

## **BEST PRACTICES FOR TRINIDAD AND TOBAGO**

1. **Institution:** The Office of Procurement Regulation
2. **Title:** Development of a new public procurement regime grounded upon principles of good governance, namely accountability, transparency, integrity and value for money, in accordance with Article III (5) of the Convention – systems of government hiring and procurement of goods and services.
3. **Description of the Best Practice:** **The Public Procurement and Disposal of Public Property Act 2015 (as amended)** (hereinafter referred to as “**the Public Procurement Act 2015 (as amended)**” or “**the Procurement Act 2015 (as amended)**”) was assented on the 14<sup>th</sup> January 2015. Despite its assent in January 2015, the Act was due to become operational on a date fixed by the President by way of Proclamation. A phased approach was adopted for Proclamation of the Act to allow for the establishment of the Office of Procurement Regulation (OPR), the appointment of the Members of the Board, the performance of key administrative functions of the OPR, and the drafting of Regulations. Therefore at that time, the Act was partially proclaimed by way of **Legal Notice 150 of 2015**.

The full proclamation of **the Procurement Act (as amended)** was declared by the President on 25<sup>th</sup> April 2023 by way of **Legal Notice 106 of 2023**. Consequently, all sections of the Procurement Act are operable, the provisions of the Central Tenders Board Act have been repealed and replaced and the operations of that Board has ceased.

The stated purpose of the Act is 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, and the repeal of the Central Tenders Board Act.

Ultimately, the Act seeks to create a new uniformed process for the procurement and disposal of public assets across all Government Ministries and State Agencies in accordance with **section 5(2) of the Act**. This is achieved by decentralising the public procurement process as all public bodies are required to have a designated procurement officer responsible for the public procurement process and the disposal of public property for that body. The Act stipulates that public bodies have a duty to ensure that procurement the disposal of public property is done in a way that ensures accountability, transparency and public confidence.

The public procurement process and relevant procuring entities within the government, are overseen by the Office of the Procurement Regulation (OPR) which has the power to provide best practice advice in the conduct of procurement activities; harmonize policies,

systems and practices in relation to public procurement activities and the disposal of public property; and review procurement practices and delivery systems on an annual basis to identify best practices, amongst other key responsibilities.

Despite the OPR's establishment in 2015, due to the phased approach to Proclamation of **The Public Procurement and Disposal of Public Property Act 2015**, there is limited data to establish the level of adherence of the system so as to support the efficiency and efficacy of the Act. However, it must be noted that since its implementation, the OPR has: developed ten Regulations and Handbooks and Guidelines relating to each step of the procurement and disposal of public property process, pursuant to **Section 63 of the Act**, which will work in tandem with the parent Act to govern the procurement process. Moreover, the OPR has established a Learning Management System (LMS), crafted and disseminated Public Information Campaigns, implemented a Whistleblowing System and Case Management Solution, hosted stakeholder consultations, hosted sensitisation and capacity building sessions and established a Procurement Depository.

4. Reasons/Importance: The full proclamation of the new procurement regime caused the repeal of the **Central Tenders Board Act Chap. 71:91** and the decommissioning of the Central Tenders Board established thereunder; and its replacement with the **Public Procurement and Disposal of Public Property Act 2015** and the establishment of the Office of Procurement Regulation (OPR).

The Central Tenders Board possessed the sole and exclusive authority to act for the Government of Trinidad and Tobago (GoRTT) and Statutory Bodies in inviting, considering and accepting or rejecting offers for the supply of articles or for the undertaking of works or any services necessary for carrying out the functions of the Government or any of the Statutory Bodies and disposing of surplus or unserviceable articles and real estate property belonging to same. This led to a plethora of issues such as accountability and transparency; long end-to-end timelines, and an extremely complex public procurement process within the government and public bodies.

Accountability was a primary issue that the GORTT sought to address with the establishment of the OPR. Previously, The Central Tenders Board functioned as a division of the Ministry of Finance. However, the OPR is an independent body corporate established pursuant to **section 9 of the Public Procurement Act 2015 (as amended)**, that is not subject to the direction or control of any other person or authority but is only accountable to the Parliament of Trinidad and Tobago.

Additionally, the new procurement regime seeks to remedy the issue of long end-to-end times and offer a simplified procurement process. **The Procurement Act 2015 (as amended)** utilises a decentralized approach as public bodies are now responsible for procurement and disposal of public property within their own ministries. **Section 61(2) of the Act 2015 (as amended)** requires that procurement officers be designated within each

ministries and statutory bodies to undertake and monitor the procurement process. Procurement officers are required to provide quarterly reports to OPR, as the oversight body, on procurement practices utilised within these public bodies, pursuant to **Section 37 of the Act**.

5. Approach: The OPR in its phased approach for implementing the **Public Procurement 2015 (as amended)** has been diligently focused on achieving the objects of the Procurement Act as stated in **Section 5(1)**, which are to promote:
- 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.

The procurement, retention and disposal procedure mandated by the OPR and the Procurement Act is focused on achieving good governance objectives utilising a modern-day principled rather than the traditional prescriptive model. Critical to the achievement of the specified objectives is the development and institutionalisation of an appropriate internal control framework, with adequate controls built in for monitoring and control.

In light of such, the OPR employed the following strategies prior to full proclamation of the **Procurement Act (as amended)** to ensure that both the Office and public bodies were ready to operate in compliance upon full proclamation. These strategies include:

- Providing guidance to public Bodies in relation to methods, tools, techniques and strategies to promote Sustainable Public Procurement and Sustainable Development,
- Developing and designing an internal reporting framework to monitor and measure public bodies' compliance with the Act, Regulations and Comprehensive Handbook and Guidelines,
- Public Awareness/Sensitisation sessions for the Whistleblowing Software, ethics, Integrity and Anti-corruption Concepts and
- Developing, Enhancing and Supporting of the Procurement Depository.

Noteworthy, **the Procurement Act 2015 (as amended)** was framed using international model law to ensure its compliance with international best practice standards in the area of procurement. The Act was framed using the UNCITRAL Model Law. Moreover, a Consultant provided through the OPR's partnership with the Inter-American Development

Bank (IDB), conducted a thorough legal review of the Procurement Act, its amendments, and any other document comprising the Trinidad and Tobago Procurement Legal Framework based on international best practices, particularly on Pillar I of the OECD Methodology for Assessing Procurement Systems (MAPS) and on Pillar I of the Guide for the Acceptance of the Use of Country Procurement Systems (GUS), UNCITRAL Model Law and CARICOM Protocol and formulated specific recommendations for closing gaps. The international and regional procurement frameworks of Canada, The United Kingdom, Jamaica, Finland and Singapore were also considered in the drafting to the **Procurement Act 2015 (as amended)**.

Regarding the use e-procurement to bolster compliance with **Procurement Act 2015 (as amended)**, the OPR considered multiple international and regional sources which covered this area of procurement.

- The European Bank for Reconstruction and Development (EBRD) through its Legal Transition Programme, assessment of public procurement regulatory frameworks in 2010,
  - A study conducted by McKinsey & Company, which sought to determine the factors that allowed states to have a successful procurement transformation,
  - *The United Nations E-Government Survey 2020 - Member States Questionnaire (MSQ)*. The OPR considered the Republic of Korea's survey for e-procurement implementation within Korea.
6. Implementation: As aforementioned, the implementation of the Public Procurement Act 2015 (as amended) was a phased one. The partial proclamation of the Procurement Act in 2015 saw the establishment of the OPR's office to allow the Board and its Chairman to conduct most administrative functions attributed to it under the Act and the prepare all public bodies for the full proclamation of the Act.

Eleven members of the Board, including the Chairman, referred to as the Regulator, were selected in accordance with **Section 10 of Act**. **Section 10** provides that Board of the OPR shall comprise of a minimum of eight and a maximum of eleven members, with a Procurement Regulator/Chairman. The criterion for board members are also set out in that section. The OPR has a staff of thirty-seven (37) persons, inclusive of a Corporate Secretary as well as various Chief Operations Officers. **Section 16 of the Act** also states that the Board may appoint such committees as it considers necessary.

All staff members of the OPR received copious amounts of training in areas which touch and concern the public procurement process.

The OPR also ensure that procurement units were also created within the all Ministries and Statutory Bodies, wherein, a number of persons are employed to assist these Public Bodies with public procurement.

The financial position of the ORP from 2018, 2019 and 2020 has been reflected in “*The Auditor General Report AUDITOR GENERAL OF THE REPUBLIC OF TRINIDAD AND TOBAGO ON THE OFFICE OF PROCUREMENT REGULATION...*”

7. Outcome: The expected result of implementing **Public Procurement Act 2015** is to:
- Equip Public Bodies with requisite skills through strengthened capacity building and enhanced technical support in procurement, retention and disposal of public property Stakeholder,
  - Increase Public Trust and Confidence in procurement, retention and disposal of public property and
  - Increase levels of efficiency, effectiveness, competition, transparency, accountability and integrity by Public Bodies in the public procurement and disposal of public property system.

Another expected result of implementing **Public Procurement Act 2015** is to extend the scheme of combatting corruption within Trinidad and Tobago through the reinforcement of the principles of accountability, integrity, transparency and value for money which are all needed in combatting corruption.

Full proclamation of **The Public Procurement and Disposal of Public Property Act 2015** will completely revolutionize procurement practises and procedures within the public bodies of Trinidad and Tobago.

Given that the OPR has only been established in 2015, sufficient data has not yet been collected to determine whether **The Public Procurement and Disposal of Public Property Act 2015** and the OPR addresses the problems identified. As such, evaluating success is not possible at this time.

8. Potential for technical cooperation: This practice can be adapted and used by other countries. Provision of technical assistance may be possible based upon specific requests and or the availability of the OPR at the time of the request.
  
9. Follow-up: The OPR as the oversight body under **The Public Procurement and Disposal of Public Property Act 2015** will monitor its implementation by keeping track of all strategic projects and corresponding activities. This will be done to ensure that all activities are in compliance with the Act. All managers of strategic projects are required to provide verbal updates to the Chairman/ Procurement Regulator for projects which they lead and are assigned, on a weekly basis. Also, at the Board level, to ensure strategy control and interrogation, the Chairman/ Procurement Regulator, on a quarterly basis, reports to the Board on the status of strategic projects. Recommendations and data will be collected, collated and analysed with a view to assist in decision making for subsequent operating periods.

Additionally, the OPR will be responsible for receiving quarterly reports from procurement units which will allow the Office to review adopted practices and amend recommended practices.

Moreover, the OPR in its “*Updated Roadmap for Compliance with the Public Procurement and Disposal of Public Property Act 2015*” also requires Public Bodies to establish systems to monitor the performance of their procurement and disposal function and to ensure ongoing compliance with the Act. As such, an internal system to monitor performance in the procurement and disposal unit must be established as well as continuous monitoring of the execution of procurement and disposal of public property.

There will be Follow-up Reports on the implementation of **The Public Procurement and Disposal of Public Property Act 2015**. To date, the OPR has published a “*Stewardship Report 2018-2020*” that highlights the OPR progress in implementing and operationalizing of **The Public Procurement and Disposal of Public Property Act 2015**.

10. Lessons: As mentioned before, given that the OPR has only been established in 2015, sufficient data has not yet been collected to determine the challenges faced in implementing **The Public Procurement and Disposal of Public Property Act 2015**. As such, the data is unavailable at this point in time.
  
11. Documentation:
  1. **The Public Procurement and Disposal of Public Property Act 2015:** [The Public Procurement and Disposal of Public Property Act, 2015 \(finance.gov.tt\)](http://finance.gov.tt)

2. The OPR website: [Home - The Office of Procurement Regulation \(oprtt.org\)](http://oprtt.org)
3. The Strategic Plans and The Stewardship Report: [Reports - The Office of Procurement Regulation \(oprtt.org\)](http://oprtt.org)
4. Updated Roadmap for Compliance with the Public Procurement and Disposal of Public Property Act 2015: [Updated-Roadmap-for-Compliance-with-the-Public-Procurement-and-Disposal-of-Public-Property-Act-Readiness-Assessment-Checklist-for-Public-Bodies.pdf \(oprtt.org\)](http://oprtt.org).
5. The Auditor General Report 2020: [Financial Statements - The Office of Procurement Regulation \(oprtt.org\)](http://oprtt.org)

12. Contact:

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## **BEST PRACTICES**

1. **Institution:** Office of the Attorney General
  
2. **Title:** Capacity building training for specialised anti-corruption units with the Trinidad and Tobago Police Service (TTPS) and other Anti-Corruption Agencies in accordance with Article 36 of the Convention.
  
3. **Description:** Two different training sessions were facilitated by the Criminal Justice Unit of the Office of the Attorney General and Ministry of Legal Affairs in tandem with international agencies.

### **1. Commonwealth Anti - Corruption Benchmarks**

Funding was obtained from the UNDP to host a two-day in-person training on the aforementioned Benchmarks at the AGLA's office in Port of Spain on October 19th to 20th, 2021. The training was facilitated by Ms. Francisca Pretorius, Adviser and Head, Office of Civil and Criminal Justice Reform, Commonwealth Secretariat. Mr. Neill Stansbury, author of the Benchmarks, delivered the training virtually. The training focused on Benchmark 10 (Public Sector Organizations), Benchmark 20 (Anti-Corruption Training), Benchmark 21 (Reporting Corruption) and Benchmark 24 (Participation of Society).

The participants included members of various units within the TTPS such as ACIB, FIB, PSB. The Police Complaints Authority ("PCA") was also in attendance.

### **2. Anti - Corruption in the Public Sector**

FBI LEGAT personnel conducted a training course in public corruption via funding by the US Embassy and the Department of State's Bureau of International Narcotics and Law Enforcement Affairs ("INL"). The FBI Headquarters, Global Partnership Unit and the Public Corruption Unit provided a cadre of qualified instructors and subject matter experts



to facilitate the training for this event. The training took place on December 12th - 16th, 2022 at AGLA'S office in Port - of - Spain.

The following topics were covered: Law Enforcement Corruption, Immigration/Border Corruption, Prison Corruption, Government Contract Corruption, Legislative Corruption, Judicial Corruption, International Public Corruption and the Foreign Corrupt Practices Act and Ethics and Leadership.

The participants included members of various units within the TTPS such as ACIB, FIB, PSB, CID. The Police Complaints Authority ("PCA") was also in attendance.

4. Reasons/Importance: These and similar training programmes are always essentially in building the technical capacity of law enforcement officers to improve the agencies' ability to identify, investigate and prosecute acts of corruption in all sectors, including the public service.
5. Approach: The Criminal Justice Unit (CJU) in the Office of the Attorney General and Ministry of Legal Affairs cooperated with international agencies to conduct the training.
6. Implementation: The training on Commonwealth Anti - Corruption Benchmarks was funded by the UNDP and hosted over the course of two-days in-person at the AGLA's office in Port of Spain on **October 19th to 20th, 2021**.

The training on public corruption conducted by the FBI LEGAT personnel was funded by the US Embassy and the Department of State's Bureau of International Narcotics and Law Enforcement Affairs ("*INL*"). The FBI Headquarters, Global Partnership Unit and the Public Corruption Unit provided a cadre of qualified instructors and subject matter experts to facilitate the training for this event. The training took place on **December 12th - 16th, 2022** at AGLA'S office in Port - of - Spain.

7. Outcome: These two sessions were a part of the Government of the Republic of Trinidad and Tobago's (GORTT) efforts to continue capacity building of its law enforcement

officers in the fight against corruption. It is hoped that officers go undergo these types of specialised training will be more apt to identify, investigate and prosecute acts of corruption in any form that it presents itself.

8. Potential for technical cooperation: Yes, this best practice can be utilized by other countries.

9. Follow-up: The Office of the Attorney General will continue to accept assistance for technical capacity building from international stakeholders in an attempt to strengthen the capacity its law enforcement officers to identify, investigate, prosecute and convict persons for acts of corruption.

10. Lessons:

11. Documents:

12. Contact:

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