party to a review may appeal against the decision of the Review Board to the High Court within twenty-eight days of the making of the decision.

Grounds for  
confidentiality  
in challenge  
proceedings.

**52.** No public hearing for the purpose of challenge proceedings shall take place and no information shall be disclosed in challenge proceedings if it would—

- (a) impair the protection of essential security interests of the State;
- (b) be contrary to law;
- (c) impede law enforcement;
- (d) prejudice the legitimate commercial interests of the suppliers or contractors; or
- (e) impede fair competition.

**PART VI**

**DISPOSAL OF STORES AND EQUIPMENT OF A PUBLIC BODY**

Application.

**53.** This Part applies with respect to the retention and disposal of stores and equipment of a public body that are unserviceable, obsolete or surplus.

**54.** (1) A public body shall comply with—

- (a) such general guidelines in relation to the retention and disposal of stores and equipment of a public body as the Office may issue;
- (b) such special guidelines in relation to the retention and disposal of stores and equipment of a public body as the Office may approve for that public body; and
- (c) such handbooks in relation to the retention and disposal of stores and equipment of a public body as the Office may approve for that public body for the purposes of ensuring compliance with this Act and guidelines under paragraphs (a) and (b).

Guidelines and handbooks in relation to retention and disposal of public property.

(2) Special guidelines under subsection (1)(b)—

- (a) shall be prepared by the public body and submitted to the Office for its approval; and
- (b) may provide that general guidelines under subsection (1)(a) shall apply to a public body subject to such exemptions or amendments as are specified in the special guidelines.

(3) Handbooks under subsection (1)(c) shall be prepared by the public body and submitted to the Office for its approval.

**55.** A public body shall establish a disposal committee comprising not less than three officers for the purpose of recommending the best method of disposing of unserviceable, obsolete or surplus stores or equipment.

Disposal Committee.

**56.** (1) A public body shall refer all matters relating to the disposal of unserviceable, obsolete or surplus stores or equipment to its disposal committee.

Procedure for disposal.

(2) A public body shall comply with subsection (1) within a reasonable time after the stores or equipment become unserviceable, obsolete or surplus.

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(3) Within fourteen days after receiving the recommendations of the disposal committee, the accounting officer shall give the committee a written notice as to whether the accounting officer accepts or rejects the recommendations of the committee and where the accounting officer rejects the recommendations, he shall include in the notice written reasons for the rejection.

(4) If the accounting officer accepts the recommendations of the disposal committee, the stores and equipment shall be disposed of in accordance with those recommendations.

(5) If the accounting officer rejects the recommendations of the disposal committee, he shall, after consultation with the Minister with responsibility for the public body, determine the manner in which the stores or equipment shall be disposed of and give the Office a copy of the notice under subsection (3) and inform the Office, in writing, of his decision under this subsection and his reasons therefor.

Prohibition of disposal within public body.

**57.** A public body shall not dispose of unserviceable, obsolete or surplus stores and equipment to an employee of the public body or a member of a board or committee of the public body except as expressly allowed under Regulations.

#### PART VIA

### DISPOSAL OF STATE LANDS

Disposal of State Land.  
Ch. 57:01.  
[5 of 2016].

**57A.** (1) Notwithstanding the State Lands Act and any other written law to the contrary, the Minister may make Regulations in respect of the disposal of—

- (a) State Lands;
- (b) real property owned by the Government;
- (c) real property owned by State-controlled enterprises; and
- (d) real property owned by a statutory body, responsibility for which is assigned to a Minister of Government.

(2) Regulations made under this section shall be subject to negative resolution of Parliament.

**PART VII  
MISCELLANEOUS**

**58.** (1) For the purposes of this section—

Ineligibility list.

“ineligibility list” means a list of suppliers or contractors who shall not participate in procurement proceedings;

“senior officer” means a managing director, chief executive officer, chief operating officer, deputy managing director, president, vice-president, secretary, treasurer, chief financial officer, financial controller, general manager, deputy general manager, corporate secretary, chief accountant, chief auditor, chief investment officer, chief compliance officer or chief risk officer; and

“supplier or contractor” includes any person who is a director, manager, senior officer, partner or other similar officer or any person who purports to act in such a capacity.

(2) The Office shall be responsible for preparing and maintaining an ineligibility list in accordance with this section.

(3) The Office may add a supplier or contractor to the ineligibility list where the supplier or contractor—

- (a) consistently fails to provide satisfactory performance;
- (b) is found to be indulging in corrupt or fraudulent practices; or
- (c) is convicted of an offence under this Act.

(4) The Minister, on the advice of the Office, may make Regulations to specify the mechanism and manner for adding a supplier or contractor to the ineligibility list, including the procedure for removing a supplier or contractor from an ineligibility list.

(5) A supplier or contractor shall be accorded an adequate opportunity to be heard and to make representation before he is added to the ineligibility list pursuant to this section.

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(6) Where a supplier or contractor is added to the ineligibility list pursuant to this section—

- (a) any information relating to the supplier or contractor that is stored in the Procurement Depository shall be removed; and
- (b) the fact of the addition of the supplier or contractor to the ineligibility list shall be published and communicated to all public bodies.

Exemption  
from this Act.  
[13 of 2023].

**58A.** Subject to regulations made under section 63, the procurement of goods and services up to one million dollars are exempt from the procurement requirements under this Act.

Conduct  
influencing  
public officer.  
[27 of 2020].

**59.** (1) For the purposes of this section, “associate”, when used to indicate a relationship with any person, means—

- (a) an entity of which that person beneficially owns or controls, directly or indirectly, either shares or securities currently convertible into shares, carrying more than twenty per cent of the voting rights;
- (b) a partner of that person acting on behalf of the partnership of which they are partners;
- (c) a trust or estate, in which that person has a substantial beneficial interest or in respect of which he serves as a trustee, legal representative or in a similar capacity;
- (d) a spouse or child of that person; or
- (e) a relative of that person if that relative has the same residence as that person.

Ch. 45:55.

(1A) For the purposes of subsection (1), “relative” means a spouse, cohabitant within the meaning of the Cohabitation Relationships Act, father, mother, brother, sister, son or daughter.

(2) No person shall, with intent to gaining an advantage or concession for himself or any other person—

- (a) offer—
  - (i) any member or an associate of a member of a procuring entity;

- (ii) any consultant or an associate of any consultant providing services to a procuring entity; or
  - (iii) any person or an associate of any person providing services to a procuring entity, a gift of money or other valuable thing; or
- (b) approach—
- (i) any member or an associate of a member of a procuring entity;
  - (ii) any consultant or an associate of any consultant providing services to a procuring entity; or
  - (iii) any person or an associate of any person providing services to a procuring entity, with respect to any matter that is before that procuring entity or that is expected to come before that procuring entity.

(3) No member, officer or employee of a public body shall accept a gratuity in any form, any offer of employment, service or any other thing of value as an inducement with respect to an act or decision of, or procedure followed by, the public body in connection with any procurement proceedings and a public body shall promptly reject a tender of any supplier or contractor who gives, agrees to give or offers directly or indirectly, any such inducement.

(4) A procuring entity shall not procure goods, works or services from a member of its staff or a person who has direct influence on the decision of a procuring entity.

(5) A procuring entity shall not include in a solicitation document any condition or specification which is likely to favour a particular supplier or contractor.

(6) A member of staff of a procuring entity or a person with direct influence on the decisions of a procuring entity shall declare any interest that he may have in any tender and shall, so far as possible, recuse himself from the proceedings.

(7) Where a procuring entity is satisfied that an inducement was offered, or any corrupt, fraudulent, collusive, coercive or obstructive practice was carried out in relation to a tender or proposal, the procuring entity shall reject or revoke the tender or proposal and report the matter to the Office for appropriate action.

(8) A supplier or contractor whose tender or proposal is rejected or revoked under subsection (7) shall be added to the ineligibility list, pursuant to section 58, for a period of ten years following the date of rejection or revocation of his tender or proposal.

(9) The Office shall notify, in writing, all public bodies of the disqualification of any supplier or contractor under this section.

(10) A person who contravenes this section commits an offence and is liable on conviction to a fine of one million dollars and five years imprisonment.

Offence  
involving  
collusion.

**60.** (1) A person who—

- (a) is involved in, or participates in bid-rigging; or
- (b) directly or indirectly influences in any manner or attempts to influence in any manner any procurement proceedings in order to obtain an unfair advantage in the award of a procurement contract,

commits an offence and is liable to a fine of five million dollars and imprisonment for ten years.

(2) A person who alters any procurement document with intent to influence the outcome of procurement proceedings commits an offence and is liable to a fine of two million dollars and imprisonment for seven years.

Offence and  
penalty.  
Schedule 1.

**61.** (1) Any person who contravenes a section referred to in the First Column of Schedule 1 commits an offence and is liable on conviction to the penalty specified in the Third Column of that Schedule.

(2) For the purpose of this Act, a public body shall have a procurement officer who shall be responsible for public procurement and the disposal of public property for that body and shall notify the Office, in writing, of the name and designation of its procurement officer.

(3) A reference in this Act to the commission of an offence by a public body shall be construed as a reference to the commission of the offence by the procurement officer referred to in subsection (2) or an officer who purports to act in such capacity, if it is proved that—

- (a) the offence was committed with his direct consent or connivance; or
- (b) he, with knowledge, did not exercise reasonable diligence to prevent the commission of the offence.

(4) No prosecution of an offence under this Act may be instituted without the written consent of the Director of Public Prosecutions.

**62.** No personal liability shall attach to any member of the Board, a committee or the staff of the Office or to any authorised officer for anything done, omitted or permitted in the course of the operations of the Office, unless it is shown that the act or omission was reckless or in bad faith. Immunity.

**63.** (1) The Minister may, on the recommendation of the Office, or upon the initiative of the Minister with the agreement of the Office, make regulations to give effect to the provisions of this Act, including regulations with respect to— Regulations.  
[13 of 2023].

- (a) the conduct of challenge proceedings under Part V;
- (b) the addition to, or removal from, an ineligibility list under section 58; and
- (c) the procedures for the procurement of goods and services up to one million dollars under section 58A.

(2) Regulations made under this section may provide that the contravention of any regulation constitutes an offence

and may prescribe penalties for any offence not exceeding a fine of one million dollars and imprisonment for five years.

(3) Regulations made under this section shall be subject to negative resolution of Parliament.

(4) Regulations made under section 63(1)(c) shall provide for the contracts awarded to be reported to the office.

Repeal.

**64.** (1) The Central Tenders Board Act is repealed save that any actions in respect of a procurement or disposal of public property which had commenced before the proclamation of this Act shall proceed as if the Central Tenders Board Act continues to have effect, and a reference to the Director of Contracts or the Central Tenders Board Act shall be construed as a reference to the Office or this Act, as the context requires.

Ch. 25:03.

(2) Section 28 of the Tobago House of Assembly Act is repealed.

Savings of certain procurement proceedings.

**65.** Where any procurement proceeding is in force upon the commencement of this Act, it shall be deemed to be in conformity with this Act and to the extent that the transaction would have been valid prior to the commencement of this Act, it shall be deemed to be so valid for the purposes of this Act.

### PART VIII

### TRANSITIONAL

Options available to public officers. [27 of 2020].

**66.** (1) This section applies to an officer who, on the date of assent of this Act or on the coming into force of this Part—

- (a) holds a permanent appointment to; or
- (b) holds a temporary appointment to, and has served at least two continuous years in,

Schedule 2.

a public office specified in the Schedule 2.

(2) A person to whom this section applies may, within three months of the coming into force of this Part, exercise one of the following options:

- (a) voluntary retirement from the Public Service on terms and conditions agreed between him or his

appropriate recognised association and the Chief Personnel Officer;

- (b) transfer to the Office with the approval of the Public Service Commission on terms and conditions no less favourable than those enjoyed by him in the Public Service; or
- (c) remaining in the Public Service provided that an office commensurate with the office held by him in the Public Service prior to the date of the assent of this Act, is available.

**67.** The superannuation benefits which have accrued to a person who exercises the option under section 66(2)(b) shall be preserved at the date of his employment by the Office and such person shall continue to accrue superannuation benefits under the Pensions Act up to the date of the establishment of the pension fund plan on the basis of salary applicable to the office which he held immediately prior to his employment by the Office under section 66.

Preservation and accrual of superannuation benefits.

**68.** (1) Where a member of staff of the Office who exercises the option referred to in section 66(2)(b) dies or retires prior to the establishment of the pension fund plan, and at the date of his death or retirement was in receipt of a salary higher than that referred to in section 67, the superannuation benefits payable to his estate or to him shall be based on the higher salary.

Payment of superannuation benefits by the Office prior to the establishment of a pension fund plan.

(2) The difference between the superannuation benefits payable on the basis of the higher salary and those payable under the Pensions Act on the basis of the salary referred to in section 66, shall be paid by the Office.

**69.** (1) Where a member of staff of the Office who exercises the option referred to in section 66(2)(b) retires or dies and is a member of the pension fund plan, he shall be paid superannuation benefits by the pension fund plan at the amount which, when combined with the superannuation benefits payable

Payment of superannuation benefits by pension fund plan.

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under section 67 is the equivalent to the benefits based on his pensionable service in the Public Service combined with his service in the Office and calculated at the pensionable salary applicable to him on the date of his retirement or death.

(2) For the purposes of this section, “pensionable salary” has the meaning assigned to it by the pension fund plan.

Preservation of  
existing  
proceedings  
and contracts.

**70.** Nothing in this Act affects the validity of any proceedings commenced, or contract entered into, before the commencement of this Act, but if this Act would have been applicable to the proceedings or the contract if the proceedings had commenced, or the contract had been entered into after the commencement of this Act, the conduct of the proceedings and the performance of the contract shall, from the commencement of this Act, be subject to such directions as the Office may issue under section 14(1)(c) for the purposes of achieving the objectives of this Act.

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**SCHEDULE 1**

(Section 61).

**OFFENCES AND PENALTIES**

FIRST COLUMN	SECOND COLUMN	THIRD COLUMN
Section	Offence	Specified Penalty
31	Splitting of procurement	Summary Conviction—\$500,000 and imprisonment for one year.
39	Failure of procuring entity to comply with requirements with respect to the confidentiality of information	Summary Conviction—\$500,000 and imprisonment for one year.
40	Victimisation	Summary Conviction—\$500,000 and imprisonment for one year.
41	Failure of a person to report instances of collusion	Summary Conviction—\$500,000 and imprisonment for one year.
46	Concealing or destroying information required for an investigation	Conviction on Indictment—\$5,000,000 and imprisonment for ten years.
52	Failure to comply with requirements with respect to confidentiality in challenge proceedings	Summary Conviction—\$500,000 and imprisonment for one year.

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UNOFFICIAL VERSION

UPDATED TO DECEMBER 31ST 2022

[Section 66(1)].

**SCHEDULE 2**

**PUBLIC OFFICES OF THE CENTRAL TENDERS BOARD**

Director of Contracts  
Deputy Director of Contracts  
Assistant Director  
Administrative Officer IV  
Administrative Officer II  
Contracts Officer III  
Contracts Officer II  
Contracts Officer I  
Clerk IV  
Accounting Assistant  
Clerk III  
Clerk II  
Clerk I  
Clerk Stenographer IV  
Clerk Stenographer III  
Clerk Stenographer I/II  
Clerk Typists  
Vault Attendant  
Messenger II  
Messenger I  
Maid I  
Cleaner I  
Chauffeur I  
Estate Constable  
Architect II  
Civil Engineer II  
Mechanical Engineer  
Quantity Surveyor II  
Economist I  
Quantity Surveyor Assistant I  
Engineering Assistant II  
Draughtsman I

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**SUBSIDIARY LEGISLATION**

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**PUBLIC PROCUREMENT AND DISPOSAL OF  
PUBLIC PROPERTY (CHALLENGE PROCEEDINGS)  
REGULATIONS**

ARRANGEMENT OF REGULATIONS

**REGULATION**

1. Citation.
  2. Procedure for review.
  3. Supplier or contractor.
  4. Dismissal of application.
  5. Duties of the Office.
  6. Office.
  7. Representation.
  8. Submission of application for review.
  9. Submission of reply.
  10. Registration.
  11. Suspension.
  12. Opening of challenge procedure.
  13. Hearing.
  14. Evidence.
  15. Conclusion of proceedings.
-

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\*25/2022.

**PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC  
PROPERTY (CHALLENGE PROCEEDINGS)  
REGULATIONS**

*made under section 63*

Citation.

1. These Regulations may be cited as the Public Procurement and Disposal of Public Property (Challenge Proceedings) Regulations.

Procedure for review.

2. (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) Upon receipt of an application under section 50(1) of the Act, the Office shall promptly register the application for review.

(3) The decision of the Office shall be binding on the supplier or contractor who made the application and the procuring entity whose tender procedure is the subject of the review.

Supplier or contractor.

3. Where the Office finds that a supplier or contractor who made an application for review has established a valid ground for the review, it may, as appropriate, apply the remedies provided for in section 50(10) of the Act.

Dismissal of application.

4. Where the Office is of the opinion that—

(a) an application for review is manifestly without merit;

(b) an application for review was not presented in compliance with the timelines set out in section 50(2) of the Act; or

(c) the supplier or contractor who made the application for review has not demonstrated

\*Affirmed by LN 35/2022.

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sufficient standing by way of either a pecuniary  
or otherwise economic interest in the  
procurement proceedings,

it shall dismiss the application for review and immediately lift  
any suspension that is in effect.

5. (1) The Office shall conduct a review independently  
and impartially in accordance with the Hearing Rules and  
Procedures.

Duties of the  
Office.

(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 attention or knowledge,  
disclose the nature of his interest to the Office which shall  
appoint an alternative member.

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

Office.

(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, and in particular, all applications,  
replies and subsequent communications shall be addressed to the  
Office unless otherwise specified.

(3) A copy of all relevant forms to be used for the  
review procedure shall be made available for collection at the  
Office or for download from the website of the Office.

(4) Upon receipt of an application for review the Office  
shall prepare a case file in an appropriate form.

7. A party to a review may appear in person or may be  
represented by an Attorney-at-law or such other suitably  
qualified and experienced person, including an engineer,  
quantity surveyor, valuator or such other person as is recognised  
by the Office for the purposes of the representation.

Representation.

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Submission  
of application  
for review.

**8.** (1) A supplier or contractor who wishes to have a review conducted shall submit the following documents to the Office:

- (a) a completed application for review in the form provided for by the Office clearly setting out the grounds for review;
- (b) a copy of documentary evidence in support of the claim set out in the application for review;
- (c) where a request for a review is made by an agent of the supplier or contractor, an appropriate power of attorney in a form acceptable to the Office; and
- (d) where the request for review 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 its receipt of the application for review 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 these Regulations.

(4) An application for review that is not in conformity with these Regulations shall be rejected and returned to the applicant together with a statement of the reasons for its rejection.

(5) Upon recording the receipt of an application for review, the Office shall, pursuant to section 50(6) of the Act, notify the procuring entity against whom the application for review is made, in writing and delivered to the attention of the procurement officer appointed pursuant to section 61(2) of the Act, and the application for review shall include with the notice a complete copy of the Application.

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(6) The Office shall simultaneously notify all qualified suppliers and contractors, and any public body whose interests are or may be affected by the application for review in accordance with section 50(6) of the Act.

9. (1) Pursuant to section 50(5) of the Act, the procuring entity against whom the application for review is made shall, within three working days of the receipt of the notification from the Office, submit to the Office the following documents:

Submission of  
reply.

- (a) a written reply to the application for review prepared and signed by the Accounting Officer or its equivalent in a public body;
- (b) a copy of documentary evidence relied upon in support of the reply; and
- (c) any other document referred to in the application for review which is in its possession but not available to the supplier or contractor who made the application for review.

(2) The failure to submit a written reply within the specified period will not prevent the conduct of the review procedure and the procuring entity shall be bound by any decision of the Office.

(3) Where a procuring entity fails to submit a written reply within the specified time limit, the Office may proceed with the formal assignment of the case.

(4) The Office may, if it is satisfied that the application for review was duly served on the procuring entity against whom the application for review is made and the procuring entity failed to submit a written reply without good cause, the Office may 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.

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(5) A procuring entity may, at the time of submitting its written reply, request that the Office authorise it to award a procurement contract or enter into a framework agreement on the grounds that a delay in awarding the procurement contract or entering the framework agreement would be contrary to the public interest or such other consideration which would justify awarding the procurement contract or entering the framework agreement while the Office conducts its review.

Registration.                      **10.** (1) Upon the receipt of a written reply, the Office shall collate the relevant documents into a single case file, including the application for review, the written reply, the documentary evidence provided and the powers of attorney, if any.

(2) The Office shall notify the parties of the date of the case management conference which the parties involved are required to attend.

Suspension.                      **11.** (1) Within three working days of the receipt of an 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.                      **12.** (1) The Office shall, taking into account the nature of the case defined in the application for review, determine the time and place of any hearing it intends to conduct.

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

(3) The Office shall communicate this decision to the parties involved in such form as the Office deems appropriate.

Hearing.                      **13.** (1) A hearing shall take place in the manner provided for by the Office.

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(2) Where a party, 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, may proceed with the hearing which shall be deemed to have been conducted in the presence of all the 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 a record stating the time and place of the hearing and the names of the persons attending the hearing, together with a summary of the hearing.

(5) The parties to the proceedings shall have access to a copy of the record within ten days of the conclusion of the hearing.

(6) A request for access to the record of the hearing shall be made in writing to the Office and on notice to the other party to the proceedings.

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

(8) Notwithstanding the procedures set out in this regulation, the Office may proceed to determine a matter before it without a hearing if it is satisfied that the information, in the form of documentary evidence or case files presented, is sufficient to make a decision on the matter, and any decision so made shall be deemed to be in compliance with section 51(3) of the Act.

**14.** (1) The documentary evidence to be relied upon by a party in support of his claim and the written reply shall be put before the Office as attachments to the Application for Review and Reply Forms. Evidence.

(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.

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(3) During a hearing a party may submit oral evidence or written witness statements 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 request the submission of further documentary evidence from the parties or their witnesses.

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

(6) In the hearing of any matter before it the Office may act without regard to technicalities and legal form and shall not be bound to follow the rules of evidence stipulated in the Evidence Act, but the Office may inform itself on any matter in such manner as it thinks just and may take into account any generally recognised scientific or technical fact, information or opinion within its area of expertise and such facts as it considers relevant but in any such case, the parties shall be given the opportunity, if they so desire, of adducing evidence in regard thereto.

(7) Notwithstanding subregulation (6), evidence is not admissible at a hearing if such evidence would be inadmissible in a Court by reason of any privilege under the law of evidence.

Conclusion of proceedings.

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

(2) The decision of the Office shall be confined to the issues raised by the application for review and written reply.

(3) The Office shall immediately notify the parties of its decision in accordance with the provisions of section 50(11) of the Act.

(4) The written reasons for decisions shall be delivered in accordance with the provisions of section 50(12) of the Act.

**PUBLIC PROCUREMENT AND DISPOSAL OF  
PUBLIC PROPERTY (EVALUATION) REGULATIONS**

ARRANGEMENT OF REGULATIONS

**REGULATION**

1. Citation.
  2. Interpretation.
  3. Evaluation criteria.
  4. Price factor.
  5. Non-Price factor.
  6. Transmission of notice of decision.
  7. Standstill period.
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**PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC  
PROPERTY (EVALUATION) REGULATIONS**

*made under section 63*

Citation.

1. These Regulations may be cited as the Public Procurement and Disposal of Public Property (Evaluation) Regulations.

Interpretation.

2. In these Regulations, “life-cycle costing method” means a costing tool used to determine the one-time and recurring costs associated with a major purchase over the lifetime of the good.

Evaluation  
criteria.

3. (1) A procuring entity shall select the successful submission based on the evaluation criteria and methodology specified in its bidding document.

(2) A procuring entity’s evaluation criteria and methodology shall be appropriate to the type, nature, market conditions, and complexity of the goods, works or services being procured.

(3) An evaluation criterion may refer to both price and non-price factors.

Price factor.

4. (1) A submitted price may be adjusted for the quantifiable evaluation criterion if it is specified in the bidding document.

(2) A quantifiable evaluation may include—

- (a) the period for completion of the work or service or delivery of the good;
- (b) the life-cycle operating costs;
- (c) the need for after-sale service or technical assistance;
- (d) the need for the supply of spare parts related to the use of the good;

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\*Affirmed by LN 36/2022.

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- (e) the payment terms;
- (f) the optional items required in the bidding documents; and
- (g) the extended warranty.

(3) A life-cycle costing method, which establishes the total cost of ownership, should be used whenever possible, and in particular where the cost of operation or maintenance of the good or work, over its specified lifetime—

- (a) is estimated to be considerable when compared with its initial cost; and
- (b) may vary among different submissions.

(4) A life-cycle costing method, is evaluated on a net present value (NPV) cost basis.

(5) Where a procuring entity uses a life-cycle costing method it shall specify the following information in its bidding document:

- (a) the number of years used in determining the life-cycle cost;
- (b) the discount rate, in percentage, to be used to calculate the net present value of future costs over the life-cycle period as specified;
- (c) the factor and methodology to be used for calculating the operation, maintenance, or disposal cost of the good, work or service; and
- (d) the information to be provided by a supplier or contractor in his bid.

**5.** (1) A procuring entity may identify in its bidding document, in addition to the price factor, the relevant non-price factor and method of application which may be considered in evaluating a submission in order to determine the proposed best value for money submission.

Non-Price  
factor.

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(2) A non-price factor refers to a factor which is not monetarily quantifiable and is assessed using a scoring or weighting system.

- (3) A non-price factor includes, but is not limited to—
- (a) the quality of methodology and work plan;
  - (b) the performance, capacity, or functionality feature of the good, work or service; and
  - (c) the sustainability feature.

(4) A non-price factor shall be prioritised, assigned merit points and weighted according to its relative importance in meeting the desired outcome of the procurement.

(5) The method of assessment of a non-price factor shall be set out clearly and precisely in the bidding document.

Transmission of  
notice of  
decision.

6. For the purposes of section 35(2), a notice shall be transmitted to—

- (a) a supplier or contractor; and
- (b) the address of a person nominated by the supplier or contractor as an alternative recipient in his submission,

by any lawful mechanism which allows for subsequent confirmation of its receipt, including through a reputable commercial courier, registered mail or electronic means.

Standstill  
period.

7. A procuring entity shall set a standstill period which is not fewer than ten working days and not more than fifteen working days, in the first instance, in accordance with the guidelines issued by the Office.

**PUBLIC PROCUREMENT AND DISPOSAL OF  
PUBLIC PROPERTY (INELIGIBILITY PROCEEDINGS)  
REGULATIONS**

ARRANGEMENT OF REGULATIONS

**REGULATION**

1. Citation.
  2. Interpretation.
  3. Report of prohibited conduct.
  4. Notice of proposed ineligibility.
  5. Hearings and evidence.
  6. Recommendation of the Office.
  7. Ineligibility sanction.
  8. Scope and consequences of ineligibility.
  9. Obligation of procuring entity upon eligibility.
  10. Ineligibility exemption.
  11. Review of ineligibility.
  12. Reinstatement.
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\*27/2022.

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PROPERTY (INELIGIBILITY PROCEEDINGS)  
REGULATIONS**

*made under section 63*

Citation.

1. These Regulations may be cited as the Public Procurement and Disposal of Public Property (Ineligibility Proceedings) Regulations.

Interpretation.

2. In these Regulations—

“senior officer” means a managing director, chief executive officer, chief operating officer, deputy managing director, president, vice-president, secretary, treasurer, chief financial officer, financial controller, general manager, deputy general manager, corporate secretary, chief accountant, chief auditor, chief investment officer, chief compliance officer or chief risk officer; and

“supplier or contractor” includes any person who is a director, manager, senior officer, partner or other similar officer or any person who purports to act in such a capacity.

Report of prohibited conduct.

3. (1) If an officer of a procuring entity, a bidder or a member of the public suspects that a supplier or contractor, participating in a contract award procedure, or a senior officer of the supplier or contractor has engaged in any of the prohibited activities under section 41(2) or (3) of the Act, he may bring this to the attention of the Accounting Officer, or equivalent in a public body, or to the Office in a report, together with any documentary evidence at his disposal.

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

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\*Affirmed by LN 37/2022.

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(3) The Office shall, within ten working days of receipt of the report, review its contents and decide whether or not to proceed.

(4) Where the Office determines that the report does not contain sufficient evidence to support a finding of ineligibility or the imposition of a sanction, it shall notify the person who provided the report to the Office, of its decision and of the reasons for the decision.

(5) Where new facts or evidence materialises the person who provided the report to the Office, may amend and resubmit a revised report for consideration by the Office.

(6) The Office shall determine whether there is sufficient evidence in each case to declare a supplier or contractor, accused of a prohibited conduct, ineligible and to issue a Notice of Proposed Ineligibility.

(7) For the purposes of this regulation, “prohibited conduct” means conduct referred to in section 58(3) or 59(7) or conduct which is in contravention of the Act.

4. (1) The Office shall prepare and send to the supplier or contractor, and where applicable the senior officer of a supplier or a contractor, (hereinafter referred to as “the Respondent”), a Notice of Proposed Ineligibility based on the information and evidence contained in the report submitted to the Office pursuant to regulation 3(1) and any supplemental information received by the Office.

Notice of  
proposed  
ineligibility.

(2) The Notice of Proposed Ineligibility shall be communicated to the Respondent in writing and shall inform the Respondent of the details of the proposed ineligibility, the evidence to be relied upon and the applicable procedure.

(3) Where the Respondent does not inform the Office, in writing, within ten working days of the confirmation of receipt of the Notice of Proposed Ineligibility, of its intention to contest

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the allegation and provide a written reply to the contents of the Notice of Proposed Ineligibility, the Office shall, and without the need for a hearing, issue a decision imposing the sanction proposed in the Notice of Proposed Ineligibility, taking into account any mitigating factors disclosed. The Office may extend the time for the submission of the written reply where a request is made in writing by the Respondent and good cause shown.

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

Hearings and  
evidence.

**5.** (1) A hearing shall take place in the manner provided for by the Office.

(2) A party may appear in person or may be represented by an Attorney-at-law 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 a record stating the time and place of the hearing and the names of the parties to the hearing, together with a summary of the hearing, and the record shall be available to all parties within fourteen working days of the completion of the hearing.

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

Recommend-  
ation of the  
Office.

**6.** (1) Upon the conclusion of a hearing, the Office shall determine whether the proposed ineligibility is in the interest of the procuring entity, the State or the general public on the basis of the evidence presented.

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(2) The existence of a proven cause for ineligibility does not necessarily require that the supplier, contractor or senior officer be declared ineligible or receive the sanction proposed in the Notice of Proposed Ineligibility.

(3) When making a determination with respect to ineligibility, the Office shall take into consideration the seriousness of the supplier's, contractor's, or senior officer's acts or omissions and any remedial measures or mitigating factors, which the Respondent provides.

(4) Before making a determination with respect to ineligibility, the Office shall consider factors including the following:

- (a) the severity of the Respondent's conduct;
- (b) the degree of involvement of the Respondent;
- (c) the magnitude of any losses caused by the Respondent;
- (d) any damage caused by the Respondent to the credibility of the procurement process;
- (e) the past conduct of the Respondent;
- (f) the extent to which the Respondent cooperated in the investigation and whether such cooperation is of substantial benefit to the procuring entity;
- (g) whether the Respondent has fully investigated the circumstances surrounding the cause for ineligibility and, if so, made the result of the investigation available to the Office and taken appropriate disciplinary action against the individual responsible for the activity which constitutes cause for ineligibility;
- (h) whether the Respondent's management recognises and understands the seriousness of the prohibited conduct giving rise to the cause

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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 its recurrence; and

(i) any other factor that the Office deems relevant.

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

(6) The Office shall notify the Respondent of its decision not to impose any ineligibility sanction.

(7) The Office shall provide its decision immediately after the hearing and provide written reasons within five working days after the hearing.

Ineligibility  
sanction.

7. (1) The Office may impose an ineligibility sanction in one of the following forms:

- (a) a formal “Letter of Reprimand” based on the Respondent’s conduct but which falls short of ineligibility, which 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;
- (b) conditional non-debarment, not exceeding six months, which threatens ineligibility where certain conditions are not met, based on the gravity of the offences and the existence of mitigating factors, and 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; and

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(c) ineligibility for one to ten years, which is appropriate only in cases of particularly egregious offences and the severity of the offence will determine the period of ineligibility.

(2) 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.

8. (1) The Office may extend the effect of the Notice of Ineligibility to include a senior officer of the supplier or contractor provided he is—

Scope and consequences of ineligibility.

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

(2) Following ineligibility, the supplier or contractor, senior officer, or any person who purports to act in such a capacity, shall be included in the Ineligibility List maintained by the Office.

9. (1) In respect of suppliers or contractors and other persons properly included in the Ineligibility List, a procuring entity shall—

Obligation of procuring entity upon eligibility.

- (a) exclude them from receiving contracts awarded by it;
- (b) not solicit offers from, award contracts to, or consent to sub-contracts 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; and

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(e) not consent to their appointment as a sub-contractor to a supplier or contractor who has not been declared ineligible.

(2) Notwithstanding the ineligibility of a supplier or contractor, a procuring entity may continue contracts or sub-contracts in existence at the time of the listing on the ineligibility list, unless the Accounting Officer, or his equivalent in a public body, directs otherwise.

Ineligibility exemption.

**10.** Notwithstanding the inclusion of a supplier or contractor on the ineligibility list, a procuring entity may apply to the Office for an exemption to conduct business with the supplier or contractor on the basis that there are overriding requirements in the public interest which justify the exemption.

Review of ineligibility.

**11.** (1) A supplier, contractor, or senior officer who is declared ineligible may seek a review of the declaration of ineligibility with the Office where—

- (a) new material evidence or facts materialises which tend to exculpate the ineligible supplier, contractor, or senior officer;
- (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 supplier or contractor; or
- (d) the supplier, contractor, or senior officer has complied with any remedial, preventative or other measures imposed by the Office during the period of conditional non-debarment.

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

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**12.** The Office may withdraw the name of a supplier, contractor, or senior officer from the Ineligibility List by notifying the supplier, contractor, senior officer, procuring entity, and all public bodies in writing within seven days, whenever the Office determines that one or more of the conditions of regulation 11 have been met.

Reinstatement.

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**PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC  
PROPERTY (MISCELLANEOUS) REGULATIONS**

ARRANGEMENT OF REGULATIONS

**REGULATION**

1. Citation.
  2. Interpretation.
  3. Committee members.
  4. Criteria for membership of a committee.
  5. Undertaking by a committee member.
  6. Fee for information provided.
  7. Offence and penalty.
-

[Subsidiary]

**PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC  
PROPERTY (MISCELLANEOUS) REGULATIONS**

\*28/2022.

*made under section 63*

1. These Regulations may be cited as the Public Procurement and Disposal of Public Property (Miscellaneous) Regulations.

Citation.

2. In these Regulations—

Interpretation.

“the Board” means the Board appointed under section 10(1) of the Public Procurement and Disposal of Public Property Act, 2015.

3. (1) The Office may invite suitably qualified and experienced individuals to serve on a committee.

Committee members.

(2) An invitation issued pursuant to subregulation (1) shall be published in at least one newspaper, with daily circulation in Trinidad and Tobago, and on its website.

(3) A member of a committee shall have appropriate academic qualifications and practical experience in the area in respect of which the committee is appointed, in order to provide effective support and relevant advice to the committee.

(4) A committee shall comprise a membership of no less than three members including the chairperson and, in any event, a committee shall comprise an uneven number of members.

4. (1) A member of a committee shall—

Criteria for membership of a committee.

- (a) ensure that he performs his function in an effective and efficient manner;
- (b) be fair and impartial in exercising his function;
- (c) afford no undue preferential treatment to any person; and
- (d) arrange his private interest, whether pecuniary or otherwise, in order to maintain public confidence and trust in his integrity.

\*Affirmed by LN 38/2022.

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(2) A member of a committee shall not—

- (a) use his appointment for the improper advancement of his personal or financial interest or the interest of another person;
- (b) use public property or services for an activity not related to his function;
- (c) use his appointment for private gain.

(3) A member of a committee shall not use information which he gains in the performance of his functions, and which is not available to the general public, to further or seek to further his private interest.

(4) A member of a committee shall not use his appointment to influence or seek to influence a decision to further his private interest.

(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 his functions.

(6) A member of a committee shall keep matters of a confidential nature confidential, unless the disclosure of the matter is required by law in the performance of his duties.

(7) Subregulation (6) applies to a member of the committee where he is no longer a member of the committee.

(8) A member of the committee shall disclose a possible or perceived conflict of interest in accordance with the procedure set out in the Handbook and Guidelines and recuse himself from a decision which involves or is affected by the possible or perceived interest.

(9) The Board shall determine the remuneration for a committee member.

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5. A person who is appointed as a member of a committee shall, upon his appointment, provide the Office with a formal undertaking of his commitment, punctuality and attendance for the effective performance of his functions.

Undertaking by a committee member.

6. Where a person requests information from a procuring entity in a printed format, the procuring entity may provide the printed information, including information referred to in section 27(1)(a), at the fee which represents the costs of printing and dispatching the information.

Fee for information provided.

7. A person who contravenes these Regulations commits an offence and is liable on conviction to a fine not exceeding one million dollars and imprisonment for five years.

Offence and penalty.

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**PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC  
PROPERTY (PARTICIPATION IN PROCUREMENT)  
REGULATIONS**

ARRANGEMENT OF REGULATIONS

REGULATION

1. Citation.
  2. Interpretation.
  3. Domestic preference.
  4. Margin of domestic preference.
  5. Participation of joint ventures and other consortia.
  6. Procurement Depository.
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**PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC  
PROPERTY (PARTICIPATION IN PROCUREMENT)  
REGULATIONS**

\*29/2022.

*made under section 63*

1. These Regulations may be cited as the Public Procurement and Disposal of Public Property (Participation in Procurement) Regulations.

Citation.

2. In these Regulations—

Interpretation.

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

“joint venture or consortium” means an association of two or more persons who form a temporary partnership for the purpose of procurement proceedings, but who retain their separate identities, and it does not include sub-contractors; and

“Office” means the Office established pursuant to section 9 of the Act.

3. (1) A supplier or contractor who participates in an international competitive bid may benefit from domestic preference mechanisms set out in the bidding document where the procurement involves—

Domestic preference.

(a) the supply of goods which are manufactured exclusively in Trinidad and Tobago; or

(b) the supply of goods which are partially manufactured or assembled in Trinidad and Tobago and the supplier or contractor establishes, to the satisfaction of the procuring entity, that the proportion of domestic value added to the total value of manufactured or assembled goods is at least thirty-five per cent of the ex-works price of the goods offered.

\*Affirmed by LN 39/2022.

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(2) In determining the domestic value added in accordance with regulation 3(1)(b), the procuring 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 assembly carried out within Trinidad and Tobago.

(3) A supplier or contractor shall certify that the necessary manufacturing capacity exists where domestic value is to be added.

(4) A supplier or contractor who participates in an international competitive bid may benefit from domestic preference mechanisms set out in the bidding document where the procurement involves the performance of works and the supplier or contractor proposes the employment of at least sixty-five per cent of domestic labour.

(5) For the purposes of subregulation (4), domestic labour—

- (a) includes skilled or unskilled labour and may include management input;
- (b) in the case of a national contractor, may be provided by the supplier or contractor directly;
- (c) in the case of a foreign contractor, may be provided indirectly by a foreign contractor through sub-contracting of labour from Trinidad and Tobago or through an association with a national contractor which employs labour from Trinidad and Tobago.

(6) The nationality of a supplier or contractor shall not be a condition for eligibility.

(7) In determining the eligibility of a submission for the applicable preference, the procuring entity may require evidence of eligibility which may include—

- (a) in the case of the supply of goods—
  - (i) a certificate of origin of raw materials and finished products;

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- (ii) a commercial invoice for imported components containing an exporter's declaration of origin; and
  - (iii) a signed declaration of the manufacturer testifying to the origin of the product or a signed declaration of the supplier or contractor in respect of the level of manufacture or assembly carried out in Trinidad and Tobago; and
- (b) in the case of the provision of works—
- (i) a signed statement regarding the identity of the employee to be engaged on a contractual basis;
  - (ii) a *curriculum vitae* of the manager or key personnel to be engaged;
  - (iii) a copy of the sub-contract with any local company which employs domestic labour and the local company's registration documents; and
  - (iv) a copy of the association agreement with any national contractor which employs domestic labour and the national contractor's registration documents.

**4. (1)** Where a margin of domestic preference is to be applied in procurement proceedings, the bidding document shall clearly state—

Margin of domestic preference.

- (a) the eligibility requirement for the application of the margin of preference in terms of—
- (i) ownership;
  - (ii) location of the supplier or contractor or production facilities;
  - (iii) origin of labour, raw materials or components;

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- (iv) extent of sub-contracting or association with local partners; and
- (v) such other factors as may be relevant;
- (b) the document required as evidence of eligibility for the application of the margin of preference;
- (c) the percentage of the margin of preference to be applied; and
- (d) the manner in which the margin of preference is to be applied during the evaluation of submissions.

(2) The percentage of domestic preference permitted in a bidding document shall be ten per cent and may be reviewed quarterly by the procuring entity.

(3) Participation in procurement proceedings may be limited in order to promote local industry development or local content.

Participation of joint ventures and other consortia.

**5.** (1) A supplier or contractor may rely on the capacity of a joint venture or consortium to fulfil the legal, financial and technical requirements of procurement proceedings.

(2) The members of a joint venture or consortium are jointly and severally liable for the execution of the contract in accordance with the contractual terms set out in the bidding document.

(3) A supplier or contractor may participate in procurement proceedings as part of an existing joint venture or consortium or a proposed joint venture or consortium agreement supported by a letter of intent.

(4) A supplier or contractor participating in procurement proceedings as part of a joint venture or consortium shall provide a document in which the parties—

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

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- (b) assume joint and several liability for the procurement contract; and
- (c) nominate a representative who shall have the authority to conduct business for and on their behalf during the procurement proceedings.

(5) The parties to a joint venture or consortium shall not participate in the same procurement proceedings individually or with another joint venture or consortium.

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

Procurement  
Depository.

(2) For the purpose of regulation 6(1), the Office shall upon establishment of the Procurement Depository database, and at least annually thereafter, advise prospective Suppliers or Contractors 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 regulation 6(2) above shall set out the minimum documentary evidence to be submitted by Suppliers or Contractors to the Procurement Depository database, in order to fulfil the requirements set out in section 29(1)(a)–(f) of the Act.

(4) A supplier or contractor may update the information he submitted to the Procurement Depository database to ensure that the information is current and valid.

(5) A supplier or contractor who is registered in the Procurement Depository database will continue to maintain a registered status, unless he is added to the ineligibility list in accordance with section 58(6) of the Act.

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(6) Notwithstanding regulation 6(5) above, procuring entities shall, in accordance with section 29 of the Act, establish and evaluate qualification criteria that demonstrate the ability of Suppliers or Contractors 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 database, shall ensure at a minimum to comply with the requirements of section 29 of the Act.

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

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**PUBLIC PROCUREMENT AND DISPOSAL OF  
PUBLIC PROPERTY (PRE-QUALIFICATION AND  
PRE-SELECTION) REGULATIONS**

ARRANGEMENT OF REGULATIONS

**REGULATION**

1. Citation.
2. Interpretation.
3. Register of pre-qualified suppliers and contractors.
4. Pre-qualification of suppliers and contractors.
5. Content of invitation to pre-qualify.
6. Clarification of pre-qualification documents.
7. Notice of pre-qualified supplier or contractor.
8. Pre-qualified suppliers or contractors to participate in procurement proceedings.
9. Pre-selection of suppliers and contractors.
10. Invitation for pre-selection.
11. Assessment for pre-selection.
12. Pre-selection scoring criteria.
13. Pre-selected suppliers or contractors to be invited to participate in procurement proceedings.

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PUBLIC PROPERTY (PRE-QUALIFICATION AND  
PRE-SELECTION) REGULATIONS**

*made under section 63*

Citation.

1. These Regulations may be cited as the Public Procurement and Disposal of Public Property (Pre-Qualification and Pre-Selection) Regulations.

Interpretation.

2. In these Regulations—

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

“Office” means the Office established pursuant to section 9 of the Act; and

“Procurement Depository” means the Procurement Depository established pursuant to section 26 of the Act.

Register of pre-qualified suppliers and contractors.

3. (1) A supplier or contractor shall register in the Procurement Depository and upload the required information and supporting documents, to enable a procuring entity to determine whether or not it meets the criteria for pre-qualification.

(2) A supplier or contractor shall ensure that the information submitted in the Procurement Depository is complete and accurate.

(3) Registration and pre-qualification in the Procurement Depository shall be on an ongoing basis.

Pre-qualification of suppliers and contractors.

4. (1) A supplier or contractor may be pre-qualified by a procuring entity for the line(s) of business and value category of goods, works and services that the procuring entity may procure where—

- (a) the supplier or contractor has registered in the Procurement Depository and submitted a request for pre-qualification; or

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(b) the procuring entity has issued an invitation to pre-qualify for a specified procurement proceeding pursuant to subregulation (4) and the supplier or contractor has made a submission in the Procurement Depository in response to the invitation.

(2) The procuring entity shall ensure that a supplier or contractor that is pre-qualified meets the requirements set out in section 29(1) of the Act in relation to each line of business and value category of the goods, works or services offered by the supplier or contractor.

(3) In conducting its due diligence of a supplier or contractor, a supplier or contractor may be deemed to be compliant with section 29(1)(d) of the Act if—

(a) the supplier was not informed of the exact amount of taxes or national insurance contributions owed in such time to allow it the opportunity of fulfilling its obligations before the deadline of submitting its pre-qualifications document. In such situations, the pre-qualification process continues but approval is only granted after evidence of payment is provided;

(b) the supplier has entered into a binding agreement with the regulatory body to pay outstanding taxes or national insurance and such agreement is submitted to the entity at the time of seeking pre-qualification.

(4) Where pre-qualification is made under subregulation (1)(a), the procuring entity shall—

(a) review the information submitted into the Procurement Depository and assess whether the supplier or contractor meets the requirements for pre-qualification;

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- (b) ensure that information submitted in the Procurement Depository for pre-qualification meet the requirements set out in section 29(1) of the Act; and
- (c) engage with the supplier or contractor, where applicable, to promptly confirm that the information in the Procurement Depository is complete and accurate.

(5) Where pre-qualification is made under subregulation 4(1)(b) a procuring entity shall issue a public invitation to pre-qualify in the Procurement Depository where—

- (a) there are no pre-qualified suppliers or contractors in the Procurement Depository for the goods, works or services required; or
- (b) the number of pre-qualified suppliers or contractors in the Procurement Depository is deemed insufficient for a competitive process.

(6) A public invitation to pre-qualify in the Procurement Depository shall be published in at least one newspaper in daily circulation in Trinidad and Tobago, on the public body's website and on the Office's website.

(7) A public invitation to pre-qualify in the Procurement Depository shall also be published in international publications, where applicable.

Content of  
invitation to  
pre-qualify.

**5. (1)** An invitation to pre-qualify under regulation 4(1)(b) shall contain the following information:

- (a) the name and address of the procuring entity;
- (b) the contact information of the procuring entity's authorised representative;
- (c) a summary of the principal terms and conditions of the procurement contract to be

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entered into as a result of the procurement proceedings, including—

- (i) the nature, quantity and place of delivery of the goods to be supplied;
  - (ii) the nature and location of the works to be effected;
  - (iii) the nature of the services and the location where they are to be provided; or
  - (iv) the required time for the supply of the goods, the completion of the works, or the provision of the services;
- (d) the criteria and procedures to be used for ascertaining the qualifications of suppliers or contractors and the information submitted by them;
- (e) a declaration pursuant to section 28 of the Act, where applicable;
- (f) deadline for submission of clarification questions;
- (g) a statement that suppliers and contractors must register in the Procurement Depository;
- (h) the language in which the information should be submitted;
- (i) a statement that the submission in response to the invitation to pre-qualify must be made through the Procurement Depository; and
- (j) the deadline for applying for pre-qualification in response to the specific invitation to pre-qualify.

6. (1) A supplier or contractor may request clarification of the pre-qualification documents within a reasonable time prior to the deadline for presenting applications to pre-qualify.

Clarification of pre-qualification documents.

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(2) The procuring entity shall respond to a request made under subregulation (1) within such time that will enable the supplier or contractor to present his application to pre-qualify in a timely fashion.

(3) The response to the request that might reasonably be expected to be of interest to other suppliers or contractors shall, without identifying the source of the request, be communicated to all suppliers or contractors to whom the procuring entity provided the pre-qualification documents.

(4) Where a procuring entity issues a clarification or modification of the pre-qualification requirements, it shall, prior to the deadline for presenting submissions, extend the deadline in order to afford suppliers or contractors sufficient time to take the clarification or modification into account in their respective applications.

Notice of pre-qualified supplier or contractor.

**7.** (1) A procuring entity shall promptly notify each supplier or contractor, who presented an application to pre-qualify, of its decision.

(2) Where a procuring entity decides not to pre-qualify a supplier or contractor it shall provide the supplier or contractor with written reasons for its decisions.

Pre-qualified suppliers or contractors to participate in procurement proceedings.

**8.** A procuring entity shall only invite suppliers or contractors who are pre-qualified in the Procurement Depository to participate in procurement proceedings.

Pre-selection of suppliers and contractors.

**9.** (1) A public body may engage in pre-selection proceedings for procurement which it requires.

(2) Where the list of pre-qualified suppliers or contractors is prohibitively lengthy and would result in the public body spending an inordinate amount of time on the evaluation of submissions, the procuring entity may, at a

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minimum, pre-select suppliers or contractors on the basis of the following:

- (a) geographical location;
- (b) estimated contract value;
- (c) specialised nature of the goods, works or services; or
- (d) previous procurement history.

(3) Without prejudice to subregulation (2), the procuring entity may consider other criteria as determined by the nature of the procurement exercise.

(4) Additionally, or alternatively, as may be appropriate, a procuring entity may invite all pre-qualified suppliers or contractors in the specific area of procurement to participate in the pre-selection proceedings.

(5) A procuring entity shall issue a public invitation for pre-qualification in accordance with the pre-qualification criteria set out in regulation 4 where a high-value or specialised procurement is involved and the conditions set out under subregulation 4(4) apply.

**10.** (1) An invitation for pre-selection shall specify the minimum and maximum number of suppliers or contractors that would be invited to make a submission.

Invitation for pre-selection.

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

**11.** Pre-selected suppliers or contractors would subsequently be assessed against additional scoring criteria relevant to the pre-selection, to which a maximum and minimum score would be applied and the suppliers or contractors would be ranked in accordance with the overall scores obtained.

Assessment for pre-selection.

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Pre-selection  
scoring criteria.

**12.** The pre-selection scoring criteria shall, where applicable, include but not be limited to the following:

- (a) the supplier's or contractor's relevant experience;
- (b) the qualifications of the key members of staff proposed;
- (c) managerial capability, reliability, experience to perform the specific contract;
- (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) the extent of participation by Trinidad and Tobago nationals in the provision of the services, where applicable;
- (f) environmental conditions for sustainable procurement and sustainable development;
- (g) requirement for contributing to local industry development; and
- (h) such other requirement specific to the procurement.

Pre-selected  
suppliers or  
contractors to  
be invited to  
participate in  
procurement  
proceedings.

**13.** The number of pre-selected suppliers or contractors who have achieved the required score following the pre-selection evaluation exercise, shall be invited to make submissions.

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PROPERTY (PROCUREMENT METHODS AND  
PROCEDURES) REGULATIONS**

ARRANGEMENT OF REGULATIONS

REGULATION

1. Citation.
2. Interpretation.
3. Strategic procurement.
4. Thresholds.
5. Open bidding.
6. Two stage bidding.
7. Procedures for open bidding.
8. Limited bidding.
9. Procedures for limited bidding.
10. Request for quotations.
11. Procedure for requests for quotations.
12. Single source selection.
13. Procedures for single source selection.
14. Sole source selection.
15. Procedure for sole source selection.
16. Alternative procurement methods.
17. Framework agreements.
18. Procedure for framework agreements.
19. Electronic reverse auction.
20. Procedure for electronic reverse auction.
21. Composition of the Procurement and Disposal Advisory Committee.
22. Invitation to tender/Solicitation.
23. Submission period.

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ARRANGEMENT OF REGULATIONS—*Continued*

**REGULATION**

24. Bidding documents.
  25. Technical specifications in bidding or pre-qualification documents.
  26. Technical specifications.
  27. Clarification of bidding documents.
  28. Making submissions.
  29. Tender security.
  30. Tender validity.
  31. Opening of submissions.
  32. Preliminary examination.
  33. Clarification and correction.
  34. Evaluation.
  35. Performance security.
  36. Advance payment guarantee.
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**PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC  
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\*31/2022.

*made under section 63*

**PART I**

**PRELIMINARY**

1. These Regulations may be cited as the Public Procurement and Disposal of Public Property (Procurement Methods and Procedures) Regulations.

Citation.

2. In these Regulations—

Interpretation.

“Accounting Officer” means a person appointed by the Treasury and charged with the duty of accounting for any service in respect of which monies 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, or the Chief Executive Officer or any other person holding the equivalent position in a procuring entity;

“guidelines” means guidelines issued by the Office pursuant to section 13(c) of the Act;

“Office” means the Office established pursuant to section 9 of the Act; and

“procurement officer” means the person referred to in section 61 of the Act.

3. The named procurement officer shall be suitably qualified, experienced and competent to prepare the annual procurement plan for the approval of the Accounting Officer or equivalent in a public body.

Strategic  
procurement.

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Thresholds.

4. (1) The Office may, by guidelines, establish different thresholds to be used for different methods of procurement.

(2) A procuring entity may establish specific threshold values in special guidelines and handbooks.

(3) 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 the procurement 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 the procurement of recurring goods or services which are to be 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 a framework agreement, the estimated value of all contracts to be awarded under the framework agreement; and

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

(4) A procuring entity shall not divide the procurement of goods, works, or service which can be procured as a single contract with the intention of avoiding a particular method of procurement, or the benefits of economies of scale, or avoiding the obligations under the Act, including, where the award of several separate contracts would—

(a) create problems of compatibility or interchangeability between items procured as separate lots, or would unduly strain contract administration resources;

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- (b) invalidate or otherwise restrict any provider's warranty or liability; or
  - (c) increase the cost of servicing, maintenance or similar requirements.
- (5) A procuring entity may divide procurement or disposal requirements allocated to a single procurement process into separate lots where—
- (a) the requirements are broadly similar or related and the division offers clear and calculable economic or technical advantages; or
  - (b) it is anticipated that the award of several separate contracts would result in the best overall value for the procuring and disposing entity, in keeping with the objects stated in section 5 of the Act.
- (6) Where procurement or disposal requirements are divided into lots which may result in separate contracts—
- (a) the choice of a procurement method shall be determined by the estimated total value of all the lots; and
  - (b) the procuring entity shall permit tenderers to tender for a single lot, any combination of lots or all lots.
- (7) Without limitation to subregulation (6), the choice of the procurement method may be determined by the estimated value of each individual lot where market conditions determine that alternative procurement methods would better achieve the objects of the Act.

**PART II**

**OPEN BIDDING**

- 5.** (1) A public body shall utilise open bidding, unless the complexity of the procurement or market conditions renders another method more appropriate for achieving the best value for money. Open bidding.

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(2) Open bidding may involve a pre-selection and pre-qualification process as set out in the Public Procurement and Disposal of Public Property (Pre-Qualification and Pre-Selection) Regulations, 2021. This process would be appropriate for large-scale, and high value projects for goods, works or non-consultancy services, where there is an insufficient number of pre-qualified suppliers or contractors on record.

(3) A procuring entity may engage in open bidding by means of two stage tendering in appropriate cases such as—

- (a) where, due to the nature and complexity of the subject of the procurement, the procuring entity's needs would be better met by allowing suppliers or contractors to offer customised solutions that may vary in the manner in which they meet or exceed the requirements of the bidding document; or
- (b) for the procurement of large complex works or services or high value projects where it may be undesirable or impractical to prepare complete technical specifications in advance or the detail design is of a high cost.

Two stage  
bidding.

**6. (1)** Two stage bidding shall be conducted in the following two stages:

- (a) first stage—the bidding document shall request a supplier or contractor to present an initial tender containing his proposal without a tender price; and
- (b) second stage—the procuring entity shall invite all suppliers or contractors, whose initial tender was not rejected during the first stage, to present a final tender with a contract price in response to the final set of terms and conditions of the procurement.

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- (2) The bidding document may solicit tenders relating to—
- (a) the technical, quality or performance characteristics of the subject matter of the procurement;
  - (b) the contractual terms and conditions of the supply of the subject matter of the procurement; and
  - (c) where relevant, the professional and technical competence and qualifications of the supplier or contractor.

(3) The procuring entity may, during the first stage, engage in discussions with a supplier or contractor whose tender has not been rejected on any aspect of his initial tender.

(4) Where the procuring entity engages in discussions with a supplier or contractor, it shall extend to all suppliers or contractors whose tender has not been rejected, an equal opportunity to engage in discussions.

(5) Pursuant to discussions with a supplier or contractor, the procuring entity may revise the relevant terms and conditions of the procurement, but not to the extent that the revision would modify the subject matter of the procurement.

(6) The revision of the terms and conditions of a procurement under subregulation (5) may refine aspects of the description of the subject matter of the procurement by—

- (a) deleting or modifying an aspect of the technical, quality or performance characteristics of the subject matter of the procurement initially provided and adding a new characteristic that conforms to the technical requirements of these Regulations; and
- (b) deleting or modifying a criterion for examining or evaluating initial tenders and adding a new criterion, but only to the extent that the deletion,

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modification or addition is necessary as a result of a deletion, modification or addition made under paragraph (a).

(7) Where a deletion, modification or addition is made pursuant to subregulation (6), it shall be communicated to the suppliers or contractors in the invitation to present final tenders.

(8) A supplier or contractor who does not wish to present a final tender may withdraw from the procurement proceedings without forfeiting his tender security, where he was required to provide a tender security.

(9) Final tenders shall be evaluated in order to ascertain the successful tenderer.

Procedures for open bidding.

7. (1) Where open bidding is to be utilised, a procuring entity shall advertise an invitation to bid nationally, or in appropriate cases, regionally or internationally.

(2) An individual, company or joint venture or consortium which is legally recognised and is capable of supplying goods, works or services being sought shall be given an equal opportunity of making a submission.

(3) An invitation may normally be advertised regionally or internationally when—

- (a) the required goods, works or services are not available from qualified, competent and experienced providers in Trinidad and Tobago at competitive prices; or
- (b) it may be necessary to fulfil the terms and conditions of a regional or international treaty or agreement.

(4) The invitation issued pursuant to subregulation (1) and an invitation to pre-qualify, shall—

- (a) be published in at least one newspaper in daily circulation in Trinidad and Tobago and on the

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website of the procuring entity and, where available, on a website provided by the Office; and

- (b) in the case of a regional or international procurement, be published in accordance with paragraph (a) and in a regional or international newspaper or trade magazine, published in the English language, with adequate circulation to attract foreign competition and/or on widely read internet websites.

**PART III**

**LIMITED BIDDING**

**8.** (1) A procuring entity may engage in limited bidding to restrict the number of suppliers or contractors who are invited to make a submission where—

Limited bidding.

- (a) the subject of the procurement, by reason of its highly complex or specialised nature, is available from a limited number of suppliers or contractors; or
- (b) the time and cost required to examine and evaluate a large number of submissions would be disproportionate to the value of the subject of the procurement.

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

**9.** (1) Where a procuring entity engages in limited bidding it shall include a justification for the reason for selecting the method in its record of procurement proceedings.

Procedures for limited bidding.

(2) Where a procuring entity decides to engage in limited bidding the procedures of an open bidding method, set out in Part II, shall apply save and except the requirement for the advertisement of the invitation to bid and where appropriate the invitation to pre-qualify.

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PART IV

REQUEST FOR QUOTATIONS

Request for  
quotations.

**10.** A request for quotations may be utilised by a procuring entity for the procurement of readily available, relatively low priced, goods or services—

- (a) which are not specially produced or provided to the particular specifications of the procuring entity; and
- (b) for which there is an established market.

Procedure for  
requests for  
quotations.

**11.** (1) Where a request for quotations is to be utilised, a procuring entity shall, using standard documents it prepared, request quotations, in writing, from as many suppliers or contractors as practicable, but not less than three suppliers or contractors.

(2) Where only two suppliers or contractors are available the procuring entity shall include in its record of procurement proceedings a justification for requesting quotations from less than the minimum three suppliers or contractors.

(3) A written request for quotations shall contain a clear statement of the procuring entity's requirements with respect to—

- (a) the quality, quantity, terms and time of delivery of the subject of the procurement; and
- (b) other special requirements.

(4) Suppliers or contractors should be given adequate time, usually no less than five working days, to prepare and submit their quotations.

(5) A supplier or contractor shall only be permitted to submit one quotation, however the final price may be negotiated with the selected supplier.

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PART V

SINGLE SOURCE SELECTION

12. (1) For the purposes of this Part “single source selection” means a non-competitive method of procurement whereby a procuring entity engages one supplier or contractor for a procurement even though other suppliers or contractors are available.

Single source selection.

(2) Single source selection may be appropriate under the following circumstances—

- (a) where the procurement represents a natural continuation of previous procurement and—
  - (i) the previous procurement was based on a competitive process;
  - (ii) the work was carried out by the supplier or contractor within the twelve months immediately preceding the decision to engage in a procurement;
  - (iii) the supplier or contractor have performed satisfactorily under the previous procurement;
  - (iv) the contract price is reasonable; and
  - (v) no advantage would be obtained by the procuring entity by engaging in a competitive procurement method;
- (b) where the subject of the procurement is a good which is a spare or replacement part for equipment in use by the procuring entity;
- (c) where the subject of the procurement is a good which is similar to equipment in use by the procuring entity and single source selection will be more cost effective; or

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- (d) where the subject of the procurement is to be delivered or carried out by a supplier or contractor who is in possession of relevant information and data and—
  - (i) it will be more cost effective for the supplier or contractor to deliver the goods or perform the required works or services;
  - (ii) the supplier or contractor performed satisfactorily under the previous contract;
  - (iii) no advantage would be obtained by the procuring entity by engaging in a competitive procurement method; and
  - (iv) the price is reasonable;
- (e) where a procuring entity wishes to procure the provision of goods, works or services which is usually provided by a public body; and
- (f) in cases of emergency.

Procedures for  
single source  
selection.

**13.** Where a public body decides to engage in single source selection it shall—

- (a) gain approval from the “named Procurement Officer” who makes a recommendation which is thereafter approved by the Accounting Officer or equivalent in a public body, after sufficiently detailing the justification for the need to engage in single source selection;
- (b) request a proposal or contract price quotation from the supplier or contractor; and
- (c) engage in negotiations with the supplier or contractor unless the negotiations would not be feasible in the circumstances.

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PART VI

SOLE SOURCE SELECTION

14. (1) For the purposes of this Part, “sole source selection” refers to a method of procurement to be utilised where only one supplier or contractor is capable of providing the subject of a procurement.

Sole source selection.

(2) Sole source selection may be used in the following exceptional circumstances:

(a) where—

- (i) a procuring entity engaged in an open bidding or restricted bidding method and there were no successful submissions; and
- (ii) subsequently engaging in the same method, with no substantial modification to the bidding document, is expected to produce the same result;

(b) where a resulting procurement contract can only be performed by a particular supplier or contractor due to—

- (i) technical or artistic reasons; or
- (ii) reasons connected with the protection of exclusive rights,

and no reasonable alternative or substitute exists;

(c) where, due to reasons of extreme urgency brought about by unforeseen events not attributable to the procuring entity, the subject matter of the procurement cannot be obtained in a timely manner if an open bidding method or limited bidding method is utilised;

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- (d) for the provision of additional goods or services by the supplier who provided the initial goods or services where—
- (i) a change of supplier would compel the procuring entity to procure equipment or services which do not meet the compatibility requirements of existing equipment;
  - (ii) the separation of the services would cause significant inconvenience or substantial duplication of costs to the procuring entity; or
  - (iii) the contract for the additional goods or services is to be awarded no later than eighteen months after the original procurement contract and its total value would not exceed thirty per cent of the value of the original procurement contract;
- (e) for the provision of additional services which—
- (i) were within the objectives of the original bidding document but not included in the initial procurement contract;
  - (ii) have, through unforeseen circumstances, become necessary to complete the services described in the bidding document; and
  - (iii) would not result in the award of a contract with a total value exceeding fifty per cent of the value of the original procurement contract;

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- (f) for the provision of services which consist of the repetition of similar services which conform to a basic project for which—
  - (i) an initial procurement contract was awarded following an open or limited bidding method; and
  - (ii) the procuring entity indicated in its publication of planned procurement activities that a sole source method may be used in awarding contracts for the provision of the new service;
- (g) for the procurement of a prototype 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; or
- (h) for the purchase of products on a commodity market.

15. (1) Where a procuring entity decides to engage in sole source selection its bidding document shall include the required quantities, technical specifications and standard terms and conditions.

Procedure for  
sole source  
selection.

(2) The procuring entity shall review the submission it receives for conformity with the quantities, technical specifications and contract terms and conditions set out in the bidding document.

(3) The submission which complies with the requirements set out in the bidding document shall be reviewed by the procuring entity to determine whether the price is fair and reasonable.

(4) Where the submission offers a price which exceeds the allocated budget of the procurement, the procuring entity may negotiate a price reduction.

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**PART VII**

**ALTERNATIVE PROCUREMENT METHODS**

Alternative  
procurement  
methods.

**16.** The Office shall set out in its Guidelines and Handbooks other alternative procurement methods and their conditions of use which may be utilised by a procuring entity.

**PART VIII**

**PROCUREMENT TECHNIQUES**

Framework  
agreements.

**17.** (1) A procuring entity may establish a framework agreement if it is of the opinion that—

- (a) the need for the goods, works or services, is expected to arise on a repetitive basis during a given period of time; or
- (b) the need for goods, works or services, due to their nature, may arise on an urgent basis during a given period of time.

Procedure for  
framework  
agreements.

**18.** (1) Where a procuring entity decides to establish a framework agreement it shall be conducted in the following two stages:

- (a) the invitation of a supplier or contractor to be a party to the framework agreement, utilising the open bidding method or limited bidding method; and
  - (b) the award of a procurement contract under the terms of the framework agreement to a supplier or contractor as and when required.
- (2) A framework agreement shall contain—
- (a) all information which is required to allow effective operation of a framework agreement including the agreed terms and conditions and pricing;

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- (b) information on how the framework agreement can be accessed;
  - (c) information on how publication of any forthcoming procurement contract under the framework agreement can be accessed.
- (3) A procuring entity shall apply or negotiate a framework agreement in accordance with the guidance of the Office.

**19.** (1) An electronic reverse auction shall only be utilised for the procurement of goods.

Electronic reverse auction.

(2) A procuring entity may utilise an electronic reverse auction where—

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

**20.** (1) Where a procuring entity decides to engage in an electronic reverse auction it shall utilise the open bidding method up to the final stage preceding the award of the procurement contract and then engage in the electronic reverse auction to determine the lowest price.

Procedure for electronic reverse auction.

- (2) An 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 regulation 24(1), as applicable, where the

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procurement contract is to be awarded to the best value for money submission.

(3) The bidding document for an electronic reverse auction shall include—

- (a) a reference to the fact that the final stage will be conducted by way of an electronic reverse auction;
- (b) the mathematical formula that will be used in the evaluation procedure during the electronic reverse auction; and
- (c) instructions on how the electronic reverse auction can be accessed, including information regarding connection to the auction.

**PART IX**

**PROCUREMENT AND DISPOSAL ADVISORY  
COMMITTEE**

Composition of  
the  
Procurement  
and Disposal  
Advisory  
Committee.

**21.** (1) A procuring entity shall establish a Procurement and Disposal Advisory Committee (hereinafter referred to as “the Committee”).

(2) The Committee shall comprise—

- (a) Corporate Secretary/Head of Legal;
- (b) Head of Finance;
- (c) Subject Matter Expert;
- (d) such other members as may be necessary.

(3) A member of the Committee may be sourced from another public body.

(4) A Senior Officer shall be appointed as the Secretary to attend all meetings of the Committee but shall not be a member of the Committee.

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(5) The Committee shall review reports, recommendations for contract award and procurement proceedings and property disposal files to determine—

- (a) adherence to the Act and the Regulations;
- (b) adherence to the Handbook and Guidelines;
- (c) adherence to the approved procurement/disposal strategy; and
- (d) achievement of the objects of the Act.

(6) Where the Committee is of the opinion that there is not adherence or achievement as set out in subregulation (5), it shall recommend the appropriate action to the procurement officer with a written explanation providing reason for its decision.

(7) The Committee shall cause the written explanation to be forwarded to the Accounting Officer for noting.

(8) Where there is an agreement, the Committee shall give the Accounting Officer a written recommendation which must be accompanied by the procurement proceedings file and property disposal file.

(9) A member of the Committee shall disclose his interest and not take part in the proceedings of the Committee where he—

- (a) is a member, director or shareholder of a company or other body corporate;
- (b) is a proprietor of or partner in a firm, or partnership;
- (c) is employed by or is otherwise a party to a contract for services;
- (d) has a financial interest in or relationship with someone;
- (e) is a relative of an individual,

being reviewed by the Committee.

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**PART X**

**GENERAL**

Invitation to  
tender/  
Solicitation.

**22.** (1) An invitation to tender or to re-qualify shall include—

- (a) the identity and address of the procuring entity and the contact details of the person from whom further information can be obtained;
- (b) the nature and timeframe of the procurement, including the place for delivery of the goods or services or the location of the works;
- (c) the manner and cost of obtaining the bidding document, or, if applicable, the pre-qualification documents;
- (d) the place and deadline for submissions or applications to pre-qualify;
- (e) the documents specified in the Public Procurement and Disposal of Public Property (Pre-Qualification and Pre-Selection) Regulations, 2021; and
- (f) such other information which the procuring entity requires.

(2) A procuring entity shall provide the bidding document, in an expeditious and non-discriminatory manner, to—

- (a) all suppliers or contractors who respond to the invitation to tender; or
- (b) in the case of pre-qualification, all suppliers or contractors who were pre-qualified.

(3) The bidding document may be made available in electronic or hard copy format to suppliers and contractors. A cost, if any, to be charged for the bidding document shall only reflect the cost of printing and distribution of a hard copy.

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(4) The bidding document shall be ready for distribution prior to the publication of the procurement notice.

(5) The bidding period runs from the date of the first publication of the procurement notice until the deadline date for the making of submissions.

**23.** (1) In order to provide an equal opportunity to all suppliers or contractors, a procuring entity shall set a fixed period for making submissions.

Submission  
period.

(2) A supplier or contractor shall not be given advance notice.

(3) In determining the period for making submissions the procuring entity shall take into account—

- (a) the time required for the preparation of a tender, taking into consideration the level of detail required and the complexity of the tender;
- (b) the need, if any, for suppliers or contractors to submit certified legal documents or similar documents as part of their tender and the time required to obtain such documents;
- (c) the location of suppliers or contractors and the time required for obtaining the bidding document and making submissions to the procuring entity; and
- (d) restrictions, if any, relating to the time by which the goods, works or services are required.

(4) In order to preserve fairness during open bidding or limited bidding methods, a procuring entity shall comply with the following minimum periods for making submissions:

- (a) twenty working days where the open bidding method is utilised;

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- (b) forty working days where the open bidding method is utilised and the invitations to tender are advertised regionally or internationally;
- (c) thirty working days for the submission of applications to pre-qualify;
- (d) twenty working days where the limited bidding method is utilised; and
- (e) thirty working days where the limited bidding method is utilised and invitations to tenders are advertised regionally or internationally.

Bidding  
documents.

**24.** (1) Bidding documents shall provide suppliers or contractors with all the information that they require in order to make a submission which is responsive to the needs of the procuring entity, in particular—

- (a) the nature and timeframe 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) the required qualifications of suppliers or contractors and the documents required to satisfy the requirements, except where a pre-qualification or pre-selection process is utilised;
- (c) information relating to site visits and pre-bid meetings, where applicable;
- (d) instructions for the preparation and submission of tenders, including the deadline for making submissions and, where applicable, the time and place for the opening of tenders;
- (e) the components to be reflected in the price, the currency in which the tender price may be stated, the exchange rate, and any applicable taxes;

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- (f) the criterion and methodology for the evaluation of submissions and the selection of the successful supplier or contractor;
- (g) the limitation, if any, of participation in the procurement proceedings in order to promote local industry development and local content;
- (h) grouping of goods, works or services into lots and packages, where applicable, 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 the alternatives would be evaluated;
- (j) the required validity period of bids;
- (k) the number and acceptable form of a submission, performance or other security, where required;
- (l) the terms and conditions of the contract to be awarded; and
- (m) such other matters as may be required by the procuring entity.

(2) Where the open bidding or limited bidding method is utilised and the invitation to bid is advertised regionally or internationally the bidding documents shall indicate—

- (a) a supplier or contractors can express his tender, as well as his security document, 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 the technical specifications shall, to the extent compatible with national requirements, be based on international standards.

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(3) A procuring entity shall avail itself of standard bidding documents for all commonly procured items and make them available for all procurements.

Technical specifications in bidding or pre-qualification documents.

**25.** (1) A procuring entity shall clearly specify in its bidding document its requirements with respect to the quality and quantity of goods, services or works, including any certification, testing methods or other means for evaluating the conformity of the performance of the contract to its requirements.

(2) A procuring entity shall ensure that its bidding documents and pre-qualification documents provide objective descriptive information which do not favour a particular supplier or contractor, manufacturer or brand, and include the desired performance or output requirements of the procurement, where possible.

Technical specifications.

**26.** (1) In designing its technical specifications, a procuring entity shall include, where appropriate—

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

(2) A reference in a technical specification to a standard is, where possible, a reference to a standard approved by the Trinidad and Tobago Bureau of Standards (hereinafter referred to as “the Bureau”) established under the Standards Act or similar

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agency responsible for setting applicable standards and in its absence, an international standard acceptable by the Bureau or similar agency.

(3) A procuring entity shall not require or make a reference to, in its technical specifications, a particular trademark or name, patent, design or type, specific original, producer or service provider, unless there is no other way of describing the procurement, and words “such as” or “equivalent” are included in the specifications.

27. (1) A supplier or contractor may, in writing, seek from the procuring entity clarification of information contained in the bidding documents.

Clarification of  
bidding  
documents.

(2) The procuring entity shall include in its bidding document—

- (a) the period within which a supplier or contractor may seek clarification of the information contained therein; and
- (b) the period within which the procuring entity shall respond to a request for clarifications.

(3) The procuring entity’s response to a clarification shall be simultaneously provided, in writing, to all suppliers or contractors without identifying the source of the request.

(4) A procuring entity may modify its bidding document based on a request for clarification, or for any other reason, at any time prior to the deadline for the making of a submission.

(5) The procuring entity shall extend the deadline for making a submission where its modification of its bidding document requires that suppliers or contractors be given an opportunity to take the modification into account in preparing their submission.

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Making  
submissions.

**28.** (1) A supplier or contractor is responsible for ensuring that his submission is delivered to the procuring entity in the manner specified in the bidding document prior to the deadline for the making of submissions.

(2) A supplier or contractor shall deliver his submission 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) A procuring entity may, in its bidding document, permit any method of making a submission, provided that the method allows for the confidentiality and security of submissions, including the prevention of the opening and reading of submissions prior to the deadline set out in the bidding document.

(4) Where a submission is received after the deadline for making a submission, the procuring entity shall return the unopened submission to the supplier or contractor, accompanied by an explanatory letter indicating the time and date of receipt of the submission.

(5) The procuring entity shall record the date and time of the receipt of a submission from each supplier or contractor.

Tender  
security.

**29.** (1) A procuring entity may, in its bidding document, require a tender security, where appropriate, in order to deter irresponsible bids and encourage suppliers or contractors to fulfil the conditions of their tender.

(2) A procuring entity may, in its bidding documents, request the use of a tender securing declaration.

(3) Where a procuring entity requires a tender securing declaration, it shall, in its bidding document, provide the form of the tender securing declaration to be signed and the requirements for the signature.

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(4) Where a procuring entity requires a tender security, it shall, in its bidding document, state the required format of the tender security and the form of payment acceptable to the procuring entity.

(5) The value of a tender security shall be expressed as a fixed amount, not exceeding two per cent of the estimated value of the contract.

(6) A tender security shall be valid for the period specified in the bidding document, normally twenty-eight (28) working days beyond the expiry of the bid validity period.

(7) Where a tender security or tender securing declaration is required, it shall be included with the submission and submitted prior to the deadline for the making of submissions.

(8) A tender security may be forfeited or a tender securing declaration may be activated by the procuring entity, where there is—

- (a) a modification or withdrawal of a submission after the deadline for the making of submissions and during its period of validity;
- (b) refusal by a supplier or contractor to accept a correction of an arithmetical error appearing on the face of the submission;
- (c) failure by the successful supplier or contractor to sign a contract in accordance with the terms specified in the bidding document; or
- (d) failure by the successful supplier or contractor to provide a security for the performance of the contract in accordance with the bidding documents.

(9) A procuring entity shall promptly release a tender security to an unsuccessful supplier or contractor upon the expiration of the term of the security or the execution of a

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contract with the successful supplier or contractor and his submission of the required performance security, whichever is sooner.

(10) A procuring entity shall not release the tender security of a successful supplier or contractor until the contract is executed and the required performance security is received.

(11) For the purposes of this regulation, “tender securing declaration” means a written declaration signed by a supplier or contractor, or his authorised representative, which acknowledges that in the event of the occurrence of a situation set out in subregulation (8), the tender security shall be forfeited.

Tender validity.                      **30.** (1) A supplier or contractor is required to submit a valid tender, for the period specified in the bidding document, which shall be sufficient to enable the comparison and evaluation of tenders and obtain the necessary approvals for the award of the contract within the period.

(2) A procuring entity may request an extension of the tender validity period from suppliers and contractors in justified exceptional circumstances.

(3) A request for an extension of the tender validity period shall be made in writing to all suppliers or contractors before the expiration date of the tender validity period.

(4) The extension of the tender validity period shall be for the minimum period required to complete the evaluation of the tenders, obtain the necessary approvals and award the contract.

(5) Where an extension of the tender validity period is requested, the suppliers or contractors shall not be requested or permitted to change their price or other conditions of their tender.

(6) A supplier or contractor has the right to refuse to grant an extension of the tender validity period without forfeiting his tender security.

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(7) A supplier or contractor who is willing to grant an extension of the tender validity period shall be required to provide an extension of his tender security to cover the revised bid validity period.

**31.** (1) A procuring entity shall set out in its bidding document a procedure which guarantees the regularity of the opening of submissions.

Opening of  
submissions.

(2) Where the opening of submissions is to be conducted in view of the public—

- (a) the submissions shall be opened publicly at the time and place specified in the bidding document;
- (b) the submissions shall be opened in the presence of suppliers or contractors, or their representatives, who choose to attend; and
- (c) the procuring entity shall prepare a record of the opening of the submissions, which shall be dated and signed by the representative of the procuring entity who is present.

(3) The record referred to in subregulation (2)(c) shall contain at a minimum—

- (a) the identification of the submission;
- (b) the date and time of opening the submission;
- (c) the name of the supplier or contractor who made the submission and his price, together with any discounts offered;
- (d) the existence of any statutory documents and, where required, tender securities.

**32.** (1) Subsequent to opening submissions, a procuring entity will conduct a preliminary examination of the submissions to—

Preliminary  
examination.

- (a) assess the responsiveness of the bid;

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- (b) assess its compliance with the terms and conditions set out in the bidding document; and
- (c) where required, the furnishing of a tender security or tender securing declaration or the signature of the authorised person.

Clarification  
and correction.

**33.** (1) During the evaluation of submissions which are deemed compliant pursuant to regulation 32 the procuring entity may seek written clarification from a supplier or contractor to facilitate the evaluation.

(2) Where the procuring entity seeks a clarification under subregulation (1) it shall not ask or permit a supplier or contractor to change the price or any other aspect of his submission.

(3) Where a supplier or contractor amends his submission in any manner, the procuring entity shall reject his submission and his tender security, if any, shall be forfeited.

(4) The procuring entity may correct a purely arithmetical or computational error in a submission and the supplier or contractor shall be notified of the correction and be requested, in writing, to agree to the correction.

(5) Where a supplier or contractor does not agree to a correction under subregulation (4), the procuring entity shall reject his submission and his tender security, if any, may be forfeited.

Evaluation.

**34.** (1) A procuring entity shall evaluate the remaining substantially responsive submissions in accordance with the Public Procurement and Disposal of Public Property (Evaluation) Regulations, 2021 to determine the successful submission.

(2) All written communication between the procuring entity and the supplier or contractor who presented the successful submission, during the preliminary examination and evaluation of submissions, shall be included in the record of the procurement proceedings.

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(3) For the purposes of this regulation, a “substantially responsive submission” means a submission which conforms to the terms, conditions and specifications of the bidding document, without material deviation which—

- (a) affects the scope, quality or performance of the subject matter of the procurement;
- (b) is inconsistent with the bidding document, the project owner’s or procuring entity’s rights or the obligations of a supplier or contractor under the procurement contract; or
- (c) unfairly affects the competitive position of other suppliers or contractors who present submissions.

35. (1) Where a procuring entity wishes to request a performance security, it shall include a statement to that effect in its bidding document.

Performance security.

(2) The bidding document and procurement 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 procurement contract.

(3) The value of a performance security may be expressed as a fixed amount or as a percentage of the value of the procurement contract.

(4) A performance security shall not be less than five per cent nor more than ten per cent of the value of the procurement contract.

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(5) In determining the value of a performance security, the procuring entity shall take into account—

- (a) the cost of obtaining the performance security;
- (b) the value of the procurement contract;
- (c) the risk of a supplier or contractor failing to fulfil his obligation under the procurement contract; and
- (d) the extent of protection offered to the procuring entity through alternative means, such as payment retentions, should a supplier or contractor fail to fulfil his obligation under the procurement contract.

(6) The value of a performance security may be progressively reduced, in accordance with the progress of the supplier or contractor in delivering or completing the subject matter of the procurement to which the performance security relates.

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

(8) The procuring entity shall promptly release the performance security to the supplier or contractor upon the completion of his obligations under the procurement contract which are subject to the security or termination of the contract for a reason that is not attributable to any fault of the contractor.

(9) For the purposes of this regulation, “performance security” means a security required by a procuring entity from a supplier or contractor to secure the fulfilment of the obligations of the supplier or contractor under the procurement contract.

Advance  
payment  
guarantee.

**36.** (1) Where a bidding document allows for an advance payment to a supplier or contractor who presents a successful submission, beyond the mobilisation or commitment fee, the full

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amount of the advance payment required by the supplier or contractor may be secured by an advance payment guarantee based on the risk as determined by the procuring entity.

(2) For the purposes of subregulation (1), “mobilisation or commitment fee” means ten per cent of the value of the procurement contract.

(3) An advance payment guarantee shall be provided by a reputable financial institution and submitted to the procuring entity, together with the supplier’s or contractor’s invoice for the required amount, in the format required in the bidding document, or such other form as may be acceptable to the procuring entity.

(4) An advance payment guarantee shall be promptly released by the procuring entity to the supplier or contractor upon certification that the value of the contract that pertains to the advance payment guarantee has been satisfactorily performed by the supplier or contractor.

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**PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC  
PROPERTY (PROCUREMENT OF CONSULTANTS)  
REGULATIONS**

ARRANGEMENT OF REGULATIONS

**REGULATION**

1. Citation.
  2. Interpretation.
  3. Procurement of Consultants.
  4. Competitive process for selecting a Consultant.
  5. Selection of Consultant from among public bodies.
  6. Shortlisting.
  7. Request for Proposal Method.
  8. Submission of proposals.
  9. Evaluation methods.
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**PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC  
PROPERTY (PROCUREMENT OF CONSULTANTS)  
REGULATIONS**

\*32/2022.

*made under section 63*

1. These Regulations may be cited as the Public Procurement and Disposal of Public Property (Procurement of Consultants) Regulations.

Citation.

2. In these Regulations—

Interpretation.

“Consultant” means a legal entity or natural person who provides consulting services within the meaning of the Act; and

“market knowledge” means a public body’s knowledge about the characteristic of a good, work or service which it requires and the person or persons who provides the good, work or service.

3. (1) A procuring entity may procure the services of a Consultant using a competitive or non-competitive method of procurement as set out in the Public Procurement and Disposal of Public Property (Procurement Methods and Procedures) Regulations, 2021.

Procurement of Consultants.

(2) A procuring entity may utilise either the sole source or single source method of procurement where—

(a) a Consultant is to be selected because of his specialised qualification; or

(b) it is necessary for a Consultant to continue a project where the initial contract was awarded through an approved procurement process in compliance with the Act and Regulations.

4. (1) A procuring entity may invite proposals via open tendering or from a listing of pre-qualified or pre-selected Consultants.

Competitive process for selecting a Consultant.

\*Affirmed by LN 42/2022.

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(2) A procuring entity shall evaluate proposals in accordance with these Regulations and the pre-determined evaluation methodology and criteria outlined in its request for proposals.

Selection of  
Consultant  
from among  
public bodies.

**5.** (1) A procuring entity may utilise the single source method of procurement to award a procurement contract to a public body where the award of the procurement contract would be advantageous to the procuring entity and the State.

(2) Where a procurement contract is awarded pursuant to subregulation (1), the procuring entity shall include in its record of procurement proceedings its justification for the award of the contract which shall be consistent with the requirements for economy, efficiency, transparency and value for money.

Shortlisting.

**6.** (1) Where the value of a contract is estimated to be equal to or greater than the threshold set out in the guidelines and handbooks a shortlist of Consultants is to be established by applying a pre-selection procedure in accordance with Public Procurement and Disposal of Public Property (Pre-Qualification and Pre-Selection) Regulations, 2021.

(2) Where the value of a contract is estimated to be less than the threshold set out in the guidelines and handbook. The shortlist is to be developed from the pre-qualified listing of consultants that are registered in the Procurement Depository.

(3) Where a Consultant is shortlisted the procuring entity shall send to the Consultant a request for proposals, including a letter of invitation, instructions to the Consultant, the terms of reference and a draft of the proposed contract.

Request for  
Proposal  
Method.

**7.** (1) The letter of invitation referred to in regulation 6(3) shall state, *inter alia*—

- (a) the intention of the procuring entity to enter into a contract for the provision of consulting services;

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- (b) the details of the procuring entity; and
- (c) the date, time and address for the submission of a proposal.

(2) The instructions to the Consultant referred to in regulation 6(3) shall contain information which would help the Consultant to prepare a responsive proposal, including—

- (a) information on the evaluation process;
- (b) information on the evaluation criteria and factors and their respective weights; and
- (c) the minimum passing quality score.

(3) The terms of reference referred to in regulation 6(3) shall—

- (a) clearly define the objectives, goals and scope of the procurement; and
- (b) provide background information to facilitate the Consultant's preparation of his proposal.

(4) The draft contract shall *inter alia* set out—

- (a) the standard terms and conditions of the engagement of the Consultant for the procurement;
- (b) the role, responsibility and liability of each party to the contract;
- (c) the applicable law; and
- (d) the provisions for dispute resolution.

8. (1) A Consultant may be required to submit his technical and financial proposal, either combined in a single envelope or in separate envelopes, in accordance with approved guidelines issued by the Office.

Submission of proposals.

(2) A financial proposal shall only be considered after the completion of the evaluation of the technical proposal.

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Evaluation  
methods.

**9.** (1) The procedure for evaluation will depend on the selection method 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 specialised 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 in which the value of the contract is relatively small;
- (e) selection based on consultants' qualifications (**CQS**) may be used for small assignments where—
  - (i) highly specialised expertise is required for the assignment;
  - (ii) recruitment time is critical and the assignment is, typically, short-term;

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- (iii) few consultants are qualified; and
- (iv) the preparation and evaluation of competitive proposals is not justified; and
- (f) individual consultants may be selected based on the consultants' qualifications method where—
  - (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.

**10.** (1) The following procedures for evaluation of proposals may be applied: Evaluation procedure.

- (a) in the case of quality and cost-based selection, the cost and quality scores are weighted and added to determine the highest total score, with the weight for the “cost” element being determined based on the complexity of the assignment and the relative importance of quality but within a range of 20 to 30 points out of a total score of 100;
- (b) in the case of quality-based selection, after evaluating all the technical proposals, the procuring entity shall open only the highest ranked technical proposal and negotiate the financial proposal with the Consultant who submitted the highest ranked technical proposal;
- (c) in the case of a fixed budget selection, following evaluation of all the technical proposals—
  - (i) all the financial proposals shall be opened and the financial proposals which exceed the budget for the procurement shall be rejected; and

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- (ii) the Consultant who submitted the highest ranked technical proposal, with a financial proposal which does not exceed the budget for the procurement, shall be selected and invited to negotiate a contract; or
- (d) subject to subregulation (2), in the case of selection based on qualifications, the procuring entity shall—
  - (i) prepare the terms of reference;
  - (ii) obtain an expression of interest from at least three Consultants with the required qualifications and experience;
  - (iii) assess and compare the Consultants;
  - (iv) select the best qualified and experienced Consultant and ask him to submit a combined technical and financial proposal; and
  - (v) invite the Consultant to negotiate a contract if his combined technical and financial proposal is responsive.

(2) In the case of selection based on qualifications, where only two Consultants are available, the procuring entity shall include its justification for inviting less than three Consultants in its record of procurement proceedings.

(3) An individual Consultant may be selected based on his qualifications in the following manner:

- (a) subject to subregulation (4), the procuring entity shall shortlist at least three Consultants, established from market knowledge or other sources of information, and invite each of them to submit a proposal;

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- (b) the procuring entity shall ensure that the shortlisted Consultants possess the required qualification and has the capacity to provide the good, work or service as set out in the terms of reference;
- (c) assess a Consultant's capacity on the basis of academic background, experience and, where necessary, knowledge of local conditions and other relevant factors; and
- (d) invite the selected Consultant to submit his technical and financial proposals prior to the conclusion of the agreement.

(4) For the purposes of subregulation (3)(a), where only two Consultants are available, the procuring entity shall include its justification for inviting less than three Consultants in its record of procurement proceedings.

**11.** (1) A Consultant shall, at all times, provide professional, objective and impartial advice to the procuring entity which procures his services and avoid conflicts of interest.

General provisions.

(2) A procuring entity shall not award a procurement contract to a Consultant where—

- (a) a conflict of interest exists between the Consultant's consulting activities and the provision of the good, work or service to the procuring entity; or
- (b) the award of the procurement contract will create a conflict of interest with another good, work or service provided by the Consultant.

(3) Where a Consultant is a firm, the firm and any of its affiliates which is engaged by a procuring entity to provide goods, works or services shall be disqualified from providing consulting services related to those goods, works or services.

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(4) Where a Consultant is a firm, the firm or any of its affiliates which is engaged to provide consulting services for the preparation or implementation of a project for a procuring entity shall be disqualified from providing goods, works or services resulting from or directly related to its consulting services for such preparation or implementation.

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**PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC  
PROPERTY (RECORD OF PROCUREMENT  
PROCEEDINGS) REGULATIONS**

ARRANGEMENT OF REGULATIONS

**REGULATION**

1. Citation.
  2. Interpretation.
  3. Requirement to keep record.
  4. Content of record.
  5. Disclosure and retention.
  6. Format of Procurement Records.
  7. Reporting.
- 

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UNOFFICIAL VERSION

UPDATED TO DECEMBER 31ST 2022

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**PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC  
PROPERTY (RECORD OF PROCUREMENT  
PROCEEDINGS) REGULATIONS**

*made under section 63*

Citation.

**1.** These Regulations may be cited as the Public Procurement and Disposal of Public Property (Record of Procurement Proceedings) Regulations.

Interpretation.

**2.** In these Regulations, “record” means the record of procurement proceedings referred to in regulation 3.

Requirement to keep record.

**3.** A procuring entity shall maintain an easily accessible and retrievable record for each procurement proceeding, which shall be marked with the record management reference number.

Content of record.

**4.** Where appropriate, a record shall contain the original and a copy of the information, document and communication related to the procurement proceeding, including but not limited to the following information that is not contained in the proposed procurement plan:

- (a) the document indicating approval to execute the various stages of the procurement proceeding;
- (b) the complete bidding document;
- (c) a description of the object of the procurement;
- (d) a list of each participating supplier or contractor and his qualification;
- (e) the reason for limiting participation, where participation is limited;
- (f) any request for clarification and the relevant response;
- (g) the reason for the cancellation of bids, where the bids are cancelled;
- (h) a statement of the reason for choice of the procurement method;
- (i) the tender price;

\*Affirmed by LN 43/2022.

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- (j) a summary of the evaluation of submissions, including the reason for the rejection of an abnormally low bid;
- (k) a decision to conduct a procurement without a standstill period and the reason for the decision;
- (l) a decision to suspend a standstill period;
- (m) the signed contract;
- (n) a decision of the Office pursuant to its review and the reasons for the decision; and
- (o) such other information required by the Office.

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

Disclosure and retention.

(2) A record shall, upon request, be made available to any person after submission 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) A record shall be kept for a minimum period of seven years following completion or termination of the contract or the cancellation of a procurement proceeding save and except for any investigation, litigation or review by the Office or any competent authority.

6. (1) Procurement records shall be accurately maintained and kept up to date and may be in electronic form.

Format of Procurement Records.

(2) Where procurement records are in electronic form, the procuring entity shall establish and maintain measures to safeguard the integrity, reliability and accuracy of the records.

7. A procuring entity shall submit a summary of the report of its procurement activities to the Office in accordance with the handbooks and guidelines, approved for the entity by the Office.

Reporting.

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**PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC  
PROPERTY (RETENTION AND DISPOSAL OF  
PERSONAL PROPERTY) REGULATIONS**

ARRANGEMENT OF REGULATIONS

**REGULATION**

1. Citation.
  2. Interpretation.
  3. Retention and disposal of personal property.
  4. Risk-based approach for retention of personal property.
  5. Risk mitigation strategy.
  6. Disposal of stores and equipment.
  7. Disposal to public employees.
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**PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC  
PROPERTY (RETENTION AND DISPOSAL OF  
PERSONAL PROPERTY) REGULATIONS**

\*34/2022.

*made under section 63*

1. These Regulations may be cited as the Public Procurement and Disposal of Public Property (Retention and Disposal of Personal Property) Regulations.

Citation.

2. In these Regulations—

Interpretation.

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

“personal property” refers to physical property, inclusive of stores, equipment, computers, motor vehicles;

“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.

3. Procedures for the retention 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.

Retention and disposal of personal property.

4. (1) A public body shall ensure that it protects and maintains the personal 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 personal property.

Risk-based approach for retention of personal property.

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

\*Affirmed by LN 44/2022.

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(3) A public body shall consider the nature of each item of personal 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) A public body shall assess the significance and likelihood of the risk which is likely to threaten the personal property and determine the relevant control to be implemented to protect the personal property.

(5) The significance of a risk shall be assessed in terms of the cost to replace the personal property, the importance of the personal property to the operation of the public body and the perception of the general public about the personal property.

(6) In assessing the likelihood of the occurrence of a risk occurring, the public body shall consider the nature and function of the personal property and such other issues which the public body considers relevant.

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

Risk mitigation strategy.

**5.** (1) A public body shall establish a written policy that highlights its objectives for the retention of stores and equipment in accordance with the good governance principles of accountability, transparency, integrity and value for money.

- (2) The policy shall address, *inter alia*, the following:
- (a) general procedures and overall requirements for protecting the stores and equipment;
  - (b) issues related to maintenance, preservation and performance of stores and equipment;
  - (c) the responsibilities, records and procedures necessary to achieve its objectives;

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- (d) the minimum value of stores and equipment to be monitored under its inventory control system;
- (e) the thresholds for financial reporting; and
- (f) insurance against loss.

(3) A public body shall assign a responsible public officer to be responsible for performing the following functions in relation to the effective retention of stores and equipment:

- (a) monitoring the accuracy and usefulness of records on stores and equipment;
- (b) establishing the procedures for the protection of stores and equipment;
- (c) conducting initial and periodic physical inventories of stores and equipment; and
- (d) verifying stores and equipment for disposal.

(4) The record of each item of stores and equipment shall include, *inter alia*—

- (a) the coding classification to be used in tagging the item;
- (b) the name and description of the item;
- (c) the date of purchase of the item;
- (d) reference to source documents;
- (e) the assigned location of the item;
- (f) the purchase price, depreciation amount and net book value of the item;
- (g) the residual value of the item, where applicable; and
- (h) the expiration date of the item, where applicable.

(5) A 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 stores and equipment under its purview.

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(6) The stores and inventory management system shall include economic order quantities, reorder levels, and where appropriate buffer stock.

(7) The stores and inventory management system shall, where possible, be in an electronic format to ensure maximum efficiency.

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

Disposal of  
stores and  
equipment.

**6.** (1) A public body shall be responsible for the disposal of its stores and equipment which are deemed unserviceable, obsolete or surplus.

(2) A public body shall dispose of unserviceable, obsolete or surplus stores or equipment by utilising the most appropriate means including, but not limited to—

- (a) public sale or tendering;
- (b) public auction;
- (c) gift;
- (d) lease;
- (e) concession;
- (f) transfer;
- (g) destruction;
- (h) trade-in;
- (i) recycling; and
- (j) donation.

(3) Where a public body decides to utilise a public sale or tendering or a public auction and the net book value, market value or residual value of the stores or equipment is in excess of one hundred thousand dollars, the public body shall publish in at

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least two newspapers in daily circulation in Trinidad and Tobago and on its website—

- (a) a list of the stores or equipment to be disposed of; and
- (b) the date, time and venue of the disposal.

(4) Where a public body decides to utilise a method, other than public sale or tendering or public auction, for disposing of its stores or equipment, it shall advertise on its website.

(5) A public body shall ensure that—

- (a) its stores or equipment to be disposed of are identified and brought to the attention of its procurement officer within a reasonable time;
- (b) its stores or equipment to be disposed of, are disposed of—
  - (i) in a safe manner to protect the environment in accordance with the Environmental Management Authority's Standards or any other environmental, health and safety standards that are in effect; and
  - (ii) in accordance with the manufacturer's instructions, where applicable;
- (c) the net proceeds received from a disposal through a sale shall be properly accounted for in the financial records of the procuring entity;
- (d) all expenses related to the disposal is accurately recorded in the relevant inventory and financial systems;
- (e) appropriate security arrangements are made for a public auction in order to protect public funds;
- (f) a purchaser provides a source of funds declaration and sufficient bio-data including but not limited to his full name, date of birth,

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nationality, identification card/passport/driver's permit number, residential mailing address, business mailing address and contact number;

- (g) the advice of a technical/subject matter expert is sought in making a recommendation for disposal; and
- (h) the Office is notified of all disposals within six (6) weeks of its completion; including details of the stores or equipment disposed of and its price and method of disposal and the supporting documents requested by the Office.

Disposal to public employees.

7. (1) Where a public body proposes to dispose of personal property to 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 earmarked for disposal;
- (b) the valuation report, where applicable, of the item earmarked for disposal;
- (c) the method to be adopted for the disposal and, if by way of direct sale or transfer, the reason for the proposed disposal to the employee or member;
- (d) the name of the employee or member;
- (e) the relationship of the employee or member to the public body; and
- (f) such other relevant details including the proposed disposal price.

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(2) A public body shall, within ten (10) working days of the disposal of the personal property where the net book value, market value or residual value is in excess of one hundred thousand dollars—

- (a) notify the Office of the disposal indicating details of the items, the disposal price and the name of the employee or member.

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**PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC  
PROPERTY (JUDICIARY) EXEMPTION ORDER**

*made under section 7(6)*

Citation.

**1.** This Order may be cited as the Public Procurement and Disposal of Public Property (Judiciary) Exemption Order.

Interpretation.

**2.** In this Order—

Act No. 1 of  
2015.

“The Act” means the Public Procurement and Disposal of Public Property Act, 2015; and

“Court” means the Court of Appeal, the High Court, a Summary Court, a Coroner’s Court, a Petty Civil Court, a Justice of Appeal, a Judge of the High Court, a Master of the High Court, a Magistrate, a Registrar and Marshal of the High Court or a Magistracy Registrar and Clerk of the Court.

Exemption.

**3.** The Act does not apply to the Judiciary in respect of the following:

- (a) all goods, services, works and commodities arising from a Court order or required within the progress of a matter before the Court, or an intended action of which the Judiciary is notified or to give effect to an order of the Court;
- (b) all goods, services and commodities related to jury management and judicial security management;
- (c) all goods, services, works and commodities relating to witness support services and victim support services;
- (d) medical, information technology, finance and other subject-matter experts or consultants to assist the Court in matters involving highly technical and complex issues and evidence;
- (e) judicial accommodation;
- (f) media advertisements and publications required by any law, rules of court or practice direction;
- (g) all goods, services and commodities related to psychological, counselling, counselling support,

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\*This Order took effect from 29th May 2023.

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- assessment, drug treatment, peer resolution, conflict resolution or other rehabilitative intervention required by law, rules of court, or practice direction; or required to be conducted by the court, on behalf of the court or for the court;
- (h) Court-annexed mediation services, other alternative dispute resolution services and related services and commodities;
  - (i) law books and periodicals, legal databases and other judicial and legal support and related goods, services and commodities required by the Judiciary;
  - (j) judicial educators, facilitators of judicial education;
  - (k) services related to judicial employee assistance programme;
  - (l) specialised devices, software, systems or other technology including case and litigation management software, related goods, services and works including support and hosting services;
  - (m) goods, services and works related to alternative sentencing or monitoring of convicted persons, persons released on bail or persons otherwise subject to Court order;
  - (n) goods, works and services required for the continuation of essential judicial or court related services in cases of emergency arising out of unforeseen circumstances including but not limited to technology failures, physical damage to property and plant or failures or delays by service providers or contractors; and
  - (o) hangman and assistant hangman services and any related goods, services, works and commodities.

4. This Order shall continue in force for a period of three months from the date of its commencement. Duration.

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**PUBLIC PROCUREMENT AND DISPOSAL OF  
PUBLIC PROPERTY (EXEMPTION)  
(FOREIGN VISITS) ORDER**

*made under section 7(6)(e)*

Citation.

**1.** This Order may be cited as the Public Procurement and Disposal of Public Property (Exemption) (Foreign Visits) Order.

Interpretation.  
Act No. 1  
of 2015.

**2.** In this Order, “the Act” means the Public Procurement and Disposal of Public Property Act, 2015.

Exemption.

**3.** The Act does not apply to the provision of services for events associated with visits by Foreign Heads of State, Foreign Heads of Government or Foreign Dignitaries to the Government of Trinidad and Tobago.

Duration.

**4.** This Order shall continue in force for a period of three months from the 29th day of June 2023.