



PROCUREMENT GUIDELINES

ETHICAL CODE OF CONDUCT

Suppliers, Contractors
Public Bodies and Public Officers

INTRODUCTION

Public procurement in Trinidad and Tobago is governed by the **Public Procurement Retention and Disposal of Public Property Act 2015** issued by the Office of Procurement Regulation (“the OPR”).

The values enshrined in **section 5 of the Act** namely; *accountability, integrity, transparency, value for money, efficiency, fairness, equity and public confidence*, serve as overarching values to which adherence is required by all suppliers/contractors of goods and services to a public body, and public bodies/ public officers participating in public procurement.



NOTICE

- ✦ The guideline is being issued pursuant to Section 13 (c) and Section 30 of the Act.
- ✦ It is to be noted that **this guideline complements the Act and the Regulations and does not replace any part of the Act** or the Regulations or any other Law

UNETHICAL PRACTICES

Unethical practices and its concomitant threats of conflict of interest, fraud, collusion and corruption may be considered to be major threats to the objects of the Act.



PROCUREMENT GUIDELINE

In this respect, **this guideline aims to encourage the adoption of good practices and set the minimum standards of ethical behaviour and conduct of Suppliers/ Contractors & Public Bodies/ Public Officers participating in public procurement.**

However, it does not anticipate every ethical dilemma or situation that may be encountered.

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SUPPLIERS AND CONTRACTORS

ETHICAL CODE OF CONDUCT

SCOPE AND APPLICABILITY

This guideline shall apply to all suppliers/ contractors and their agents:

- ✦ Participating in public procurement or disposal of public property.
- ✦ Engaging or seeking to conduct business with YTEPP Limited.

COMPLIANCE AND MONITORING

To ensure that the principles and obligations stipulated in the Act, Regulations and Guidelines are adhered to:

- ✦ All named procurement officers shall observe the rules of and communicate the content of this guideline to suppliers/ contractors.
- ✦ All suppliers/contractors shall observe the rules of and communicate the content of this guideline to their agents, including employees, subcontractors and subsidiaries who may be engaged in procurement proceedings with a public body.
- ✦ Suppliers/ contractors engaging in business with YTEPP Limited shall operate in full compliance with the laws of Trinidad and Tobago. The provisions of this guideline shall be deemed to be incorporated by reference into the standard bidding documents of YTEPP Limited and shall therefore be binding on suppliers/contractors who shall commit to the same by duly signing the form set out.

OBLIGATIONS OF SUPPLIERS/CONTRACTORS

PROFESSIONALISM

A supplier/contractor shall:

- ✦ maintain the **highest standards of integrity and professionalism** in their operations and when engaging in business with YTEPP Limited.
- ✦ comply with professional standards of their industry or of any professional body of which they are members. Where a supplier/contractor is a member of a professional body, they shall uphold the code of ethics of the respective profession and be of good professional standing.

CONFIDENTIALITY

A supplier/contractor shall:

- ✦ Respect the confidentiality of information received in the course of performing a contract and shall not disclose the same or use such information for material gain or the furtherance of its private interest.
- ✦ Preserve the confidentiality of information in accordance with contractual requirements or the prevailing law and even after the business or contractual relationship with YTEPP Limited has been determined.

FAIR AND TRANSPARENT PRACTICE

A supplier/contractor shall:

- ✦ Act in a manner that is transparent, fair, accountable and honest, and shall not engage in any act that may promote or encourage patronage, tribalism, cronyism and nepotism or any other form of preferential treatment towards personnel of YTEPP Limited who are directly or indirectly involved in the procurement proceedings, conducted by YTEPP Limited or personnel who may be in a position to influence the outcome thereof including but not limited to an elected or appointed officer.
- ✦ Act with honesty and integrity in all their engagements and transactions with YTEPP Limited, ensuring that all the information and certifications provided, as well as the statements made, are true.
- ✦ Respond to solicitations by YTEPP Limited in an honest, fair, and comprehensive manner, accurately reflecting their capacity to satisfy the requirements set out in the bid or contract documents.
- ✦ In accordance with section 34 of the Act, ensure that the bid price reflects the ability of the supplier/contractor to successfully perform the procurement contract and is not abnormally low.
- ✦ Perform the obligations of the contracts efficiently and effectively and ensure that competent persons carry out its contractual obligations.
- ✦ Accept full responsibility for all works, services or supplies provided to YTEPP Limited.

GIFTS, FAVOURS AND OTHER BENEFITS

A supplier/contractor shall:

- ✦ Not solicit, offer, give, receive, grant, promise or represent to offer, a gratuity in any form, gifts, money ,any form of employment, service or any other thing of value, either directly or indirectly, with intent of gaining an advantage or a concession for himself or any other person, to any public body, personnel of a public body or personnel who may be in a position to influence the outcome thereof including but not limited to an elected or appointed officer.
- ✦ Not approach, contact, unduly influence or exert pressure on any member of a committee or any other employee of YTEPP Limited to take a particular action which favours or tends to favour them, or in respect of any matter that is before YTEPP Limited or that is expected to come before YTEPP Limited.



PROHIBITION AGAINST CORRUPT, FRAUDULENT, COERCIVE, COLLUSIVE AND UNETHICAL PRACTICES

A supplier/contractor shall:

- ✦ Report to the OPR and/or any other relevant agency any procurement practice which might be deemed improper.
- ✦ Not engage in bid rigging or in any form of fraudulent, collusive, corrupt, coercive, and or unethical practices, or inappropriate influences.

For the avoidance of doubt, a supplier/ contractor shall not:

- engage in, nor be a party to, agreements, arrangements, business practices or conduct that are anti-competitive and designed to establish prices at an artificial, non-competitive level, prior to or after bid submission, that would deprive YTEPP Limited of the benefits of free and open competition.
- misrepresent facts in order to influence a procurement exercise, manipulate the tender process, or the execution of a contract to the detriment of YTEPP Limited.
- deliberately harm or threaten to harm, either directly or indirectly, personnel of YTEPP Limited or their property, to influence their participation in procurement proceedings, or to affect the execution of a contract.
- engage in any obstructive practices either by deliberately destroying, falsifying, altering or concealing evidence material to an investigation, or making false, statements to an inquiry, in order to materially impede an investigation.

CONFLICT OF INTEREST

A supplier/contractor shall:

- ✦ Declare and disclose all potential, apparent and/or actual conflict of interest to the accounting officer and the named procurement officer of YTEPP Limited in writing.
- ✦ Not enter into a contract with YTEPP Limited where the supplier or contractor is an associate, an employee of/ member of staff or person who has a direct influence on the decision of YTEPP Limited.



Where the supplier/ contractor has no prior knowledge of a conflict of interest as set forth above and acquires information which may indicate that there may be an actual or apparent violation, promptly bring such information to the attention of YTEPP Limited; and shall cooperate with YTEPP Limited's review and investigation of such information and comply with the instructions it receives from YTEPP Limited in regard to remedying the situation.

CONFLICT OF INTEREST

A supplier/contractor shall:

- ✦ Not engage in forced or compulsory labour in all its forms.
- ✦ Respect and adhere to the working time of employees in accordance with the laws of Trinidad and Tobago and or any collective agreements or other contractual agreements between the parties.
- ✦ Pay at least the minimum wage or the appropriate prevailing wage, whichever is higher, comply with all legal requirements on wages, and provide any fringe benefits required by laws of Trinidad and Tobago or contract.
- ✦ Not evade or attempt to evade payment of taxes imposed in accordance with section 119 of the Income Tax Act.

HEALTH, SAFETY & ENVIRONMENT

A supplier/contractor shall:

- ✦ Provide a safe and healthy workplace setting and comply with the Occupational Safety and Health Act of Trinidad and Tobago.
- ✦ Adopt responsible measures to mitigate negative impacts that the workplace has on the environment.
- ✦ Strive to use durable products, reusable products and products (including those used in provision of services) that contain the maximum level of post- consumer waste, post-industrial and/or recyclable content, without significantly affecting the intended use of the goods or services, in order to contribute to waste reduction and to increase the development and awareness of sustainable and environmentally sound procurement, wherever possible.
- ✦ Utilize strategies to deliver the product or service that minimizes the emissions and discharges of pollutants and generation of waste.
- ✦ Obtain, maintain, and keep current all environmental permits, approvals, and registrations.
- ✦ Adhere to all applicable laws and regulations regarding the restriction of specific substances in products and manufacturing and will take particular care to restrict and/or avoid the use of the “hazardous substances” in products.



**PUBLIC BODIES/
PUBLIC OFFICERS**

ETHICAL CODE OF CONDUCT

SCOPE AND APPLICABILITY

This guideline shall apply to all suppliers/ contractors and their agents:

- ✦ Participating in public procurement retention and disposal of public property;
- ✦ Engaging or seeking to conduct business with a Supplier/Contractor.

A breach of this guideline by a public body shall be construed as a breach by the “named” procurement officer or an officer who purports to act in such capacity, if it is proved that,

- ✦ The breach was committed with his direct consent or connivance; or
- ✦ He with knowledge, did not exercise reasonable diligence to prevent the commission of the breach.

COMPLIANCE AND MONITORING

To ensure that the principles and obligations stipulated in the Act, Regulations and this Guideline are complied with, Public Bodies/Public Officers shall:

- ✦ Observe and communicate the content of this guideline to their members, their employees and their agents who may be directly or indirectly involved in any stage of a procurement proceedings and/or the retention and disposal of public property;
- ✦ Communicate the content of this guideline to all suppliers/contractors engaging and or seeking to engage in business with a public body.
- ✦ Be communicated in the relevant local language of the supplier/ contractor and in a manner that is understood by all parties to the procurement and or disposal proceeding.
- ✦ Operate in full compliance with the laws of Trinidad and Tobago. The provisions of this guideline shall be deemed to be incorporated by reference into the standard bidding documents of procuring entities and shall therefore be binding on Public Bodies & Public Officers who shall commit to the same by duly signing the form set out in Appendix 1.
- ✦ In accordance with section 13 (1) (g) the OPR may audit and review the system of procurement and disposal of public property to ensure compliance with the objectives of the Act.
- ✦ Additionally, the OPR may, on its own initiative or upon receipt of a complaint from any party involved in public procurement or disposal of public property, or any member of the public, investigate any alleged or suspected breach of the Act.
- ✦ Accounting Officers, Chief Executive Officers, Heads of Public Bodies, and “Named” Procurement Officers, shall be responsible for ensuring observance and compliance with this guideline.

CONSEQUENCES FOR NON-COMPLIANCE

Breach of this guideline may provide grounds for:

- ✦ Review, Audit and or Investigation into YTEPP Limited
- ✦ Issuance of a Directive by the Procurement Regulator
- ✦ Challenge Proceedings by Supplier / Contractor
- ✦ The establishment of the commission on an offence.



GENERAL EXPECTATIONS

INTEGRITY

Public Bodies & Public Officers are expected to:

- ✦ Make decisions and act without consideration of their private interests. The improper use of a public service position for private advantage is regarded as a serious breach of professional integrity

SERVING THE PUBLIC INTEREST

Public Bodies & Public Officers are expected to:

- ✦ Maintain and strengthen the public's trust and confidence in public institutions, by demonstrating the highest standards of professional competence, efficiency and effectiveness, upholding the constitution and the laws, and seeking to advance the public good at all times.

LEGITIMACY

Public Bodies & Public Officers are expected to:

- ✦ Administer the laws and government policy, and to exercise legitimate administrative authority under delegation. That power and authority should be exercised impartially and without fear or favour, for its proper public purpose as determined by the legislature or the Public Officer's organisation as appropriate in the circumstances.

GENERAL EXPECTATIONS

TRANSPARENCY AND ACCOUNTABILITY

Public Bodies & Public Officers are expected to:

- ✦ Use their powers and resources for the public good, in accordance with the law and government policy. They should be prepared to be accountable for the decisions they make and to justify their official decisions and actions to the OPR or any other relevant authority, or publicly, as appropriate in the circumstances.

FAIRNESS

Public Bodies & Public Officers are expected to:

- ✦ Make official decisions and take action in a fair and equitable manner, without being affected by bias or personal prejudice, taking into account the merits of the matter, and respecting the rights of affected suppliers/contractors.

EFFICIENCY AND EFFECTIVENESS

Public Bodies & Public Officers are expected to:

- ✦ Obtain best value in expenditure of public money/funds, and efficient use of assets deployed in or through public management, and to avoid waste and extravagance in the use of resources in public programmes and official activities.

OBLIGATIONS OF PUBLIC BODIES & PUBLIC OFFICERS

GENERAL

- ✦ Public Bodies & Public Officers must ensure that they are never beholden to an economic operator or a supplier/contractor.
- ✦ Throughout the procurement cycle, Public Bodies & Public Officers shall seek to exhibit responsible behaviour.
- ✦ Public Bodies & Public Officers shall inform all suppliers/contractors that they are subject to this code and cannot deviate from it.

OBLIGATIONS OF PUBLIC BODIES & PUBLIC OFFICERS

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- ✦ Public Bodies & Public Officers shall inform all suppliers/contractors that they are subject to this code and cannot deviate from it.

Public Bodies & Public Officers shall:

- ✦ Ensure the integrity of the standing list of registered bidders and fairness and non-discrimination in sharing the bidding opportunities.
- ✦ Ensure the security and safe custody of procurement, retention and disposal of public property information received or generated and shall not allow access to the information to persons who have no official reasons to know.

OBLIGATIONS OF PUBLIC BODIES & PUBLIC OFFICERS

Public Bodies & Public Officers shall:

- ✦ Act with honesty and integrity in all their engagements and transactions with suppliers and contractors, ensuring that all the information and statements made are true.
- ✦ Report to the OPR and/or any other relevant agency any procurement practice or act which might be deemed improper.
- ✦ Ensure that no associate, officer, director, employee or agent of the supplier/contractor, or a member of the immediate family or household of the public body has directly or indirectly received or been offered any form of benefit, pay or compensation, whether tangible or intangible, in connection with procurement and disposal proceedings and an award of a contract.
- ✦ Accomplish their procurement and disposal of public property activities in a timely manner, including provision of required procurement, retention and disposal information and reports.
- ✦ Maintain the good image and reputation of their procuring entities.
- ✦ Endeavour to protect their procuring entities from risks of stock outs, overstocking, overpricing and undeserving payments.

OBLIGATIONS OF PUBLIC BODIES & PUBLIC OFFICERS

YTEPP Limited shall request evidence/proof that suppliers/contractors:

- ✦ Do not engage in forced or compulsory labour in all its forms.
- ✦ Respect and adhere to the working time of employees in accordance with the laws of Trinidad and Tobago and/or any collective agreements or other contractual agreements between the parties.
- ✦ Pays at least the minimum wage or the appropriate prevailing wage, whichever is higher, comply with all legal requirements on wages, and provide any fringe benefits required by laws of Trinidad and Tobago or contract.
- ✦ Does not evade or attempt to evade payment of taxes imposed in accordance with section 119 of the Income Tax Act.
- ✦ Provides a safe and healthy workplace setting and comply with the Occupational Safety and Health Act of Trinidad and Tobago.
- ✦ Adopts responsible measures to mitigate negative impacts that the workplace has on the environment.

OBLIGATIONS OF PUBLIC BODIES & PUBLIC OFFICERS

YTEPP Limited shall request evidence/proof that suppliers/contractors:

- ✦ Strives to use durable products, reusable products and products that contain recyclable content, without significantly affecting the intended use of the goods and services, in order to contribute to waste reduction and to increase the development and awareness of sustainable and environmentally sound procurement and disposal of public property wherever possible.
- ✦ Utilise strategies to deliver the product or service that minimises the emissions and discharges of pollutants and generation of waste.
- ✦ Obtain, maintain and keep current all environmental permits, approval and registrations.
- ✦ Adhere to all applicable laws and regulations regarding the restriction of specific substances in products and manufacturing and will take particular care to restrict and/or avoid the use of the “hazardous substances” in products.

OBLIGATIONS OF PUBLIC BODIES & PUBLIC OFFICERS

BOARD, ACCOUNTING OFFICERS AND HEADS OF PUBLIC BODIES

The Board, Accounting Officers and Heads of Procuring entities shall:

- ✦ Ensure availability and allocation of funds to meet the commitments under procurement contracts.
- ✦ Ensure that procurement bills are paid in a timely manner and avoid accumulation of pending bills.
- ✦ Allow the “named” procurement officers and the committees appointed to advise in relation to public procurement and disposal of public property (such as the procurement and disposal advisory committees and evaluation committees) to perform their duties and assignments without undue influence or interference from your offices or any other quarters.

OBLIGATIONS OF PUBLIC BODIES & PUBLIC OFFICERS

PROFESSIONALISM

- ✦ Public Bodies & Public Officers shall maintain the highest standards of integrity and professionalism in their operations and when engaging in business with a supplier/ contractor and their operations in respect of public procurement and disposal of public property.

AVAILABILITY OF FUNDS

- ✦ The “Named” Procurement Officer shall confirm the allocation of funds before the initiation of any procurement and disposal of public property proceedings.

CONFIDENTIALITY

- ✦ Public Bodies & Public Officers shall respect and preserve the confidentiality of information received in the course of any public procurement process in accordance with contractual requirements or the prevailing law and even after the business or contractual relationship with the supplier/contractor has been determined.

OBLIGATIONS OF PUBLIC BODIES & PUBLIC OFFICERS

FAIR AND TRANSPARENT PRACTICE

- ✦ Public Bodies & Public Officers shall act in a manner that is transparent, fair, accountable and honest, and shall not engage in any act that may promote or encourage patronage, tribalism, cronyism and nepotism or any other form of preferential treatment towards a supplier/contractor.
- ✦ Public Bodies & Public Officers shall act with honesty and integrity in all their engagements and transactions with supplier/contractors.
- ✦ Public Bodies & Public Officers shall not include in a solicitation document any condition or specification which is likely to favour a particular supplier or contractor.

OBLIGATIONS OF PUBLIC BODIES & PUBLIC OFFICERS

CONFLICT OF INTEREST & BIAS

- ✦ In order to preserve the integrity of the bidding process, all parties should avoid any conflict of interest or unfair advantage.
- ✦ Public Bodies & Public Officers shall ensure that all persons with direct influence on the recommendations and decisions of a procuring entity shall declare any interest that they may have in any tender and shall, so far as possible, recuse themselves from the proceedings.
- ✦ Public Bodies & Public Officers shall also ensure that no bidder has a conflict of interest or unfair advantage during a tendering process.
- ✦ Public Bodies & Public Officers shall ensure that their evaluation decisions are made free from bias.
- ✦ Public Bodies & Public Officers may be compelled to disqualify a bidder in order to preserve the integrity of a bidding process. In order to better ensure that a decision to disqualify is transparent and defensible, Public Bodies shall clearly define the circumstances that they would consider to be an unfair advantage or conflict of interest prior to procurement and disposal of public property proceedings.

OBLIGATIONS OF PUBLIC BODIES & PUBLIC OFFICERS

PROHIBITION AGAINST CORRUPT, FRAUDULENT, COERCIVE, COLLUSIVE AND UNETHICAL PRACTICES

Public Bodies & Public Officers shall not:

- ✦ Unduly influence or exert pressure on any member of a committee or any other employee of a procuring entity to take a particular action which favours, or tends to favour a particular bidder.
- ✦ Engage in bid rigging or in any form of fraudulent, collusive, corrupt, coercive, and/or unethical practices or inappropriate influences.
- ✦ Open any sealed bid, including such bids as may be submitted through an electronic system and any document required to be sealed, or divulge their contents prior to the appointed time for the public opening of the bid or documents.
- ✦ Enter into a contract with a supplier/contractor where that supplier/contractor has direct influence on the decision of the public body.
- ✦ Tolerate impunity, that is, the freedom from any risk of being punished for doing something wrong.

OBLIGATIONS OF PUBLIC BODIES & PUBLIC OFFICERS

GIFTS, FAVOURS AND OTHER BENEFITS

Public Bodies & Public Officers shall:

- ✦ Not request or accept a gratuity in any form, gifts of money, or other valuable thing, any form of employment, service or any other thing of value, either directly or indirectly, as an inducement or to influence the outcome of a decision or a procurement or disposal proceeding.
- ✦ Promptly reject a tender of any supplier or contractor who gives, agrees to give or offers directly or indirectly, any such inducement.
- ✦ Not procure goods, works or services from its members of staff or from persons who have direct influence on the decision of a procuring entity.
- ✦ Where a Public Body is satisfied that a gratuity in any form, gifts, money, any form of employment, service or any other thing of value, was offered by a supplier/ contractor or any person as an inducement or to influence the outcome of a decision, or a procurement or disposal proceeding, the Public Body shall reject or revoke the tender or proposal and report the matter to the OPR for appropriate action.

OBLIGATIONS OF PUBLIC BODIES & PUBLIC OFFICERS

GIFTS, FAVOURS AND OTHER BENEFITS

- ✦ Notwithstanding the above, in circumstances where a gift is received or is deemed to be of minor / of low value, Public Bodies & Public Officers shall regardless of the nature of a gift,
 - report it immediately to the named procurement officer and/ or their hierarchical superior in order to avoid any suspicion.
 - mention them in a specific document, including the origin, nature and destination of the good delivered in order to guarantee traceability in case of subsequent challenge or audit.
 - use them, to the extent possible, for the benefit of the entire office (for example, passing a box of chocolates, sharing calendars or distributing pens).
 - request their supervisor's advice in case of doubt, as to what is acceptable or not and on the steps to take.
- ✦ Gifts or any other thing of value, that do not fall within the framework described above must also be recorded, with the name of the organisation concerned, and returned to the sender with a letter.

OBLIGATIONS OF PUBLIC BODIES & PUBLIC OFFICERS

DUE DILLIGENCE

Public Bodies & Public Officers shall:

- ✦ Ensure that their procurements and disposal proceedings achieve value for money in terms of cost, quality, quantity and timeliness of the delivered works, goods or services.
- ✦ Ensure that all instructions to suppliers/ contractors are given in writing by the named procurement officer.
- ✦ Ensure that any information they provide to those participating in public procurement is true, accurate and fair, and any such information provided is never designed to mislead.
- ✦ Conduct work with due diligence, always maintaining records and documentation in an easily traceable and retrievable form in order to facilitate review and audit.

OBLIGATIONS OF PUBLIC BODIES & PUBLIC OFFICERS

DISCLOSURE DUTY

- ✦ Public Bodies, through their “Named” Procurement Officers shall disclose, all material information about the contemplated contract including information that could influence a bidder’s decision to bid or influence the bidder’s quotes in its tender. This disclosure duty shall continue to apply throughout the tendering process.
- ✦ Public Bodies & Public Officers shall disclose any unusual or dangerous conditions that they are aware of to a supplier/ contractor.
- ✦ Public Bodies & Public Officers shall ensure that information in solicitation documents should be correct and complete and be provided with the average bidder in mind. Solicitation specifications should be drafted clearly and coherently.



THANK YOU