

**INSTRUCTIONS GIVEN TO PERSONNEL OF  
PUBLIC AGENCIES TO ASSIST THEM IN  
UNDERSTANDING THEIR RESPONSIBILITIES,  
AND THE ETHICAL RULES GOVERNING THEM:**

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ADMINISTRATION**

**BANK OF GUYANA  
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1. Over the years personnel of public agencies have been reminded that the basic goals of the ethics in public procurement are:

confidence in the public procurement process

professionalism

quality of service

confidence of employees in carrying out their duties under the code

2. In terms of confidence in the Procurement Process, professionalism, quality of service etc., the personnel have been requested through circular, training, information on the NPTA website to ensure that initiatives and measures that are taken to mitigate and reinforce transparency and fairness in Government procurement through the following actions:-

*(1) insistence that the open tendering process be the default method of procurement for the public procurement of goods and services (please see Circular attached), which includes the following:*

The Invitation to Bid must be published in newspapers of wide circulation and posted in public places (Act, Sect. 30 [1]). In cases in which participation of foreign firms is anticipated, in at least one journal of wide international circulation, dedicated to publishing international tendering. (Act, Sect. 30 [2]). In Guyana, invitations to bid are also posted on the e-procure.gov.gy website;

**The Standard Bidding Documents must be used (Act, Sec. 32 [1]). These documents include, the Evaluation Criteria, clearly defined scope of works, and the conditions to be met in order for a bid to be declared valid and responsive;**

**Prospective Bidders should be given adequate time to obtain bidding documents and prepare/submit responses;**

**Procuring Entity (PE) should provide the Tender Document to all potential tenderers that respond to the invitation to tender (NB: The price of the Tender Document shall also be specified, (the price of the document should be just enough to cover the cost of producing the document and should not be seen as prohibitive) Act, Sec. 32 (1);**

If the PE issues a clarification or modification of the Tender Documents, or if a meeting of suppliers or contractors is held, it shall, prior to the deadline for the submission of tenders, extend the deadline if necessary, to afford suppliers or contractors reasonable time to take the clarification of modification or minutes of the meeting, into account (Act, Sec. 35[2]);

All suppliers or contractors that have submitted tenders, or their representatives, may attend the opening of tenders (Act, Sec. [38] [2]). (NB: At the Level of the National Procurement and Tender Administration, the news media is also permitted to attend.

The minutes of the Tender Opening at the NPTA are usually posted on the NPTA's web site ([www.npta.gov.gy](http://www.npta.gov.gy)) within forty-eight (48) hours of the conclusion of tender opening);

A bid Evaluation Committee (EC) of three (3) qualified Members, drawn from a pool of Evaluators, is appointed by the PE/NPTAB to examine and evaluate the bids and prepare an Evaluation Report (Act, Sec. 17 [4]);

The EC shall use only the criteria and methodology outlined in the tender documents to evaluate and compare the tenders (Act, Sec. 39 [2]). The criteria shall be quantified to the extent possible;

Contract shall be awarded to the lowest evaluated bid which meets the prescribed qualification criteria;

## 2) Notification of the Outcome of Contracts:

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Notification of the outcome of contracts is also done in a manner to ensure transparency in public procurement:

Section 43 of the Procurement Act, 2003, requires that upon entry into force of a contract, procuring entities shall give the remaining Suppliers or Contractors the name, address and the contract price of the Supplier or Contractor that has entered into the contract;

A circular was issued by the National Procurement and Tender Administration, on October 3<sup>rd</sup>, 2014, in the absence of the Public Procurement Commission, for unsuccessful Suppliers and Contractors to be informed of the reasons why they were not selected for award of contract;

All Permanent Secretaries, Heads of Departments, Regional Executive Officers and Heads of Project Executing Units were asked to note the above requirements and to ensure that there is full compliance thereof.



### **3) Publication of Contract Awards:**

**Section 11.(1) of the Procurement Act, 2003, requires procuring entities to publish notices of procurement contract awards, within seven (7) days of awarding such contracts;**

**Pursuant to Section 4.(1), Part II of the Regulations of the Act, the National Procurement and Tender Administration has created an Internet website for the publicity of contract awards and to disseminate other information about public procurement;**

**Permanent Secretaries, Heads of Departments, Regional Executive Officers and Heads of Project Executing Units have been urged, via circular from the National Procurement and Tender Administration, to provide a report to the National Procurement and Tender Administration, within five (5) days of dispatching the notice concerning the award of any contract exceeding the value set in the Regulations, with the information about the contract, for publication on the Administration's website, in accordance with Section 4. (2)(3), Part II of the Regulations, under the Act:**

**All Permanent Secretaries, Heads of Departments, Regional Executive Officers and Heads of Project Executing Units have been asked to note the above instructions and to ensure that there is full compliance thereof.**

#### **4) Administrative Review:**

**An unsuccessful Bidder may submit a protest to the Procuring Entity (PE) within five (5) business days of publication of the award decision (Act, Sec. 52 [1] and [3]);**

**If the complainant does not get a response within five (5) days, he may approach the National Board, which shall establish the Bid Protest Committee (BPC), comprising three (3) members (One appointed by the Minister of Finance, one (1) by the Business Community and one (1) by the Attorney General) Act, Sec. 53 (1) and (4);**

3. The BPC shall issue a decision within 15 days. Final contract award is suspended during this period. This decision shall be final (Act, Sec. 53 [5] and [6]);
4. The BPC was established in 2016 for a period of two (2) years - July 1, 2016 to June 30, 2018;
5. Details in respect of this administrative procurement complaints system can be found on the NPTA website, along with decisions of the BPC.

Instructions given directly to personnel of public agencies to assist them in understanding their responsibilities and the ethical rules governing them are reflected in the Guide to the Public Procurement Procedures, which has been mandated by the NPTAB for use by all Public Agencies. The instructions are as follows:

Public Officials are required to conduct all business in an atmosphere of mutual confidence and trust.

It is essential that the National Board, Ministerial Boards, Agency Boards, Evaluation Committees or persons concerned with the administration of the procurement process maintain the highest standards of professional conduct in their business (Part VIII, Section 55 (1)).

3. As indicated the basic goals of the ethics in public procurement are:

confidence in the public procurement process

professionalism

quality of service

confidence of employees in carrying out their duties under the code

4. To accomplish these goals, the fundamental basic principles of impartiality, independence and integrity apply, and should be followed at all times. This means that the following should obtain:

there should be no suspicion of conflict between official duties and private interests;

suspicion of corrupt practice should be immediately reported

no impression should be given that actions will be influenced by a gift or favour;

dealing with suppliers must be honest, fair and even-handed.

All procurement staff involved directly in the procurement process are subject to the following (Part VIII, subsection (3)) are subject to the following.

they shall not engage in personal, business or professional activity, nor hold a financial interest that conflicts with the duties and responsibilities of their position;

they shall not solicit, accept, or agree to accept, any gratuity for themselves, their families or others which results in personal gain, and which may affect their impartiality in making decisions on the job;

they shall not directly or indirectly use, take, dispose of, nor allow the use, taking or disposing of any property or resources belonging to any Procuring Entity.



Every member of the staff involved in public procurement should be issued in writing with the Procurement Act. It should also be re-circulated annually to all staff with procurement responsibilities, who should acknowledge having read it, to the Procuring Entity.

## Conflict of Interest

- 1) Employment in public procurement is a position of public trust, and requires all staff to maintain a special awareness of that trust.
- 2) All staff must avoid a conflict of appearance of a conflict between their public employment and private lives. They must avoid any action, whether or not specifically prohibited by the Act, which results in or may create the appearance of:
  - a) using public office for private gain;
  - b) giving preferential treatment to any person or entity;
  - c) impeding the efficiency or economy of the Procuring Entity which fails to give full value for public money;
  - d) losing independence or impartiality
  - e) adversely affecting the confidence of the public in the integrity of the public procurement process.

3) Staff are expressly forbidden to accept gifts, bribes or kickbacks from tenderers, suppliers service providers, contractors of equipment, materials, goods, services or work (PartVIII, subsection (4)).

4) conflict of interest, actual or potential, must be reported to line managers, a 'hospitality register' should be maintained for staff to record offers of hospitality, whether accepted or not. This record should be periodically reviewed by the Auditor and be available for inspection by the review Bodies, if so required

staff violating ethics and public trust are subject to the provision of a fine of \$3,000 and to imprisonment of six (6) months.

**NB: This provision is not rigidly enforced**