PARLIAMENT
REPUBLIC OF TRINIDAD AND TOBAGO

FLA

6th Report

JOINT SELECT COMMITTEE ON

FINANCE AND LEGAL AFFAIRS

on an

Inquiry into

The Implementation of the New Public Procurement System

FOURTH SESSION (2018/2019) OF THE 11TH PARLIAMENT

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The Joint Select Committee on Finance and Legal Affairs

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6th REPORT

OF THE

JOINT SELECT COMMITTEE ON FINANCE AND LEGAL AFFAIRS

ON
AN INQUIRY INTO THE NEW PUBLIC PROCUREMENT SYSTEM

Date Laid: HoR: **Senate:**

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ACRONYMS AND ABBREVIATIONS

Abbreviation	Term
CTB	Central Tenders Board
CPO	Chief Personnel Officer
EOI	Expression of Interest
IADB	Inter-American Development Bank
ICT	Information Communication Technology
iGOVTT	The National Information and Communication Technology Company Limited
LAN	Local Area Network
MoF	Ministry of Finance
NGOs	Non-Governmental Organisations
OPR	Office of Procurement Regulation
PPDPP Act	Public Procurement and Disposal of Public Property Act
RFP	Request for Proposals
TORs	Terms of Reference
UNDP	United Nations Development Programme

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MEMBERS OF THE COMMITTEE

Ms. Sophia Chote, SC
Chairman

Mr. Clarence Rambharat
Vice Chairman

Dr. Lovell Francis, MP

Mrs. Vidia Gayadeen-Gopeesingh, MP

Mr. Taharqa Obika

Dr. Lester Henry

Mr. Terrence Deyalsingh, MP

Mrs. Cherrie-Ann Crichlow-Cockburm, MP

COMMITTEE MANDATE AND ESTABLISHMENT

1. Section 66A of the Constitution of the Republic of Trinidad and Tobago declares, that not later than three months after the first meeting of the House of Representatives, the Parliament shall appoint Joint Select Committees to inquire into and report to both Houses in respect of Government Ministries, Municipal Corporations, Statutory Authorities, State Enterprises and Service Commissions, in relation to their administration, the manner of exercise of their powers, their methods of functioning and any criteria adopted by them in the exercise of their powers and functions.

2. Pursuant to the foregoing provision, motions approved in the House of Representatives and Senate on November 13, 2015 and November 17, 2015, respectively, the **Joint Select Committee on Finance and Legal Affairs** was established.

3. Standing Order 91 of the Senate and 101 of the House of Representatives outline the general functions of a Committee of this nature. They are as follows:

   a. to examine Bills and review all legislation relating to the relevant Ministries, Departments or Bodies or as may be referred to it by the House;

   b. to investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration and operations of the assigned Ministries, Departments or Bodies;

   c. to study the programme and policy objectives of Ministries, departments or bodies and the effectiveness of the implementation;

   d. to assess and monitor the performance of Ministries, Departments and Bodies and the manner of the exercise of their powers;

   e. to investigate and inquire into all matters relating to the assigned Ministries, Departments and Bodies as they may deem necessary, or as may be referred to them by the House or a Minister; and

   f. to make reports and recommendations to the House as often as possible, including recommendations of proposed legislation.

SPECIFIC AREAS OF RESPONSIBILITY

4. The Joint Select Committee on Finance and Legal Affairs is mandated to inquire into areas related to Finance, Planning, Trade, Tobago Affairs, Office of the Prime Minister, Attorney General, Justice and Legal Affairs as listed in Appendix IV and V of the Standing Orders of the House of Representatives and Senate respectively.

POWERS OF THE COMMITTEE

5. Standing Orders 101 of the Senate and 111 of the House of Representatives delineate the general powers of the Committee which include:
   a. to send for persons, papers and records;
   b. to sit notwithstanding any adjournment of the House;
   c. to adjourn from place to place;
   d. to report from time to time;
   e. to appoint specialist advisers either to supply information which is not otherwise readily available, or to elucidate matters of complexity within the Committee's order of reference;
   f. to communicate with any other Committee on matters of common interest; and
   g. to meet concurrently with any other Committee for the purpose of deliberating, taking evidence or considering draft reports.

MEMBERSHIP

6. The Committee comprises the following members:
   i. Ms. Sophia Chote, SC – Chairman
   ii. Mr. Clarence Rambharat – Vice-Chairman
   iii. Dr. Lovell Francis, MP
   iv. Mrs. Vidia Gayadeen-Gopeesingh, MP
   v. Mrs. Cherrie-Ann Crichlow-Cockburn, MP
   vi. Mr. Terrence Deyalsingh, MP
   vii. Dr. Lester Henry
   viii. Mr. Taharqa Obika

SECRETARIAT SUPPORT

7. The following officers were assigned to assist the Committee:

i. Mr. Julien Ogilvie - Secretary
ii. Mr. Brian Lucio - Assistant Secretary
iii. Ms. Terriann Baker – Graduate Research Assistant
iv. Ms. Ria Rampersad - Graduate Research Assistant (Intern)

EXECUTIVE SUMMARY

At its 25th Meeting held on November 23, 2018, the Committee resolved to pursue an inquiry into the implementation of the new Public Procurement Regulation System.

The inquiry process involved gathering and collating oral and written evidence from primary and secondary stakeholders as well as from the public. As far as possible, the Committee ensured that oral and written evidence received were relevant to the terms of reference to the inquiry. In this regard the Committee received evidence from stakeholders, listed as follows:

i. The Office of Procurement Regulation;
ii. The Ministry of Finance; and
iii. The Ministry of Public Administration.

Based on the evidence received from the stakeholders listed above, the Committee was able to acquire some useful insights into the progress made towards enforcing the Public Procurement and Disposal of Public Property Act (PPDPP) including: the establishment of the Office of Procurement Regulation (OPR) and the development of institutional arrangements within Ministries and other Procuring entities

Some of the issues which the Committee took into account were as follows:

i. The partial proclamation of the PPDPP Act (2015) facilitated the establishment of the Office of Procurement Regulation and some of the required administrative support systems and infrastructure. The sections of the Act that enabled these functions are: **1-5 (1), 8,9,10,11,12, 13 (1) parts a, b, c, d, k, p and r, 13 (2), 14 (3), 15, 16, 17, 18, 19, 20, 21, 22, 23, 25, 62 and 63**

ii. Partial proclamation has facilitated the operationalisation of the Office of Procurement Regulation but without powers to investigate;

iii. A Procurement Implementation Steering Committee was re-constituted on January 31, 2017 for a two year period to oversee the implementation of the PPDPP Act;

iv. The CTB cannot be dissolved within three months of the full proclamation of the PPDPP Act unless transitionary arrangements for staff of the CTB are in place;

v. The dissolution of the Central Tenders Board will result in the responsibilities related to the procurement of goods and services being transferred to the respective Line Ministries which would create a need for personnel to oversee procurement operations;

vi. The OPR has successfully established accommodation, the majority of the proposed staff have been recruited, and the Office is adequately funded;

vii. All employment positions within the OPR have been contracted for an initial two (2) year period but the aim is to work towards permanency for positions;

viii. The outstanding deliverables for fiscal 2018/2019 to be undertaken by the OPR include: the drafting of Regulations, Handbooks and Guidelines, the development of a strategic plan, recruitment of staff for vacant positions, policy and ICT development, database development and a communication plan;

ix. The OPR has sought a review of its mandate to assume responsibility for the disposal of real estate and has successfully amended section 57 (A) of the PPDPP Act to allow the Minister to make the regulations necessary for the disposal of State Lands and real property;

x. The OPR was of the opinion that the denial of a right to appeal the ruling of a hearing was in contravention of the principles of natural justice as Section 70 (2) of the Act allows a Hearing to proceed in the absence of one of the parties without proof of good cause;

xi. The Procurement Review Board requires one additional member to be wholly installed and will review the decisions undertaken by the OPR;

xii. The OPR has identified two shortcomings in the PPDPP Act (sections 7 (2) (b) and 35 (7) which is ambiguous as it relates to the due process that must be undertaken regarding the issuing of contracts with non-governmental entities in the former instance and the need for a written contract in the latter; both on which they have sought advice on remedying;

xiii. During the period September 26, 2018 to October 30, 2018 the OPR has conducted one hundred (100) stakeholder engagement and sensitisation sessions in Trinidad and Tobago in preparation for the full proclamation of the Act;

xiv. In accordance with the Act, Procurement Units would be established within Ministries, Departments and State Enterprises (Procuring entities);

xv. These units need to be staffed by Procurement Officers. The contributing Ministries have faced challenges in finding knowledgeable and experienced staff among their personnel to fulfil this criteria;

xvi. Contracts being overseen by the CTB would upon dissolution be transferred to the various public bodies that had engaged the CTB. As a result, there is the possibility that officers working on those portfolios would be temporarily assigned to the relevant Ministries;

xvii. Staff of the CTB were anxious as to the outcome of their job positions following the CTB's dissolution. The assurance was given to offer them nothing less than their present portfolios and efforts would be made to accommodate the various officers in different Ministries (technical positions) and for internal placement (via Service Commissions); and

xviii. The expected date for the commencement of the initial transition is March 31, 2019 with an expected six month window following to achieve full actualisation of the OPR.

SUMMARY OF RECOMMENDATIONS

The following are key recommendations proffered by the Committee:

A. **Following the review of contracts for the first batch of employees at the Office of Procurement Regulation (OPR) consideration should be given to permanency or longer terms of contract especially for substantive positions to foster staff retention, business continuity, as well as to boost employee morale;**

B. **The inclusion of accompanying medical and pension plans in the compensation regime of employees of the OPR;**

C. **The creation and adoption of a Strategic Plan to guide the short to medium-term operational objectives of the OPR;**

D. **The Ministry of Finance must provide the necessary technical and financial support to the OPR in order to expeditiously resolve the apparent shortcomings with the Procurement Regulations. An Action plan detailing the proposed strategy for modifying and finalising the Draft Regulations should be included in the Minister's response to this report;**

E. **Further to Recommendation (D), the OPR should consider obtaining independent legal advice on the following:**
    a. **The feasibility of partially implementing some provisions of the Draft Regulations pending further review and scrutiny of the Regulations; and**

    b. **The planned measures for addressing the shortcomings of the Act.**

F. In its response to this Report the OPR should advise the Parliament on the status of collaborations between the Ministry of Finance and the Regulator aimed at finalising the Regulations;

G. That the Ministerial Response of the Ministry of Finance should include an update on the completion of deliverables associated with the functions of the OPR as set out in section (13) (1) a to s;

H. That the Regulator collaborate with the Ministry of Finance and external legal counsel (where necessary) with a view to determining the most suitable legislative arrangement for including the procurement and disposal of real estate in the new public procurement regime;

I. That specific guidelines related to contracts entered into between the government and multilateral entities be drafted;

J. In light of the ambiguity of Section 35(7) of the Act that particular focus be placed on leaving no scope for misinterpretation regarding the duties of entities when entering an agreement;

K. That Technical Officer/s from the CTB be assigned to Ministries to assist in building the expertise and capacity of internal Procurement Units in Ministries and Departments. Ministries whose procurement activities have been classified as 'high risk' should be prioritised for such temporary assignments;

L. Notwithstanding the provisions of Section 13 (1) of the PPDPP Act, as the line Ministry, the Ministry of Finance must continue to collaborate with the OPR in ensuring that all Procuring Entities undertake and complete the necessary

institutional modifications in preparation for the full implementation of the PPDPP Act;

M. That upskilling and capacity building in public procurement be mandatory in the 'high-risk' Ministries;

N. Increased coordination between the Ministries of Finance, the Public Service Commission, Service Commission and the OPR to secure alternative employment for staff demitting the CTB;

O. Parliament must be provided with an update on the progress made in completing the necessary arrangements to facilitate the transitioning of staff of the CTB to positions within the Public Services or out of the Public Service via VSEP; and

P. With regard to the maintenance and protection of procurement databases and records by procuring entities, emphasis must be placed on data privacy and security without jeopardising the level of transparency of the work of respective Units.

INTRODUCTION

BACKGROUND

1.1. Public procurement refers to the government's activity of purchasing the goods and services which it needs to carry out its functions. There are three phases in the procurement process[1]:

i. Deciding which goods and services are to be bought and when;
ii. The process of placing a contract to acquire those goods and services; and
iii. The process of administering those contracts to ensure effective performance.

1.2. The objectives of any public procurement process should emphasise the following principles[2]:

i. Value for money in the acquisition of goods, works or services;
ii. Integrity-avoiding corruption or conflicts of interests;
iii. Accountability;
iv. Equal opportunity or equal treatment for providers;
v. Fair treatment of providers;
vi. Efficient implementation of industrial, social and environmental objectives in procurement;
vii. Opening up public markets to international trade; and
viii. Efficiency in the procurement process.

1.3. The institutional and legal frameworks for any public procurement regime must align with these values so as to promote accountability and transparency; which constitute the basis of good governance.

[1] Arrowsmith et al "Public Procurement Regulation: An Introduction" (2011). Accessed on: February 12, 2019. https://www.nottingham.ac.uk/pprg/documentsarchive/asialinkmaterials/publicprocurementregulationintroduction.pdf

[2] Arrowsmith et al "Public Procurement Regulation: An Introduction" (2011). Accessed on: February 12, 2019. https://www.nottingham.ac.uk/pprg/documentsarchive/asialinkmaterials/publicprocurementregulationintroduction.pdf

1.4. The foundation principles of good governance have evolved, developing alongside the modernization of society. The tenets of transparency, accountability and fairness now require additional safeguards in order to improve on the oversight process regarding the disbursement of public funds, capital and resources. To reflect these changes the Public Procurement Disposal of Public Property (PPDPP) Act, 2015 seeks to eliminate the shortcomings of the Central Tenders Board Act Chapter 71:91.

1.5. The PPDPP Act, 2015, as amended by Act no.5 of 2016 and Act no.3 of 2017, will upon full proclamation dissolve the Central Tenders Board and introduce the following additional arrangements:

i. Salaries and allowances of the Regulator and members of the Board;
ii. Establishment of Procurement Units within the Public Service;
iii. Establishment of a Procurement Review Board;
iv. Development of Procurement Regulations; and
v. Transitioned arrangements.

1.6. The current partial proclamation of the Act has enforced the following sections:

i. Sections 1-5 (1)
ii. Sections 8,9,10,11,12
iii. Section 13 (1) a,b,c,d,k,p and r
iv. Section13 (2)
v. Section (14) (3)
vi. Sections 15-23
vii. Section (25)
viii. Sections 62 and 63

1.7. The declaration of the aforementioned sections have granted the Office of Procurement Regulation (OPR)with the power to:

i. Establish the OPR;
ii. Appoint the members of the Office;
iii. To perform certain functions;
iv. Hire staff; and
v. Performance of regulations under the Act.

OBJECTIVES

1.8. In view of the above, the Committee agreed that its inquiry will be guided by the following objectives:

1. **To assess the progress made in establishing and operationalising the Office of Procurement Regulation;**
2. **To assess the progress made in developing the systems, procedures and subsidiary legislation required for the full implementation of the PPDPP Act 2015; and**
3. **To evaluate the progress made by government Ministries in developing the internal systems required for the effective implementation of the PPDPP Act 2015.**

CONDUCT OF THE INQUIRY

1.9. At its Meeting held on November 23, 2018, the Committee convened its *Public Hearing* with the following entities:

- The Ministry of Finance; and
- The Office of Procurement Regulation.

WRITTEN SUBMISSIONS

1.10. The Committee received written submissions from the following entities/stakeholders:

i. The Ministry of Finance;

ii. The Office of Procurement Regulation; and

iii. The Ministry of Public Administration.

1.11. The Minutes of the Meetings during which the public hearings were held are attached as Appendix I and the Verbatim Notes as Appendix V.

SUMMARY OF EVIDENCE, FINDINGS AND RECOMMENDATIONS

OBJECTIVE 1: TO ASSESS THE PROGRESS MADE IN ESTABLISHING AND OPERATIONALISING THE OFFICE OF PROCUREMENT REGULATION

Establishment

1. The partial proclamation of the Public Procurement and Disposal of Property Act (PPDPP) has allowed for the establishment of the Board and the Office of Procurement Regulation. The Board consists of eleven (11) members inclusive of the Regulator.

2. The Act prescribes that the OPR should not be subject to the direction or control of any other person or authority but remains accountable to Parliament.

3. The full proclamation of the PPDPP Act would result in a simultaneous repeal of the Central Tenders Board Act and subsequent transitioning of its staff. The Ministry of Finance was in the process of updating pension and leave records in preparation for full proclamation of the PPDPP Act.

4. The full operationalisation of the OPR should be completed by March 31, 2019 and all entities must be in accordance with the requirements of the Act.

Human Resources

5. The organisational framework of the OPR was determined by the Board of the OPR. The Board considered a recommendation from the UNDP for a staff complement of forty-eight (48) persons. However, following discussions with the Finance and Human Resources sub-committees, a staff unit of thirty-seven was selected.

6. This number was inclusive of the Chairman and Procurement Regulator as well as other key corporate positions. The staff was ninety (90%) percent complete with the exception of a few outstanding positions. The job descriptions of key senior managerial positions were drafted by the Human Resource and Finance sub-committees for the final approval of the Board. These senior managers in turn drafted the job descriptions for junior positions for the approval of the Procurement Regulator.

7. All thirty-seven positions (37) are earmarked to be contracted for a two year period following which a decision would be made, in light of initial operations, as to those positions that would remain contracted and which would be designated permanent. By written submission dated April 10, 2019 the OPR indicated that twenty-six (26) positions had been filled, two (2) were pending advertisement, seven (7) were in progress and one (1) was on hold.

8. Advertisements for an insurance broker has been placed to assist with the formulation of medical and pension plans for employees of the OPR.

9. The length of time taken to secure adequate funding, accommodation, compensation packages and approval of the organisational structure presented some initial delays to the recruitment process; however the OPR had indicated that the entity was well funded and the remaining positions were in the process of being filled.

10. Terms of Reference (TORs) inclusive of remuneration packages were being drafted by the OPR for the Disposal of Public Property sub-committee.

Training for Staff

11. Per written submission received from the Office of Procurement Regulation dated April 10, 2019, for the period December 2018 to April 2019, staff and members of the Office of Procurement Regulation were trained in the following areas:

Table 1: Training for OPR Staff during the period December 2018 to April 2019

Date	Training	Target Audience
December 2018	The Art of Tendering- A Global Due Diligence Guide	Corporate Secretary
January 2019	Introduction to Microsoft Visio and Microsoft Project	Managers, Policy Officers, Executive Assistants
	Microsoft Active Directory Troubleshooting	Database Administrator
February 2019	Cyber-Security Sensitisation	All OPR staff
	Legal Issues in Procurement	Managers
	Enterprise Risk Management	Team lead - Audit and Investigation
March 2019	TTTI Anti-Corruption Conference	Legal advisor, Team Lead- Audit & Investigation, Executive Assistants, Corporate Communications, Team Lead- Policy Development, Policy Officer, Corporate Secretary, Administrative Assistants
	Cyber Security Sensitisation	All OPR staff
	Alternative Dispute Resolution	HR & Administration Manager
	Minute Taking Tips and Techniques	Administrative Assistants, Executive

		Assistants and Legal Advisor
April 2019	Media Training	OPR Board members, managers

Infrastructure

12. The OPR commenced operations in March 2018 at Level 19 Tower D, International Waterfront Complex, Wrightson Road, Port of Spain. Infrastructural resources at the Office of the OPR incurred the following costs:

Table 2: Infrastructural Resource Costs Incurred

Product/Service	Cost	Date of Acquisition
One (1) laptop	Four thousand seven hundred and seventy seven dollars and seventy-eight cents ($ 4, 777.78)	July 2018
OPR Website monthly fee	USD Seventeen dollars and ninety-nine cents (USD 17.99)	September 2018
All in one printer	TTD Fourteen thousand seven hundred and seventy-five dollars ($14,775)	October 2018
Twenty-five (25) Microsoft Project and thirty-five (35) Microsoft Visio licenses	One hundred and twenty-nine thousand, eight hundred and forty-two dollars and sixty-seven cents (TTD $129,842.67)	November 2018
Forty (40) laptops, nine (9) desk tops and peripherals	Five hundred and sixty-two thousand, one hundred and sixty-seven dollars and sixty cents (TTD $ 562, 167.60)	November 16, 2018

One (1) multi-function Printer and one (1) shredder	Request for Proposal sent out	December 2018. As per submission dated April 10, 2019 the evaluation process for the RFP was completed and the letter of award will be issued to the selected vendor by April 10, 2019.

13. Discussions were carried out with iGovTT and the Ministry of Public Administration for the supply of three-hundred and sixty-five (365) Microsoft Office Licenses by November 2018.

14. An Expression of Interest (EOI) for the supply and installation of a Local Area Network (LAN), telephone system and security surveillance system closed on November 08, 2018. Following which an RFP will be issued to successful suppliers by November 2018. The estimated time frame for the award of the contract would be January 2019.

15. By submission dated April 10, 2019 the OPR indicated that an RFP was issued to successful proponents in February 2019 with a closing date in March 2019. The evaluation of this RFP was currently in progress.

16. A direct phone line for the OPR (627-4OPR (4677) was established in September 2018.

17. Written correspondence received on April 10, 2019 from the OPR also indicated that the status of several infrastructural requirements were updated as follows:

Table 3: Status of ICT Deliverables

Product or Service	Date of Acquisition	Cost
Software solution	Kick-off date- March 29, 2019 Development of solution- expected July 2019 Go Live- expected August 2019	TTD $787,150 VAT Exclusive- awarded to Massy Technologies Info-com Trinidad Ltd.
Supply Positioning and Risk Evaluation Matrix (SUPREM) tool	April 2019	Access granted by UNDP which will be provided free of charge to all public bodies. Office to assess its usage before deployment.
Microsoft Office 365 E3 Licenses	March 2019	TTD $ 91,476.00 VAT Exclusive Licenses activated April 05, 2019
Request for Proposal for new email platform	March 2019 Expectation of awarding contract May 2019	
Gathering requirements to issue a Request for Proposal- Supply, installation and support for related hardware and software required for public and private hearing rooms	On going	
Finalising a Request for Proposal for the supply, installation and support of a Case Management System	On going	

Finances and Funding

18. To cover the costs associated with recurrent expenditure and establishing the office the OPR requested seventeen million nine hundred and sixty-three thousand, three

hundred and thirty-one dollars (TTD 17, 963,331) for fiscal 2018/2019. The sum allocated was seventeen million eight hundred and fifty-seven thousand, seven hundred and eighty dollars (TTD 17, 857, 780).

19. Under the State's 'Development Programme' the amount requested from the Ministry of Finance Budget Division for fiscal 2018/2019 was three million six hundred thousand (TTD 3, 600,000) but the sum actually allocated was one million (TTD 1,000,000).

20. The OPR advised the Committee that the $1 million granted would be used for the creation of the following databases:
    - Vendor registration;
    - Pre-qualified contractors and suppliers, mediators and arbitrators;
    - Tender and contract information and property disposal; and
    - To prepare standard documents and other related works (handbook, general; guidelines, specific guidelines, templates and model contracts).

FINDINGS

i. It was evident that significant progress had been achieved in acquiring staff in establishing the necessary institutional and administrative arrangements to facilitate the operations of the OPR and the Regulator was reasonably confident that ninety percent (90%) of the staff would be in place by March 31, 2019. However, there are some resources (including Human and technological resources) which must be mobilized and streamlined for the OPR to function effectively. Based on the submission made to the Committee it appears that the OPR had been actively seeking to acquire these outstanding resources.

ii. The partial proclamation of the PPDPP Act has not allowed the Regulator to execute his regulatory functions which is critical in enhancing the integrity and transparency of the Public Procurement regime.

iii. It was apparent that between the OPR and the Ministry of Finance there is no definitive plan for the transitioning of staff from the CTB to the next stage of their employment.

iv. Although during his oral submission the Regulator submitted that his office was adequately financed, the Committee noted that the OPR received $2.6 million less than what was requested for its Development Programme activities for fiscal 2018/2019.

v. The Committee saw merit in the phased extension in the length of employment contracts commencing with a 2 year period. Given that security of tenure for staff may contribute to the long term sustainability of the operations of the OPR, determining an appropriate contractual period for the medium-term is essential.

vi. The OPR intended to source the required expertise to ensure the Capacity and Policy Development units operate efficiently. Recruiting investigators and auditors for contract management in the Audit and Investigations Unit were also identified as priority issues.

vii. The OPR did not have a Strategic Plan in place to guide operations. However, the Office is undertaking the necessary preparatory work to formulate it strategy plan. In its submission dated April 10, 2019, the OPR advised that at its Fifteenth (15th) Board Meeting, the Board approved the methodology for the completion of the Strategic Plan, which includes the engagement (through competitive tender) of a consultant to assist the Office in the drafting of the Strategic Plan.

RECOMMENDATIONS

The Committee recommends that:

A. **Following the review of contracts for the first batch of employees at the OPR consideration should be given to permanency or longer terms of contract especially for substantive positions to foster staff retention, business continuity, as well as to boost employee morale;**

B. **The inclusion of accompanying medical and pension plans to augment the profile of the vacant job positions and make it more lucrative to job-seekers; and**

C. **The creation and adoption of a Strategic Plan to guide the short to medium-term operational objectives of the OPR.**

OBJECTIVE 2: TO ASSESS THE PROGRESS MADE IN DEVELOPING THE SYSTEMS, PROCEDURES AND SUBSIDIARY LEGISLATION REQUIRED FOR THE FULL IMPLEMENTATION OF THE PPDPP ACT 2015

Key deliverables for fiscal 2018/2019

21. The OPR has prioritized the following for completion in fiscal 2018/2019:

- Full proclamation of the PPDPP Act;
- Development of a Strategic Plan;
- Human Resources and Staffing;
- Policy and ICT Development;
- Database development;
- Communication Plan;
- Preparation of Regulations by Consultant and submission to MoF for affirmation; and
- Stakeholder consultations.

Steering Committee: Roles and Functions

22. In January 2017 the Government reconstituted the Procurement Implementation Steering Committee (which was previously dissolved in December 2015) for a two year period to oversee the implementation of the PPDPP Act.

23. The functions of the Committee remained in alignment with the previous committee and are inclusive of the following:

- Oversee (but not be responsible for) the development of the draft procurement regulations in tandem with the bill.

- Establish procurement units in line Ministries with the accompanying organizational structures and job descriptions.
- Develop informed procurement guidelines for Ministries and State Enterprises.

Public awareness initiatives

24. The Committee was advised that the OPR has continued to promote awareness of the Act through the use of Public Advisories which are published via its website, the daily newspapers and the various social media platforms. Thus far, eight (8) have been effected.

25. The OPR also highlighted that in response to Public Advisory number 5, one hundred and eight (108) public bodies have confirmed the names of their designated procurement officer pursuant to Section 61.

Regulations and Handbooks

26. The OPR submitted that the requisite training standards and competency levels that would provide guidance to public bodies would be enshrined in the regulations. The regulations rests on four pillars: awareness building, the regulations, handbooks and guidelines.

27. During the period September to October 2018, stakeholder consultations were conducted with over 100 entities including Ministries, State Enterprises, schools, private sector bodies and NGOs. A number of public advisories were also published in the newspaper to reach the general public. Meetings had been held with special purpose companies and some had already provided their internal draft handbook and guidelines for review by the OPR.

28. Arising out of the stakeholder engagements was the decision to reconsider the approach to drafting the Handbooks as the current format was not reader-friendly. The handbooks incorporated best practice guidelines from various jurisdictions and are guided by the Regulations. The OPR had also taken the decision to await the proclamation of the Regulations before reviewing the Handbooks and Guidelines submitted by various public entities.

29. The OPR endeavours to include mitigating steps within the handbooks and guidelines to safeguard public entities with respect to standardizing the terms and conditions of contracts. Upon completion of the handbooks in November, 2018, the OPR had planned to conduct sensitization sessions to educate the public and to upskill personnel in need of capacity building.

30. During the period July 5th 2018 to August 2018, a consultant was engaged with the assistance of the IADB to conduct an analysis of the legal framework and drafting of the procurement regulations.

31. The Regulations were sent to the Ministry of Finance on November 30, 2018 pursuant to Section 63 of the Act and were scheduled to undergo Parliament's consideration by February 2019.

32. However, the Committee noted that on February 22nd, 2019, the Hon. Colm Imbert, MP, Minister of Finance delivered a statement in the House of Representatives regarding the Implementation of the Public Procurement and Disposal of Public Property Act, 2015. In his statement the Minister focused primarily on the status of the Procurement Regulations which are provided for in Section 63 of the Act. The Minister reported the following to the House:

a. Several Divisions of the Ministry of Finance, including the Central Tenders Board undertook a comprehensive review of the Draft Procurement Regulations from both a technical and legal view point;

b. The review highlighted several areas for amendment, clarification and elucidation aimed at greater workability and certainty of process;

c. It was noted that the Regulations required:

   i. more specific and focused provisions related to disposal of public property; and
   ii. the retention of public property.

33. In correspondence dated March 20 2019, the OPR advised the Committee as follows:

i. On November 30 2018 the OPR submitted its recommendation to give effect to the provisions of the Public Procurement and Disposal of Public Property Act 2015 in the form of Draft Regulations, pursuant to Section 63 of the Act;
ii. On February 22 2019 the Minister submitted to the Office for its consideration:
   a. Consolidated Comments of the Ministry of Finance;
   b. Two Opinions by learned Senior Counsels.
iii. On March 08 2019, the OPR submitted amended Draft Regulations incorporating the accepted comments and recommendations made by the Ministry and Senior Counsel.

Statutory Appointments

34. A Procurement Review Board is an independent Board established in accordance with Section 51 (3) (a) of the PPDPP Act to review the decisions of the Office of Procurement Regulation. Thus far, only two members have been appointed to the Board. The Committee learned that the Chairman of the Review Board was awaiting appointment and has to be a retired judge.

Priority provisions contained in the Act

35. Whilst the OPR was of the view that the PPDPP Act in its entirety should be prioritised, the Ministry of Finance listed the following sections as priority for implementation:

i. **Section 14 (c)-** the establishment of models and guidelines to provide direction to procuring entities. Section 14 (c) of the Act provides for the OPR to issue directions to public bodies to ensure compliance with the Act.

ii. **Section (26)-** prioritising the establishment of the Procurement Repository to provide support to procuring entities;

iii. **Section (30) -** General and specific guidelines approved by the OPR for internal controls.

iv. In relation to Section 14 of the Act (which to date was not proclaimed), a determination of the OPR's jurisdiction to treat with procurement or contract proceedings that would have come to the Office's attention prior to full proclamation of the Act was sought from the Attorney General and Independent Senior Counsel. By correspondence date May 01 2019, the OPR furnished the Committee with a summary of the advice received. The details submitted are as follows:

a. Solicitor General, Ministry of the Attorney General and Legal Affairs

"…section 70 of the Public Procurement Act is suspended and cannot come into operation until the said section is proclaimed. Further, section 70 refers to proceedings and contracts being subject to directions issued under section 14 [c] of the said Act which in itself is also not proclaimed and not yet operational. Consequently, the Solicitor General has advised that the provisions of the Central Tenders Board Act will therefore remain operative."

b. Independent Senior Counsel

"1. Section 70 of the Act has no application to proceedings begun or contracts entered into after the commencement of the Act on July 31, 2015. Post-Act contracts may be caught by such provisions of the Act as are in force.

2. Proceedings begun or contracts entered into prior to July 31, 2015 are subject to section 70 of the Act.

3. As regards proceedings or contracts entered into prior to the commencement of the Act, section 70 has no application until section 14 (1) (c) of the Act is proclaimed. When section 14 and section 70 are proclaimed and simultaneously in force, those sections must have regard to and assume the legality of the proceedings or contract and therefore the application of section 70 to those proceedings or contracts will be in relation only to reporting and accountability provisions of the Act.

4. As regards proceedings or contracts entered into after the commencement of the Act, section 14 (1) and (2) do not operate retrospectively."

v. The OPR submitted that it is guided by the legal advice received regarding Sections 14 and 70 of the Act and therefore "the operations of the OPR regarding investigations into procurement activities in the public domain are restricted until the relevant sections which allow same are proclaimed"

Establishment of the Sub-Committees

36. By correspondence dated April 10, 2019 received from the OPR in relation to the establishment of Committees of the Board it was noted that in accordance with Section 16 (1) of the Act, the Board established the following (4) Committees:

- **Disciplinary Committee-** the Disciplinary Committee is charged with adjudicating any alleged breaches of discipline/misconduct by procurement officers.
- **Complaints Committee-** the Complaints Committee's mandate includes hearing complaints made to the Office via any means including challenges to decisions of a procuring entity, via a whistle blow complaint etc.

- **Ineligibility Committee-** the Ineligibility Committee is charged with the power of considering and determining whether there is sufficient evidence in each case to declare a bidder accused of a prohibited practice ineligible and to issue a Notice of Ineligibility List pursuant to Part VII of the Act.

- **Disposal of Public Property and State Lands Committee-** this Committee has been mandated to, inter-alia, develop, review and recommend for approval of the Board contributions to the model handbook, guidelines and regulations on the areas of Retention and Disposal of Public Property and State Lands and to cause routine audit and review of the systems and methods used by a public body for the Retention and Disposal of Public Property.

Shortcomings in the PPDPP Act (as identified by the Regulator)

37. With regard to the existence of loopholes or shortcomings in the Act, the OPR had brought two issues to the attention of the Ministry of Finance:

    i. Section 7(2) (b) excludes the application of procurement rules of a donor in the event of a loan.

    ii. Section 35 (7) of the Act assumes that since it is drafted in the negative using the word 'unless' it may appear to remove any contractual and legal protection from unscrupulous bidders.

38. In its submissions to the Committee, the OPR also highlighted the following issues with the Act:

    i. The OPR also flagged the inability to appeal after failure to attend a hearing is a breach of natural justice.

    ii. The current provisions of the Act focuses primarily on government-to-government relationships and does not provide for contracts involving international agencies which could result in a conflict of interest in terms of determining the applicable requirements to be adopted in such circumstances.

    iii. A Procurement Disposal Committee should be established for every public body. The Committee will be responsible for developing the internal procedures to be followed in conjunction with the OPR.

Additional Requirements

39. The IADB offered to assist the OPR with E-procurement to ensure that this is in alignment with best practices.

40. A status update on the progress made by the OPR its roles and functions in the deliverables stated in Section 13 (1) (a to s) is detailed in **Appendix III.**

FINDINGS

i. The identification of significant shortcomings in the Draft Procurement Regulations represents a major potential source of further delay in operationalization of the PPDPP Act. However, the Committee endorses the efforts of both the Minister and the Regulator to ensure that the legal framework of the new public procurement regime is workable and adequate. Notwithstanding, the main actors involved must guard against unduly prolonging the implementation process.

ii. Proposed amendments made to the Regulations by the OPR based on the Ministry's and Senior Counsel's feedback were related to the following:

Table 4: Summary of proposed amendments to Draft Regulations by OPR based on feedback received from Ministry of Finance

Section	Sub-Heading
Interpretation	Definitions
Part 1-Participation in Procurement	Domestic Preference
Part 2- Pre-qualification and pre-selection	Manner, place and deadline for presenting applications
Part 5- Procedural Safeguards	Preliminary examination
Part 7- Selection of Consultants	Procedure for the selection of consultants in a competitive process
	Submission of Proposals
Part 9- Retention and Disposal of Public Property	Retention of Public Property
Part 10- Challenge and Ineligibility Proceedings	Procedure for Review Duties of Office Submission of application for review Ineligibility Procedure Notice of Proposed Ineligibility Reinstatement
Part 11- Miscellaneous	Committee members Fee for information provided

iii. It was noted that the circulation/dispensation of the Handbooks and Guidelines containing details of public procurement procedures and practices will be contingent on the finalization of the Regulations;

iv. The OPR currently lacks the legislative underpinning to conduct investigations and make inquiries. Initial submissions by the OPR indicated that it has instituted an arrangement to monitor complaints arising from the general public. However, based on the legal advice received by the Office regarding the current application of Sections 14 (c) and Section 70, the Office's investigative activities are restricted.

v. There are outstanding statutory appointments such as the Chairman of the Review Board and the appointment of Procurement Disposal Committees at the level of individual procuring entities.

vi. Despite the mandate of the OPR to dispose of real estate, the Office is of the view that the regulator should not be responsible for the direct disposal of any asset, inclusive of real estate.

vii. The OPR will continue its engagement of the IADB with a view to obtaining expertise /technical assistance in developing the necessary frameworks for the implementation of the Act including a framework for e-procurement.

RECOMMENDATIONS

The Committee recommends that:

A. The Ministry of Finance must provide the necessary technical and financial support to the OPR in order to expeditiously resolve the apparent shortcomings with the Procurement Regulations. An Action plan detailing the proposed

strategy for modifying and finalising the Draft Regulations should be included in the Minister's response to this report;

B. Further to Recommendation (A), the OPR should consider obtaining independent legal advice on the following:

c. The feasibility of partially implementing some provisions of the Draft Regulations pending further review and scrutiny of the Regulations; and

d. The planned measures for addressing the shortcomings of the Act;

C. In its response to this Report, the OPR should advise the Parliament on the status of collaborations between the Ministry of Finance and the Regulator aimed at finalising the Regulations.

D. That the Ministerial Response of the Ministry of Finance include an update on the completion of deliverables associated with the functions of the OPR as set out in section (13) (1) a to s;

E. That the Regulator collaborate with the Ministry of Finance and external legal counsel (where necessary) with a view to determining the most suitable legislative arrangement for including the procurement and disposal of real estate in the new public procurement regime;

F. In respect to Section 51 (2) of the PPDPP Act and Section 10 (2) of the Regulations which bars non-attendees of a hearing from challenging the decisions of the proceedings, the Committee endorses the recommendation of

the Regulator that consideration be given to grant persons the right of appeal in the case of failure to attend;

G. Specific guidelines related to contracts entered into between the government and multilateral entities be drafted; and

i. In light of the ambiguity of Section 35(7) of the Act that particular focus be placed on leaving no scope for misinterpretation regarding the duties of entities when entering an agreement.

OBJECTIVE 3: TO EVALUATE THE PROGRESS MADE BY GOVERNMENT MINISTRIES IN DEVELOPING THE INTERNAL SYSTEMS REQUIRED FOR THE EFFECTIVE IMPLEMENTATION OF THE PPDPP ACT 2015

Establishment of Procurement Units within Ministries and Departments

41. In July 2017, the Government agreed to the establishment of Procurement Units under each Accounting Head in Ministries, Departments and State Agencies (Procuring entity)[3] . Each structure would consist of an Evaluation and Disposal Committee and the functions would ideally be carried out by existing staff.

42. Ministries and Departments were also advised to appoint 'Change Agents' by April 2017 to lead the change process up to the preparation of the preliminary draft documents and were also exposed to Change Management workshops which were conducted by the UNDP.

43. These workshops were conducted by officials of the UNDP and held over the following dates:

- January 24-27, 2017
- March 21-24, 2017
- June 06-09, 2017
- June 27-30, 2017
- April 16-20, 2018
- May 14-18, 2018

44. The guidance included information on the implementation strategy, customization of the handbooks, training of trainers for the internal control framework and compliance

[3] According to Section 4 of the Act a 'Procuring Entity' means a public body engaged in procurement proceedings

monitoring for internal auditors. Five of these sessions were held in Trinidad and one (1) in Tobago.

45. By correspondence dated April 03, 2019 the Ministry of Public Administration confirmed the participants of these training sessions as follows:

Table 5: List of Government Ministries and Departments that participated in the UNDP Procurement Training Sessions

Ministry/Department	**Number of Attendees**
Judiciary	5
Ministry of Health	4
Public Utilities	4
Public Utilities- TTPost	1
Office of the Parliament	2
Office of the Attorney General and Legal Affairs	4
Ministry of Public Administration and Communications	15
Ministry of Foreign and CARICOM	1
Ministry of Works and Transport	1
Office of the Prime Minister	1
Ministry of Energy and Energy Industries	4
Ministry of Trade and Industry	1
Ministry of Finance	2
Ministry of Finance (Central Tenders Board)	5
Ministry of Finance (Customs and Excise)	1
Ministry of Community Development, Culture and the Arts	3
Personnel Department	1
Service Commissions	1
Tobago House of Assembly	24
Ministry of Sport and Youth Affairs	3
Ministry of Education	1
Ministry of Education (NIHERST)	1
Ministry of Labour and Small Enterprise Development	2

Ministry/Department	**Number of Attendees**
National ICT Company Limited	2
Registration, Recognition and Certification Board	1
Housing and Urban Development	1
Ministry of National Security	2
Ministry of National Security (Lifeguards)	1
Nalis	1
Ministry of Planning and Development	2
Ministry of Tourism	1

46. Previously identified 'high-risk' Ministries of Health and Rural Development and Local Government were targeted for these sessions, however, by correspondence dated April 03, 2019 submitted by the Ministry of Public Administration; the Committee learned that whilst only (4) officials from the Ministry of Health were in attendance there were no participants from the Ministry of Rural Development and Local Government.

47. Ministries and Departments were mandated to design their organizational charts for their Procurement Units for Government's approval by July 2017. By written submission November 2018 the MoF informed the Committee that all Heads of Departments obtained approval for their organisational structures except the Ministry of Rural Development and Local Government who failed to meet the deadline.

48. However, Ministries were free to approach Cabinet individually regarding any matters related to the design of the organisational charts.

49. Additional training sessions were hosted by the Public Service Learning Academy in partnership with the UNDP. Officers were nominated by the respective Permanent Secretaries. Twenty (20) Accounting Heads have also facilitated internal training for staff. This training was conducted during the period May-August 2017.

50. Since the appointment of the Board of the OPR on January 12, 2018 the Ministry of Finance had not conducted any further training so as not to usurp the authority of the OPR.

Transition Arrangements for Staff of the CTB

51. The Ministry of Finance met with staff of the CTB on March 11, 2015 and February 02, 2017. A meeting was also held with the representing union in February 24, 2017.

52. The Committee was advised that as at March 12 2019, three senior officers of the CTB had retired. They include: one (1) Director of Contracts (w.e.f. 12.02.18); one (1) Deputy Director of Contracts (w.e.f. 20.08.17) and one (1) Assistant Director of Contracts (w.e.f. 26.08.18).

53. On April 12, 2017 a proposal to schedule positions of contracts officers were discussed between the CTB and the Personnel Department (CPO). As at November 2018 these discussions were on-going. On April 28, 2017 the Ministry of Finance (MoF) requested a proposal for Voluntary Separation (VSEP) from the CPO for those who wished to accept.

54. The CPO proposed an offer of Enhanced Gratuities on reduced pensions and the cost of an annual recurrent payment of reduced pensions following approval from a Human Resources Advisory Committee in June 2018. The CPO and the Union considered the offer and were due to hold further discussions.

55. An Auditor was tasked to complete pension and leave records for all officers assigned to divisions and units.

56. Pursuant to Section 66(2) of the PPDPP Act, the Central Tenders Board cannot be dissolved within three months of the Act's full proclamation.

FINDINGS

i. Ministries and Departments had expressed concern that there was an absence of knowledgeable and experienced staff within the respective Procuring Entities to staff the Procurement Units.

ii. There was also uncertainty pertaining to the availability of officers to accept the responsibility of procurement officers within Ministries.

iii. Staff of the CTB were anxious as to the status of their job positions following the impending dissolution of the CTB. The assurance was given to offer them nothing less than their present portfolios and efforts would be made to accommodate the various officers in different Ministries (technical positions) and for internal placement (via Service Commissions).

iv. Contracts being overseen by the CTB would upon dissolution be transferred to the various public bodies that had engaged the CTB. As a result, there was the possibility that contracts officers (formerly of the CTB) working on those portfolios would be temporarily assigned to the relevant Ministries. Notwithstanding, there appeared to be no specific or documented plan to manage the transition of staff of the CTB to their next stage of employment. This may be attributed to the need for coordination between multiple state agencies including the CPO, Public Service Commission and MoF.

v. With respect to the issues of data security and privacy within individual Ministries and Departments (Procuring Entities) the OPR has advanced mechanisms for internal control (storage is cloud based) and the Office has assured that it has taken a comprehensive approach to security, documentation and information technology

RECOMMENDATIONS

The Committee recommends that:

A. Technical officer/s from the CTB be assigned to Ministries to assist in building the expertise and capacity of internal Procurement Units in Ministries and Departments. Ministries whose procurement activities have been classified as 'high risk' should be prioritised for such temporary assignments;

B. Notwithstanding the provisions of Section 13 (1) of the PPDPP Act, as the line Ministry, the Ministry of Finance must continue to collaborate with the OPR in ensuring that all Procuring Entities undertake and complete the necessary institutional modifications in preparation for the full implementation of the PPDPP Act;

C. Upskilling and capacity building in the 'high-risk' Ministries be made mandatory. A plan for developing the capacity of staff designated to perform procurement responsibilities within Ministries should be included in the Ministerial Response to this report;

D. Increased coordination between the Ministries of Finance, the Public Service Commission, Service Commission and the OPR to secure alternative employment for staff demitting the CTB;

E. Parliament must be provided with an update on the progress made in completing the necessary arrangements to facilitate the transitioning of staff of the CTB to positions within the Public Services or out of the Public Service via VSEP; and

F. With regard to the maintenance and protection of procurement databases and records by procuring entities, emphasis must be placed on data privacy and security without jeopardising the level of transparency of the work of respective Units.

The Committee respectfully submits the foregoing for the consideration of the Parliament.

Mrs. Sophia Chote, SC
Chairman

Mr. Clarence Rambharat
Vice-Chairman

Mrs. Vidia Gayadeen-Gopeesingh, MP
Member

Dr. Lovell Francis, MP
Member

Mr. Taharqa Obika
Member

Mr. Terrence Deyalsingh, MP
Member

Dr. Lester Henry
Member

Mrs. Cherrie- Ann Crichlow-Cockburn, MP
Member

May 06, 2019

APPENDICES

APPENDIX I
Minutes

MINUTES OF THE TWENTY-FIFTH MEETING OF THE JOINT SELECT COMMITTEE ON FINANCE AND LEGAL AFFAIRS, HELD IN CAMERA IN THE ARNOLD THOMASOS MEETING ROOM (EAST), LEVEL 6 AND IN PUBLIC IN THE J. HAMILTON MAURICE ROOM, MEZZANINE FLOOR, OFFICE OF THE PARLIAMENT, TOWER D, THE PORT OF SPAIN INTERNATIONAL WATERFRONT CENTRE, 1A WRIGHTSON ROAD PORT OF SPAIN ON NOVEMBER 23, 2018

PRESENT

Mr. Clarence Rambharat	Vice-Chairman
Mrs. Vidia Gayadeen-Gopeesingh, MP	Member
Mr. Taharqa Obika	Member

Secretariat

Mr. Julien Ogilvie	Secretary
Mr. Brian Lucio	Graduate Research Assistant
Ms. Terriann Baker	Graduate Research Assistant

ABSENT

Ms. Sophia Chote, S.C.	Chairman (Excused)
Mrs. Cherrie-Ann Crichlow-Cockburn, MP	Member (Excused)
Mr. Terrence Deyalsingh, MP	Member
Dr. Lovell Francis, MP	Member (Excused)
Dr. Lester Henry	Member (Excused)

COMMENCEMENT

1.1 The Vice-Chairman called the meeting to order at 9:35 a.m.

ANNOUNCEMENTS

2.1 The Vice-Chairman announced that Ms. Sophia Chote, Dr. Lovell Francis, Mrs. Cherrie-Ann Crichlow-Cockburn and Dr. Lester Henry requested to be excused.

CONFIRMATION OF MINUTES OF THE TWENTY-FOURTH MEETING HELD ON JUNE 29, 2018

3.1 The Vice-Chairman invited Members to consider the Minutes of the 24th Meeting held on June 29, 2018 and enquired whether there were any amendments.

3.2 There being no amendments, a motion for the confirmation of the Minutes was moved by Mrs. Gayadeen-Gopeesingh and seconded by Mr. Obika.

MATTERS ARISING FROM THE MINUTES OF THE TWENTY-FOURTH MEETING

4.1 The Vice-Chairman enquired whether there were any matters arising from the Minutes:

- **Page 2, item 5.3** – The Vice-Chairman reminded Members that the Report of the Inquiry into the certain aspects of the National Insurance System of Trinidad and Tobago was presented in the Senate on September 21, 2018 and in the House of Representatives on September 26, 2018.

CONSIDERATION OF WORK PROGRAMME

5.1 The Vice-Chairman invited Members to agree on the work programme for the 4th Session, 11th Parliament.

5.2 After a brief discussion, Members agreed on the following inquiries in the stated order:

i. An inquiry into the implementation of the new Public Procurement system/ framework;
ii. An inquiry into the wider application of non-custodial penalties in the Criminal Justice System;
iii. An inquiry into the operations of the Central Statistical Office;
iv. An inquiry into the effectiveness of existing laws to curb money laundering and corruption; and
v. An inquiry into the adequacy of Magistrates' Court facilities.

5.3 Members discussed the ways in which inquiry number 'iv' can be redrafted to be more concise. The Vice-Chairman then instructed the Secretariat to narrow the focus of inquiry number 'iv'.

5.4 Member Obika recommended that non-banking financial institutions be invited to participate in inquiry number 'iv'.

5.5 The Vice-Chairman proposed that the following stakeholders be engaged pursuant to theinquiry into the wider application of non-custodial penalties in the Criminal Justice System:

GOVERNMENTAL

a. The Judiciary
b. Prison Service
c. Ministry of the Attorney General and Legal Affairs
d. Trinidad and Tobago Police Service

NON- GOVERNMENTAL

e. Vision on Mission
f. Single Fathers Association
g. Law Association
h. Criminal Bar Association

PRE-HEARING DISCUSSION RE: INQUIRY INTO THE IMPLEMENTATION OF THE NEW PUBLIC PROCUREMENT SYSTEM

6.1 The Vice-Chairman indicated that representatives from the following entities would be appearing before the Committee:

- The Office of Procurement Regulation; and
- The Ministry of Finance.

6.2 The Vice-Chairman advised that submissions were received from entities appearing and Issues Papers were prepared based on these submissions. Members confirmed receipt of the submissions and the Issues Papers.

6.3 A discussion ensued on the approach to be adopted for the hearing.

OTHER BUSINESS

Date and agenda of next meeting

7.1 Members agreed that if the need should arise, the next meeting of the Committee would be held on Friday December 14, 2018.

SUSPENSION

8.1 The meeting was suspended at 9:50 a.m.

[Members proceeded to the J. Hamilton Maurice Room, Mezzanine Floor]

PUBLIC HEARING WITH STAKEHOLDERS RE IMPLEMENTATION OF THE NEW PUBLIC PROCUREMENT SYSTEM

9.1 The meeting resumed (*in public*) at 10:06 a.m. in the J. Hamilton Maurice Room.

9.2 The following officials joined the meeting:

OFFICE OF PROCUREMENT REGULATION

Mr. Moonilal Lalchan	Chairman and Procurement Regulator
Mr. Robin Otway	Board Member
Mr. Frederick Bowen	Board Member
Mr. Nikoli Edwards	Board Member
Ms. Pastora Brown	Team Lead – Procurement Policy Development
Mrs. Delrene Liverpool-Young	Corporate Secretary

MINISTRY OF FINANCE

Mrs. Michelle Durham-Kissoon	Permanent Secretary Ag.
Ms. Jennifer Lutchman	Deputy Permanent Secretary

9.3 The Vice-Chairman welcomed the officials and introductions were exchanged.

9.4 The Vice-Chairman outlined the objectives of the inquiry.

Key Issues Discussed

9.5 The following were the key subject areas/issues discussed during the hearing:

(a) Issues discussed with the Office of Procurement Regulation (OPR)

i. The partial proclamation of the Public Procurement and Disposal of Public Property Act (PPDPP) Act has allowed for the establishment of the Board of the Office of

Procurement Regulation (OPR). However, other provisions of the Act must be proclaimed in order to empower the OPR to investigate and actively monitor the procurement practices of entities.

ii. The PPDPP Act allowed for the Office of Procurement Regulation to dispose of real estate. The OPR is of the view that this may be inappropriate for this office;
iii. The PPDPP Act did not establish procedures for treating with possible breaches of natural justice;
iv. Terms of Reference were being drafted (inclusive of remuneration packages) by the OPR for the Disposal of Public Property Subcommittee;
v. Advertisements have been placed for an Insurance Broker to assist in formulating a pension plan for employees of the OPR.
vi. The Procurement Review Board is an independent Board established in accordance with Section 51A of the PPDPP Act to review the decision of the Office of Procurement Regulation. There were only two members appointed to the board as at 23/11/2018;
vii. The staff of the Central Tenders Board were to be transferred to various Ministries and Departments after the full proclamation of the PPDPP Act;
viii. A seamless transition was not in place for the Central Tenders Board to the new Procurement Regime;
ix. The stakeholder engagement had caused the OPR to reconsider its approach to drafting its Handbooks as the current format may not be reader-friendly;
x. After the completion of the Handbooks, sensitisation sessions will be conducted;
xi. Regulations made in accordance with the PPDPP Act were to be sent to the Ministry of Finance;
xii. Handbooks were to be completed by the end of November 2018;
xiii. By February 2019, regulations are to be considered by the Houses of Parliament;
xiv. A database named the "Procurement Depository" is to be created in 2019. Suppliers and contractors would be able to submit their qualifications and experience. In accordance with Section 26 (1) of the PPDPP Act, the database will be made available to the public for viewing;
xv. The full operationalisation of the OPR should be completed by March 2019;
xvi. Training for the Ministries involved awareness, regulations, handbooks and guidelines;
xvii. Public bodies were mandated to comply with the PPDPP Act;
xviii. The period of the employment contracts of staff of the OPR is only two years due to the fact that the OPR was determining its staff requirements;
xix. The OPR intended to accommodate the expertise of economists, mechanics and engineers under its Capacity Development and Policy Development Units;

xx. The OPR was monitoring complaints although it was unable to investigate complaints;
xxi. An international consultant was recruited to assist with the development of practices that were aligned with international best practices;
xxii. The Inter-American Development Bank (IADB) offered to assist the OPR with E-procurement to ensure that there is alignment with international best practice;
xxiii. The OPR has adequate finances; and
xxiv. The OPR has recommended the establishment of a Procurement and Disposal Committee for every public body. The Committee will be responsible for developing the internal procedures to be followed in conjunction with the OPR.

(b) Issues discussed with the Ministry of Finance

i. Some challenges that existed in establishing Procurement Units within Ministries were access to knowledge and experienced staff;
ii. The full proclamation of the Public Procurement and Disposal of Public Property Act (PPDPP) will cause the simultaneous repeal of the Central Tenders Board Act;
iii. The Ministry of Finance was collaborating with the Central Tenders Board;
iv. The Ministry of Finance was in the process of ensuring that all pension and leave records of staff of the Central Tenders Board were updated; and
v. Two Directors of Contracts have retired from the Central Tenders Board.

9.6 Closing remarks were made by the chief officials present.

9.7 The Vice-Chairman thanked the officials for their attendance.

ADJOURNMENT

10.1 The meeting was adjourned at 11:09 p.m.

I certify that these Minutes are true and correct.

Vice-Chairman

Secretary

January 08, 2018

APPENDIX II
OPR Implementation Plan

Table 6: OPR Implementation Project Plan[4]

Task Name	Start	Finish	Status
Full Proclamation of the Procurment Act	02-01-18	TBD	In progress
Review of the un-proclaimed portions of the Act	02-01-18	05-31-19	In progress
Determine sections of the Act to be adapted and other clarifications	02-01-18	05-31-19	In progress
Drafting of Regulations	07-01-18	03-29-19	Completed
Engage the IADB assistance	02-16-18	03-09-18	Completed
TOR for Consultant to develop Regulations /recruitment and engagement of Consultant	02-14-18	07-04-18	Completed
Execute consultancy contract for drafting of legislation	07-05-18	07-11-18	Completed
Inception Report	07-05-18	07-11-18	Completed
Progress Report #1- Recommendations from Legal Review	07--12-18	08-08- 18	Completed
Diagnostic study and legal review	08--09-18	08--28-18	Completed
Progress Report #2- Report on Gap Analysis	08--29-18	09--11-18	Completed
First recommended draft of Procurement Regulations	09-12-18	10-02-18	Completed

[4] Submission from the Office of Procurement Regulation dated April 10, 2019.

Task Name	Start	Finish	Status
Progress Report #3- Summary of discussions and updated version of first recommended draft of Regulations	10-03-18	10--16-18	Completed
Stakeholder consultation	09--26-18	10-19-18	Completed (stakeholder workshops conducted Sept 26-28 and in Tobago Oct 19, 2018)
Progress Report #4-	10-01-18	10-12-18	Completed
Final recommended draft of Procurement Regulations	10-17-18	11-09-18	Completed
Submit note/Regulations and legislative brief to the Minister of Finance	11-19-18	11-30-18	Completed
Human Resources and Staffing	02-01-18	05-31-19	In progress
Organisation structure: staff composition, job descriptions, staff terms and conditions, medical and pension plans	02-01-18	04-30-19	In progress
Recruitment and contracting of Staff	05-01-18	05-31-19	In progress
Human Resource Policies Drafting and Approval	08-01-18	03-29-19	In progress
Staff training	09-30-18	On-going	In progress
Policy Development	12-03-18	09-30-19	In progress
Handbooks and Special Guidelines	12-03-18	03-29-19	In progress

Task Name	Start	Finish	Status
ICT Development	07-09-18	On-going	In progress
Procurement of ICT equipment (laptops/printers etc.)	08-15-18	12-03-18	Completed
Network implementation	10-01-18	06-06-19	In progress
Telephone System Implementation	10-01-18	06-13-19	In progress
Setup room for public hearings	01-02-19	07-31-19	In progress
Database Development	10-01-18	06-12-19	In progress
Website development Phase 1: Temporary Website	08-15-18	09-07-18	Completed
Website development Phase 2: Permanent website	04-01-19	10-30-19	In progress
Online Training Tool	06-03-19	10-30-19	Pending
Communication	06-01-18	On-going	In progress
Public Advisories	06-04-18	On-going	In progress
Social Media Policy	10-01-18	12-19-18	Completed
Communication Plan Oct 2018-Sept 2019	10-01-18	12-05-18	Completed
Brand Strategy	09-03-18	10-31-18	Completed

APPENDIX III
Functions exercised by the OPR

Table 7: Functions that can be exercised by the OPR

Function	Proclaimed	Status- November 08, 2018	Status- April 10, 2019
(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;	Yes	RFP issued on October 01, 2018 with a submission deadline of November 30, 2018 for the development of databases. Databases expected to be operational by the first quarter of 2019.	As a result of an open competitive tendering process, contract for database development awarded to Massy Technologies.
(b) set training standards, competence levels and certification requirements to promote best practices in procurement;	Yes	• Recruitment of Team Lead- Capacity building completed • Recruitment of staff for Capacity Building Unit in progress • Year 1 performance targets developed and on schedule e.g. o Public bodies capacity assessment to be completed by March 31, 2019.	• Capacity Building team on board • Discussions have been held with several stakeholders including: **i**. Public Service Academy **ii.** UWI Open Campus **iii.** Dispute Resolution Foundation **iv.** Arthur Lok Jack Global School of Business •
(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*);	Yes	• Guidelines and handbook produced by UNDP reviewed • Guidelines and handbooks being revised based on feedback from stakeholder consultations • Final versions to be more user friendly and fit for purpose in	• Drafts of Revised Handbook and Guidelines have been completed • Peer review exercise of the Revised Handbook and Guidelines, by an independent international consultant provided by the IDB, is

		terms of their presentation • First drafts to be completed by November 30, 2018.	scheduled to be conducted from April 23-25, 2019. • The final versions of the aforementioned documents are expected to be completed by May, 2019.
(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;	Yes	• In progress • Estimated completion of first draft November 30, 2018.	• The Office has collaborated with the Office of the Chief State Solicitor in this regard and final drafts of the documents are expected to be completed by May, 2019
(e) approve, in respect if each procuring entity, special guidelines and handbooks in relation to public procurement and the retention and disposal of public property;	No	• Sequentially, this function follows (c) and (d) above • However, public bodies have already begun submitting their revised guidelines and handbooks.	• Sequentially, this function follows (c) and (d) above • Public bodies have already begun submitting their revised guidelines and handbooks, however the Office is constrained from acting as this section has not yet been proclaimed
(f) promote the use of technology in public procurement and the retention and disposal of public property;	No	• Research and preparatory work ongoing into e-procurement and e-tendering platforms, e-Government Procurement,	• The Office continues its research and preparatory work into e-procurement and e-tendering platforms, e-Government Procurement,

		blockchain technology, electronic reverse auctions • Handbook and guidelines will provide for the use of technology for e-procurement, reporting, storing of records, among other things • Recruitment of CIO completed • Recruitment of key IT support staff to be completed by year's end.	blockchain technology, electronic reverse auctions and other Distributed Ledger Technology. • Handbook and guidelines providing for the use of technology for, inter-alia, e-procurement, reporting and storing of records have been drafted.
(g) provide best practice advice in the conduct of procurement activities, including the promotion of electronic transactions;	No	• Handbook and guidelines will provide for the use of technology for e-procurement, reporting, storing of records, among other things.	• Handbook and guidelines providing for the use of technology for, inter-alia, e-procurement, reporting and storing of records have been drafted.
(h) audit and review the system of procurement and disposal of public property to ensure compliance with the objective of the Act;	No	• Procedures being developed in handbooks and guidelines to facilitate audit and review • Recruitment of Team Lead-Audit and Investigations on-going.	• Team Lead – Audit and Investigations on board • Recruitment for auditors and investigators underway • Development of systems, policies, procedures and process flows underway
(i) harmonise policies, systems and practices in relation to public	No	• First step involves ongoing stakeholder consultations	• The Office continues to have Stakeholder consultations involving public

procurement activities and the disposal of public property;		• This activity will be on-going, with appropriate guidelines issued at least annually, during the lifetime of the OPR.	bodies, civil society and other interest groups on a daily basis. Enclosed for your review at Appendix II is a listing of consultations held since November 9, 2018. • This activity will be ongoing, with appropriate guidelines expected annually, during the lifetime of the OPR
(j) review procurement practices and delivery systems on an annual basis to identify best practices;	No	• Following full proclamation, this function will be an on-going activity, facilitated by annual reports from public bodies, as well as by audit and investigations conducted by the OPR.	• Following full proclamation, this function will be an ongoing activity, facilitated by annual reports from public bodies, as well as by audits and investigations conducted by the Office.
(k) determine, develop, introduce, maintain and update related system wide databases and technology;	Yes	• RFP issued on October 01, 2018 with a submission date of November 30, 2018 for the development of the databases. Databases expected to be operational by the first quarter of 2019. • Recruitment of CIO completed • Recruitment of Key IT support staff to be completed by year's end.	• Database development underway with an expected 'go live' date on target for August 2019
(l) promote the awareness of public	No	• Activity commenced	• Eight (8) public advisories published

bodies and the public to issues relating to public procurement and disposal of public property;		• 4 public advisories published in the daily newspapers and on the OPR website at www.oprtt.org • Public appearances by the Regulator on radio and television • Speaking engagements at various civil society fora • Stakeholder consultations with public bodies across industries ongoing.	in the daily newspapers and on the OPR website at www.oprtt.org • Public appearances by the Regulator on radio and television • Speaking engagements at various civil society fora • Stakeholder consultations with public bodies across industries ongoing within Trinidad and Tobago.
(m) undertake research and surveys with respect to public procurement and disposal of public property;	No	• Use technology to capture appropriate feedback from public bodies and other stakeholders, including civil society and the general public.	• Use technology to capture appropriate feedback from public bodies and other stakeholders, including civil society and the general public • Desktop research of international best practices ongoing
(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;	No	• Communicating the OPR's 'open door policy' during public consultations and presentations • Developing mechanisms to receive and address complaints • Recruitment ongoing for staffing of the Unit.	• Communicating the OPRs 'open door policy' during public consultations and presentations • Developing mechanisms to receive and address complaints
(o) act for, in the name and on behalf of the State to dispose of real property owned	No		• It is expected that this function will be activated upon full proclamation of the

by the Government in such manner as the Government may consider appropriate and desirable;			Act and laying of respective Regulations, subject to negative resolution by the Minister
(p) create and publish standard form contracts for public procurement and disposal of public property;	Yes	• On-going in conjunction with editing of handbooks and guidelines • Target completion date for first draft- November 30, 2018	• Ongoing in conjunction with editing of handbooks and guidelines • Collaboration with the office of the Chief State Solicitor
(q) prepare and maintain a database of pre-qualified contractors and suppliers;	No	• RFP issued on October 01, 2018 with a submission deadline of November 30, 2018 for the development of the databases. Databases expected to be operational by the first quarter of 2019 • Recruitment of CIO completed • Recruitment of key IT support staff to be completed by year's end.	• Database development underway with an expected 'go live' date on target for August 2019. • The Office is also in the process of receiving lists of pre-qualified contractors and suppliers from public bodies in order to sanitise and to begin bulk population of the database.
(r) prepare and maintain a list of pre-qualified mediators, arbitrators and experts for the purposes of alternative dispute resolution under this Act; and	Yes	• RFP issued on October 01, 2018 with a submission deadline of November 30, 2018 for the development of the databases. Databases expected to be operational by the first quarter of 2019. • Recruitment of CIO completed	• Mediators and Arbitrators will be invited to register via the aforementioned database.

		• Recruitment of key IT support staff to be completed by year's end.	
(s) provide advice on best practice on the aggregation of the procurement or disposal of goods for the purpose of obtaining value for money.	No	• Procedures being developed in the Regulations and in the handbooks and guidelines.	• Included in the handbooks and guidelines to be issued by the OPR

APPENDIX IV
Recurrent Expenditure of the OPR

Table 8: Recurrent Expenditure of the OPR

Expense Description	Projected Expenditure (TTD$)	Total (TTD$)
i. Personal Expenditure	12,410,331	
Subsistence	36,000	
Training and Development	220,000	
Local Travel	36,000	
Overseas Travel	120,000	
Entertainment	12,000	
Total Personal Expenditure		12,834,331
ii. Total Goods and Services		
Telephone and internet access	84,000	
Office Stationary & Supplies	202,000	
Cleaning and Maintenance	84,000	
Equipment maintenance and Leasing	96,000	
Consultancy Fees	245,000	
Legal Fees	480,000	
Car Park Fees	177,000	
Software and Support	102,000	
Public Relations, Advertising and Public Outreach	710,000	
Courier Services	24,000	
Motor vehicle expenses	109,000	
Cable Management	12,000	
VOIP/Phone Office and user Services	180,000	
Security Service including swipe card and access	24,000	
		2,529,000
iii. Capital Expenditure		
Motor Vehicle	400,000	
Database Software	1,000,000	
Accounting/HR Software	594,448	
Computer Network Infrastructure	500,000	
Total Capital Expenditure		2,494,449
Total Allocation 2018/2019		17,857,780

APPENDIX V

Verbatim Notes

VERBATIM NOTES OF THE TWENTY-FIFTH MEETING OF THE JOINT SELECT COMMITTEE ON FINANCE AND LEGAL AFFAIRS, HELD IN THE ARNOLD THOMASOS MEETING ROOM (EAST), LEVEL 6, (IN CAMERA), OFFICE OF THE PARLIAMENT, PORT OF SPAIN INTERNATIONAL WATERFRONT CENTRE, #1A WRIGHTSON ROAD, PORT OF SPAIN, ON FRIDAY, NOVEMBER 23, 2018, AT 9.35 A.M.

PRESENT

Mr. Clarence Rambharat	Vice-Chairman
Mrs. Vidia Gayadeen-Gopeesingh	Member
Mr. Taharqa Obika	Member
Mr. Julien Ogilvie	Secretary
Ms. Terriann Baker	Research Assistant
Mr. Brian Lucio	Research Assistant

OFFICE OF PROCUREMENT MANAGEMENT

Mr. Moonilal Lalchan	Chairman and Procurement Regulator
Mr. Robin Otway	Board Member
Mr. Frederick Bowen	Board Member
Mr. Nikoli Edwards	Board Member
Ms. Pastora Brown	Team Lead – Procurement Policy Development
Mrs. Delrene Liverpool-Young	Corporate Secretary

MINISTRY OF FINANCE

Mrs. Michelle Durham-Kissoon	Permanent Secretary Ag.
Ms. Jennifer Lutchman	Deputy Permanent Secretary Ag.

Mr. Chairman: Good morning. I welcome those present and those who are viewing and listening. This is the Twenty-Fifth Meeting of the Joint Select Committee on Finance and Legal Affairs.

Today, the Committee will convene its first hearing pursuant to its enquiry into the implementation of the new public procurement system with particular focus on the operationalization of the Office of Procurement Regulation and the progress made by Ministries and departments.

Members of the public who are following this enquiry may send their comments via the social media platforms of the Parliament.

I want to welcome officials and representatives of the Office of Procurement Regulation and the Ministry of Finance. We have both entities here at the same time, so as we proceed with the enquiry, we would direct questions to the various representatives and invite your responses.

I want to now invite the Office of the Procurement Regulation first, and then the Ministry of Finance to introduce your representatives.

Mr. Lalchan: Thank you very much, Mr. Vice-Chairman, and members of the Committee. And let me first of all say thank you for the opportunity to contribute today and to share what we have been doing as the office of procurement regulation.

On my right we have our corporate secretary Delrene Liverpool-Young, and starting from my left Mr. Robin Otway attorney-at-law; Frederick Bowen board member, procurement specialist; Nikoli Edwards board member from the youth forum; and Pastora Brown one of our staff members who is the team lead-policy development. Thank you.

Mr. Chairman: The Ministry of Finance.

Mrs. Durham-Kissoon: Good morning, thank you, Chair. Good morning members of the Committee. Good morning office, my name is Michelle Durham-Kissoon,

acting Permanent Secretary in the Ministry of Finance, and on my right is my deputy Permanent Secretary Jennifer Lutchman. Thank you.

Mr. Chairman: Okay. Thank you very much. I am Clarence Rambharat, I am the Vice-Chairman of this Committee and I am chairing the meeting today. I would ask the other members of the Committee to introduce themselves, starting on my right.

[*Introductions made*]

Mr. Chairman: Thank you very much. And we are supported by the Secretariat provided by the Parliament including Mr. Ogilvie who is here, and other members of his team.

Now, we have three areas that we would like to focus on today; the first is the state of the legislation. As we all know the Act itself was passed, and there was a delay because certain amendments needed to be made. Those amendments have been made, and subsequently the board was appointed, the regulator was appointed, and we are aware that the regulator is conducting activities in the public domain. So in relation, first, to the state of the legislation, and the timeline for full proclamation.

The second area we would like to deal with is the Office of Procurement Regulator in terms of the operationalization of that office, and your timeline in respect of being able to fully discharge the functions given to you under the legislation.

And the third relates to the Ministry of Finance which is the lead Ministry in relation to the responsibilities under the Act, and the operationalization of the Ministries, the individual Ministries, and the agencies which are subject to the Act. So those are the three areas of focus: where we are in terms of legislation itself, and the proclamation of the legislation to the office of the regulator; two, the readiness of the office to discharge all its functions; and three, the offices of the readiness of the various Ministries and agencies to discharge the functions and responsibilities

under the Act.

So, I will ask my colleague MP Gayadeen-Gopeesingh to lead us on the first area. And before I do that, I just want to invite first Mr. Lalchan, and second Mrs. Durham-Kissoon to make opening statements, if you wish to do that.

Mr. Lalchan: Thank you, Chair. Thank you very much, Chair. The office was established pursuant to the Act of Parliament, and it is to be governed by a board. The board was appointed on January 12th by His Excellency, and we are fully constituted in terms of all 11 members including the regulator. And to date, the office has been involved in hiring of key staff, stakeholder engagement and consultation both in Trinidad and in Tobago, and working towards the completion of the draft regulations for submission to the Minister of Finance to take to Parliament, and the finalization of the handbooks and the guidelines to give operationalization of the Act. So, we do look forward to some fruitful discussion this morning. Thank you.

Mr. Chairman: Ministry of Finance.

Mrs. Durham-Kissoon: Good morning all, good morning viewers. The full operation of Act No. 1 2015, will reform Trinidad and Tobago's procurement laws and systems so that both are consistent with the principles of good governance.

The Act will govern spending of public moneys by all state agencies including all state controlled companies under a single regulatory framework that encompasses all stages of the procurement process.

The Ministry of Finance, like all other entities, are subject to the Act, and we have been happy so far to facilitate the preparedness of implementation thus far, and we look forward to further guidance from the office. Thank you.

Mr. Chairman: Okay. Thank you very much. And just a reminder, one, to ask you to direct your questions or your responses through the Chair. And the second

thing is make sure that you turn on and turn off your microphone when you are contributing. So thank you. So, I want to invite my colleague MP Gayadeen-Gopeesingh.

Mrs. Gayadeen-Gopeesingh: Thank you, again, Chairman. I believe this might be to Mr. Robin Otway, the legal person. Right. I am seeing that pursuant to Legal Notice No. 150, and we got legal supplement part B, Volume 54 and so, you had certain sections of the Act came into operation in July 31, 2015. So, we have sections, one onto 25, and 62 and 63. My question is: Those sections of the Act that have not been proclaimed, are there any, not deficiencies, but are they in any way impacting on the effectiveness in how the OPR functions?

Mr. Otway: Sorry. To be clear about your question. Is it: How do they impact?

Mrs. Gayadeen-Gopeesingh: And how is it affecting the effectiveness of how you run in this OPR?

Mr. Otway: In terms of what has been—

Mrs. Gayadeen-Gopeesingh: Has not been proclaimed.

Mr. Otway:—has not been proclaimed. Well I think the word would be "operationalizing". As I like to describe it, we are up, but not running. We do not have the teeth. Now, not all of the sections between 1 and 25 have been proclaimed. You will see that in some of them only one or two subsections have been proclaimed. So in terms of—we have no teeth at the moment. We have no power to investigate. We have no power to enquire; the actual teeth in the legislation.

So what has been proclaimed allowed for the setting up of the board, the appointment of members, and getting us up. But with full proclamation we should then be running. I personally am happy with the legislation that I see. One could ask for it to be tweaked, and a few amendments here and there, but I think by and large it should allow the board—the office of the procurement regulator to make a

major impact in terms of procurement and disposal of public property in an effort to minimize corruption, waste and mismanagement. I hope I have answered the question.

Mrs. Gayadeen-Gopeesingh: Yeah. Have you identified the relevant sections that you believe to be tweaked or amended?

Mr. Otway: There is one that provides—pardon me if I am not very specific, but there is one that, in terms of the actual section, there is one that provides that the procurement regulator shall dispose of real estate, I think it is. He actually—"real property" is the term; real property. And certainly from my legal perspective, who will guard that guard? I do not think that is appropriate.

There is another that I think breaches the principle of natural justice. It provides that if person makes a complaint and does not appear—any party to a complaint preceding does not appear, should there be any appeal with that person who does not appear is not allowed to be heard or appear at the appeal; and I think that is in breach of the principle of natural justice requiring a fair hearing because there may be explanations. There may be valid explanations why a person did not appear, and even if he did not for good reason, I do believe that, as I say, natural justice having a fair hearing, hearing both sides, would entitle that person, even if he defaulted, even if he did not come for no good reason, to be heard on appeal. Those are principal concerns I have. I believe the Chairman has one or two, those are the ones that I can immediately identify. Thanks.

Mrs. Gayadeen-Gopeesingh: Of course, with the rule of law, that is a basic tenet in governing, the rule of law. And you are saying—so we need oversight then with the real estate with respect to the OPR dealing with real estate. That is what you were saying?

Mr. Otway: Real property. I do not think the regulator should be directly involved

in disposal of anything, of real property. And real property, of course, can have particular or very great value.

Mrs. Gayadeen-Gopeesingh: I am seeing pursuant section 16, you can appoint committees. Have you all appointed any committees? And what are those committees?

Mr. Otway: Should I pass over to the Chairman?

Mrs. Gayadeen-Gopeesingh: Whoever can respond.

Mr. Otway: I believe the Chairman can.

Mr. Lalchan: Through you, Chair, we have not appointed any subcommittees under the Act. What we have done is appointed subcommittees of the board to help to expedite, like the operationalization of the office itself.

One of the subcommittees that we are contemplating is the subcommittee relating to the disposal of public property, and that is one of the subcommittees that we hoping to get going. And the chairperson of that subcommittee, we are recommending for Mr. Otway to be the chairperson. And that they are now looking at setting up the terms of reference of that subcommittee, but the committee has not been appointed fully because it has to—we have to get persons with the fit and proper criteria to serve on that committee.

Mrs. Gayadeen-Gopeesingh: So is there any advertisement or so?

Mr. Lalchan: No. Through you, Chair, again. We are in the process of developing the terms of reference. Once that is done and approved by the board, then we will go out and do the advertisement for selecting persons to serve on the board.

Mrs. Gayadeen-Gopeesingh: And you have remuneration packages and so in mind?

Mr. Lalchan: That will be part of the mandate to develop the remuneration and so on. But all that will be contemplated in the terms of reference.

Mrs. Gayadeen-Gopeesingh: So, I believe also pursuant to section 20 where you can establish this pension fund, all that is still to be worked on?

10.20 a.m.

Mr. Lalchan: Yes. Through you, Chair, what we have done, we have recently gone out for public advertisement for a broker, an insurance broker to be appointed. Once that insurance broker is appointed there are two specific things that we will be looking at in terms of a medical plan and also a proposed pension plan to advise us on both fronts.

Mrs. Gayadeen-Gopeesingh: So, what is the criteria for this insurance broker? What are you looking for?

Mr. Lalchan: I do not have the details presently, but we have it in a request for proposal. The details are in the request for proposal that we will be sharing. But there are basic things that we were looking at, for example, their experience in the various industries, and specifically things like their experience in terms of providing for medical and health and also for pension. There are minor areas like coverage for assets and so on, that will be required also.

Mrs. Gayadeen-Gopeesingh: All right. I am seeing in relation to section 51(a) to 51(m) of the Act, you have to establish a Public Procurement Review Board, what is the status of this?

Mr. Lalchan: Chair, the Public Procurement Review Board should be appointed by Her Excellency the President. Our understanding is that two members of that board have already been appointed. The third member who has to be a retired judge, I believe that that is still being done. We wrote Her Excellency the President on the matter and we got a response that states that that appointment is imminent. So, we are looking forward to the eventual appointment. When that review board is appointed they would then develop their own regulations and so on for approval as

to how that body will conduct its affairs. It is supposed to be an independent body apart, because they would have to review the decisions of this board.

Mrs. Gayadeen-Gopeesingh: And if I do not want the Ministry to be left out, what you may think might be some of the challenges that these Ministries are encountering in relation to satisfying the requirements of this Act?

Mrs. Durham-Kissoon: Through you, Chair, thank you member for your question.

Mr. Otway: Mike.

Mrs. Durham-Kissoon: Thank you. Through you, Chair, thank you. Thank you for the question, member. One of the challenges, Ministries have expressed a concern of having access to knowledgeable and experienced staff. The other challenge pertains to section 61(2) of the Act, which speaks to the appointment of a procurement officer. If I may just read it for you:

> "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."

Without the access to experienced and knowledgeable staff it is envisaged that this is a major responsibility, and we are unsure of the availability of officers to accept that responsibility.

Mr. Lalchan: My apologies, Mr. Chairman, for not addressing my remarks through you. Humble apologies.

Mr. Chairman: Well, that is fine. Mr. Lalchan, one of the areas that keeps coming up is the transition from the Central Tenders Board to the Office of Procurement Regulation. What has been happening in relation to that issue of transition?

Mr. Lalchan: Chair, we have had one meeting so far with the members of the Central Tenders Board, and the transition aspect of it, I believe, and I am subject to

correction, that the Ministry is working on some of that aspect for the transition. And, what we see happening as one of the challenges in that transition period, a number of contracts that are presently being handled by the Central Tenders Board, with the full proclamation of the Act, the Central Tenders Board Act goes away, and therefore those contracts that are being handled by the Central Tenders Board will eventually be transferred to the various public bodies that would have engaged the services of the Central Tenders Board. Our recommendation would be to see if some of the members of the Central Tenders Board who are working on those projects could be temporarily assigned to the various Ministries to whom they would have been working on those specific projects. But we have not had any detailed discussion in terms of details associated with that transition.

Mr. Chairman: Is there a transition plan being put in place to effect its change from—because you would have contractual issues, you would have staffing issues in relation to the current arrangements with the CTB in relation to their employer, and the proposed arrangements for working with the regulator, you know, whether it is a project basis, and then also those contracts or the procurement that is in train. So, you have existing contracts and you have procurement contracts that are in train, and you also have procurement contracts arrangements that are arising every week, as the Cabinet, for example, approves the development programmes for the various Ministries. So, is there a transition plan that takes us from the CTB arrangement into the arrangements under the law?

Mr. Lalchan: Chair, we have not been working on the transition plan, and we do have a concern that, as the PS would have mentioned, the staffing-up of the various Ministries and the capacity that is required for that transition, if it is not in place there may be some issues associated with continuity. So, that is something that we will have to address sooner rather than later.

Mr. Chairman: On the issue that was raised by the Ministry, I saw that, as I mentioned before, you have had outreach activities, I do not know if it is at the level of technical training or if it is now just introductory. But you interacted with more than 100 entities, but just as many did not participate so far. So, I want you to just, in the context of what the Ministry of Finance has said, talk to us about those activities that you are engaged in with the state entities, the Ministries and the state enterprises, and the statutory bodies and so on, and the objective of that interaction, and whether that interaction rises to competency building, capacity building, or if it is just informational?

Mr. Lalchan: There are three types of meetings and interactions that we would have been involved in. In the September—the one that you are referring to, Chair, would have been the detailed sessions we would have had with a number of agencies, the 100, and so. Before that session, what we refer to as the stakeholder engagement and the consultation, there was a specific aim of those consultations in terms of the information gathering in regard to the draft handbooks and guidelines that were prepared by the UNDP. And those proved to be very useful because some of the feedback that came back to us was that many of our constituents believed that the handbooks and so on were a lil bit overbearing and complicated, and it needed to be a little bit simpler to achieve the objective of the Act without watering down the handbook and guidelines. So, we have taken that on board.

The other big issue that we dealt with was the draft regulations, because there were some draft regulations prepared under the mandate of the UNDP, but they were found to be deficient, and we needed to get that completed. We had our consultant with us during that sixth session in Trinidad, and we got very useful feedback that led to the eventual completion of the draft regulations which we only completed this week. So, that was really the consultation. In addition to that, on October the 19th,

we had a full consultation for a full day in Tobago, and the same things that we dealt with in Trinidad, we dealt with in Tobago. Before these consultations we met with a number of agencies and so on, like the chambers, the coalition of service industry, the contractors association. All those were done before the stakeholder engagements. So, that is the second aspect of meeting.

And the third aspect is our face to face meetings, and we have had, as you would have seen in the reports, several face to face meetings in terms of the various Ministries. For example, like this afternoon at 2.00 o'clock we are meeting with the Ministry of Agriculture, Land and Fisheries, the deputy PS and a team from the Ministry of Agriculture, Land and Fisheries. So that is ongoing. We have also met with a number of the special purpose companies. On Tuesday we would have met with National Flour Mills, we are meeting with UDeCoTT, NIPDEC, NP, all these are ongoing, and these face to face interactions are to deal with details as to how they are going to be ready for the implementation and the full proclamation of the Act.

So the detailed discussion is where we believe we are gathering more momentum in terms getting ready for the proclamation. The intention is, one is to sensitize the various constituents. Make them aware of what is taking place with the Act. And you would have also seen a number of public advisories that we would have published in newspaper, again to sensitize the public. So, that is one aspect, sensitization. When we have completed the revised version of the handbook and guidelines we propose to have a number of other stakeholder engagements to roll out the handbooks and guidelines, and that would be part of a sensitization programme mixed with a training aspect to upskill those who will require that upskilling. So, we are doing it on a number of fronts, and that is some of the main areas that we are addressing.

Mr. Chairman: I just want to, before I switch to Sen. Obika. Well, first I should have thanked you for the submission that was made. It was very comprehensive, and it has assisted us a lot in terms of understanding what you are doing. I want to ask you realistically, what do you see as a possible time frame for the transition from the current arrangements to the arrangements set out in procurement legislation?

Mr. Lalchan: Thank you, Chair. Some of the critical parts/areas that we were looking at in terms of addressing, would have been the regulations. So that is now completed in draft form, to be submitted to the Ministry. The handbooks and the guidelines, our time frame for the first full draft of the revised version is the end of November. So, those are critical elements in terms of required for the full proclamation. Our recommendation would be to go for full proclamation after we have the regulations passed in Parliament. That will give us a time frame somewhere about, probably the end of February we are looking at. The database that we have gone out for tender for, has a closing date for full completion by the end of February next year also. The database will also be critical in terms of for reporting, and also in terms of prequalification of contractors.

So, we are looking at the end of February. Realistically, I think we should be fully operational and up and running by the end of March. That does not mean, and we are very sensitive to the requirements of a number of bodies in the public entities being ready. We will have to grant some transition period. I would suggestion after March of 2019, and the suggestion is about a six-month period to get the full transition. During that period we will use to upskill and work on getting the Ministry and the various public bodies as much prepared as possible. We cannot wait too long, because the longer it drags out, I think we become complacent after the full proclamation.

Mr. Chairman: Now, the legislation gives you the power to have a transition

period? Does it?

Mr. Lalchan: Yes, it does, 64(1) has to do with the Central Tenders Board transition.

Mr. Chairman: Right. I am happy that you laid out that timeline, because going back to what Ministry of Finance said, and your document, you have identified section 13(1), which gives you the responsibility to set the training standards and the competence levels and so on. You have also said in that submission that you expect that the assessment of competency levels in the public sector will be completed by March 31, 2019. So it means, after that, when you have received the assessments you would then, based on your timeline, use the six-month period to up-skill and to develop the competence? That is the idea?

Mr. Lalchan: Yes. Chair, what we have done is we have already drafted what we consider to be the key elements of the capacity development. And the capacity development will be at different levels. Some of the agencies would already be ready for full proclamation, for example, the larger public bodies or what we call the special purpose companies. And that is why you would have seen we have been meeting with these special purpose companies on a regular basis. In fact, some of them have already passed on their draft handbooks and guidelines to us to review. We have put it on hold because we wanted to get the regulations completed. Once the regulations are completed we can then go ahead, and they will be ready.

Mr. Chairman: So the training standards and competency levels would be in the form of regulations, or would it be policy documents within the office of the regulator?

Mr. Lalchan: It will be on four scales. One, to bring awareness in terms of what is required under the Act. The regulation forms are the second pillar. The third pillar would be the handbooks, and the fourth pillar would be the guidelines.

Mr. Chairman: But which of those address the training standards and the competency levels for the Ministries and the agencies and so on?

Mr. Lalchan: It would be the handbook and the guidelines.

Mr. Chairman: Okay.

Mr. Lalchan: That is where the rubber really meets the road. That is where the detail comes. That gives you the step by step approach to conduct the affairs of procurement.

Mr. Chairman: And my final question before I move to Sen. Obika, are you contemplating making the Act applicable to certain entities or all?

Mr. Lalchan: I think it will be all.

Mr. Chairman: Right. But the Act—does the Act give you the power to, in your transition, to make it applicable to those entities that you believe are in a position to comply with the requirements of the Act?

Mr. Lalchan: I am not sure, Chair. I will need to check that and probably revert—upon full proclamation it is expected that everybody will be required to follow the requirements of the Act.

Mr. Chairman: Okay.

Mr. Lalchan: So, that is clear. What I am saying is that some of the bodies may not be fully up-skilled, and we will have to work with these bodies in getting them ready over that transition period.

Mr. Chairman: Okay, thank you very much. I will hand over to Sen. Obika.

Mr. Obika: Thank you, Chair. I have this question, it is the same question, but more of the prior questions, but to the Ministry of Finance. It has to do with the estimated timeframe for the winding up or dissolving of the Central Tenders Board, and the status of the temporary accommodation of staff at CTB? Madam PS.

Mrs. Durham-Kissoon: Thank you member. Through you, Chair, the Central

Tenders Board Act, according to the legislation, will be repealed upon proclamation of the Act—the procurement Act. So, the Central Tenders Board continues to function until such time, that said, the Ministry of Finance is working with the Central Tenders Board and for the tenders board so that officers can exercise their options under the Act, so that there will be a smooth transition. The Ministry of Finance is working with respect to getting all pension and leave records updated. As you would appreciate, once the Central Tenders Board is dissolved we need to ensure that officers' pension benefits are fully there. Well, their records are intact and their benefits can be calculated as of that time. The timing—if you understand pension and leave, has to be calculated up to a particular time, and until such time as—until we have a cut-off date, it is a moving target. So, we are working with that. We have told our divisions and all Ministries to prepare, have those records prepared, so that up to—we keep moving the date, as of now we said up to the end of the calendar year, so that records will be up-to-date and probably would just need to be further updated up to the time that the date is given to us.

Mr. Obika: And also the status of the temporary accommodation of staff assigned to CTB?

Mrs. Durham-Kissoon: The Central Tenders Board continues to function in their facilities in upper Frederick Street. So that their work is not interrupted, and they continue to operate from those premises.

Mr. Obika: A follow-up question and from this, after your answer, I would go to the Procurement Regulator. It has to do with staff morale and tenure, and if you can give an idea as to what type of tenure they have, whether it be contracts? Short-term, two years? Five years? Or, if they are permanent on the establishment at the Central Tenders Board? I assume that they are permanent based on the pension arrangement. The other question would be, given that they are winding up, is there any exodus of

any type of staff from the CTB? Are they anticipating being rehired in the new procurement regulator or are they being prepared for exit? And if not, or if so, how is the Ministry supporting the career aspirations of those persons at the CTB?

Mrs. Durham-Kissoon: Thank you for the question. Through you, Vice-Chair. The tenure of the officers—I do not have the establishment before me, but the Central Tenders Board comprises various classes of officers. Maybe I can deal with the officers who are most known to us. The officers called contracts officers, and when I say contracts officers I am not saying officers who are on contract employment. Those are officers—that is their designation and they are the ones who actually manage directly the procurement process. Most of them are substantive in their positions. Most of them, if not all—I mean I can get this information for you, but they are acting in higher positions. There are also officers who are acting outside of the Central Tenders Board in higher positions, and there are also officers, particularly in the clerical stream and secretarial stream who are acting within the Central Tenders Board.

With respect to exodus, the officers—there has been retirement. We have seen two directors of contract and at least one assistant director of contracts, they proceeded on retirement. We have an acting director and an acting assistant director of contracts at the moment. The morale—as we would expect the officers are anxious. We try to reassure them as in accordance with the Act that they will be offered nothing less than what they presently hold. With respect to the technical officers, the contracts officers, the demand for their services in the wider Ministries is greater than the supply. So, we do not anticipate that for those officers who choose to remain in the wider public service, we do not anticipate any problems there. For the officers in the administrative, clerical and other classes, for those who choose to remain in the wider public service, we will work internally, and with the Service

Commissions department to ensure that they are placed in accordance with their seniority. And I spoke to preparation of pension and leave, that is ongoing. I think—

Mr. Obika: I think you answered every question, so I thank you, Madam PS. So this question now has to deal with the procurement regulator. There are two questions basically that I have there, it has to do with—I think the Chair already asked questions relating to the readiness of Ministries and so on, which really is the work of the regulator. But, regarding the staff requirements, I see here that all staff are employed on a contractual basis for two years. Now, persons at CTB would have had tenure, the majority, based on what the PS, if I am correct, based on what Madam PS just said. And we know that not having tenure can affect someone's functioning, particularly when their contract is about to expire and they are waiting on the CPO to remember that they are there so that they can get some form of extension. What in your view—how in your view is it positive that only two-year contracts have been extended to the staff at the regulator?

Mr. Lalchan: Thank you very much member, and through you, Chair. When we looked at the setting up of the office, the board discussed it at length, and we were not sure as to how this office would eventually pan out in terms of the requirements, we may eventually have to have more investigators, auditors, legal personnel, policy officers, and so on. So, what we did was to decide that we will go with the two-year contract because the ultimate aim is to have permanency in the employees of the office. That is the ultimate aim. Within that two-year period it gives us the opportunity to really assess what will be the requirements of the office going forward. And before the expiry of the two years we will have to make a decision, because we would not wait until the two years has expired to start thinking about the permanency, because then my own staff and the staff at the office will start thinking about whether or not they should leave.

So before that happens we will have to take some decisions at the board level to ensure what the organization would eventually look at. Because some of the positions may go into permanent positions, some may remain contract, and some may no longer be required, and we may want to consider outsourcing some of the positions. So that is the reason why we went with two-year contracts. Nothing prevents us from incorporating any member of the Central Tenders Board, because we also have a provision under the Act, if somebody from the Service Commission, I believe, wishes or is successful, they can be seconded into the office at the same terms and conditions and the superannuation benefits and so on will be held intact, and they can be seconded for up to a period of five years. So, those are the things that we will be looking at as we move forward. But it is really to settle the organization, get the necessary skills that we believe is required at this stage, and then as we move forward to determine which positions will become permanent.

Mr. Obika: I want to put it to you chair that apart from public servants who are on secondment, because they still have tenure—if anything happens at the end of their contract, if it is not renewed, they can revert to their substantive post in the public service—having myself worked in the public service on contract in a position that was supposed to have been made a permanent position, and I started in that position in 2008. That position still, in that particular Ministry, is still subject to the CPO conditions of contract and so on.

10.50 a.m.

And you have—practically everyone who was employed, except one, has moved out of that position because of the insecurity of tenure, when your contract comes to an end you have month-to-month and so on. These persons are going to be responsible for accounting to the public, funds and project in the billions, and I think some positions should be seen as—they would be part of the structure going forward

regardless, some of the positions on the org chart that you presented.

So I believe that the board should look at revisiting that and especially where you have professionals who are coming in or may not be from the public service, they may want to see something like a five to 10 years, but that is more a comment, and I know it is in sync with what you are thinking, it is just that you are considering the positions in question. The question I also have with regarding the positions is on the schedule for the Central Tenders Board. I see, architects, civil engineer, mechanical engineer, quantity surveyor, economist, engineering assistant, draftsman; and on your org chart I am not seeing any of those positions. Can you shed some light?

Mr. Lalchan: Through you, Chair, some of those positions would be, if you look at under the Capacity Development and Policy Development you would see five officers, three in Capacity Development and two under Policy Development. That is where we believe that we would be able to get the benefit of that expertise in terms of developing the policies and procedures and also assisting in capacity development with the various public bodies. So those are the areas.

Additionally, we believe that under the Audit and Investigations Unit where you would see one team lead and four positions, two investigators and two reviewers, we believe that those specific areas also could be addressed there where we have the expertise to go out and conduct audit and investigations, not the traditional type of financial audit and so on, but specific audit in terms of contract management and so on. So those are the areas I believe, those three areas where we can benefit from the expertise.

Mr. Obika: I have one last question and it is regarding any complaints that would have been received by your office even though the Act is not fully proclaimed, because, I mean, in Trinidad and Tobago there have been questions asked about

certain billion dollar projects and multi-million dollar projects, such as purchasing of the ferry for Tobago, for example, in particular. Have you received any complaints and have you dealt with it in any form or fashion?

Mr. Lalchan: Through you, Chair, yes, we have—not only received complaints member, through you, Chair, but also what we have been doing is monitoring on a daily basis some of the issues in the public domain. Although we cannot start investigation and so on, because the Act is not fully proclaimed, what we have done is to set up files for all the complaints that we have been having and also responding to the persons who have complaints and giving them the assurance that once the Act is fully proclaimed and we do have jurisdiction we will exercise that jurisdiction. We have a number of the issues in the public domain that we have been tracking and as information comes to us, simple things as extracting it from the news, taking the newspapers, the clippings and so on, and we are preparing permanent files on those issues for the eventual, whether or not they fall under the jurisdiction we will then exercise our option.

Mr. Chairman: Okay, thank you very much. What I have—member Gayadeen-Gopeesingh has some enclosing questions to ask and then I just want to direct you to three areas for—just some updates before we close. So I hand you over to MP Gayadeen-Gopeesingh.

Mrs. Gayadeen-Gopeesingh: Thank you, Chair. Mr. Lalchan just to follow-up with Sen. Taharqa. You said that you are setting up files with respect to some complaints and so, that you are closely monitoring some of these complaints that people are bringing forward. When the Act is proclaimed can you retroactively deal with those complaints?

Mr. Lalchan: Thank you very much member. Through you, Chair, what we have done, under section 70 we have requested, and two opinions we have gotten so far,

one from the hon. Attorney General in respect of how do we interpret section 70 and another from an independent Senior Counsel, giving us the interpretation of section 70, whether or not we will have the jurisdiction to go before the full proclamation and open up any case that would have been in transition. We have only recently gotten the opinion from Senior Counsel which we will be discussing at our board meeting on Wednesday coming. At that stage we will then decide, based on the opinion, because my legal advisors and so on will still have to interpret for the board what is our jurisdiction. So we have taken that step in getting legal advice as to how we proceed.

Mrs. Gayadeen-Gopeesingh: I am just asking questions that were already enunciated and advance here. So that is why I am just asking follow-up questions. You know anytime we want to get into a new venture we always talk about best practice. Are you using any model, perhaps international, that is guiding the OPR with respect to public procurement?

Mr. Lalchan: Through you, Chair, what we found when we took up our positions, the UNDP was given the mandate to assist in the preparation of, like the handbooks and the guidelines and so on. So those we believe were very comprehensive and they incorporated a lot of best practice from various jurisdictions. In fact, when you look at some of the handbooks you would almost see entire sections coming to bear on the handbooks and the guidelines. So that is one part of it.

When we went out to get a professional person to assist us in the regulations we got a very eminently qualified person who has worked in over 60 something countries and that person brought a lot of the best practice internationally to help us. Not only did he help us with the regulations in the drafting and so on, but he gave us some very good suggestions in terms of how we could improve in terms of the handbooks and the guidelines and we have taken all those on board.

So the answer is, yes, we have gotten best practice from the international consultants and also from the UNDP in all the good work they would have done in preparing us to take office. We also had offer from the IADB in terms of assisting us with the e-procurement aspect and bringing best practice, which is something that we are looking at, also in conjunction with the databases. How do we bring to bear some of the electronic procurement systems that is out there and already in operation in various jurisdictions?

Mrs. Gayadeen-Gopeesingh: And I will ask my final question. You also spoke about four different pillars, one you said was the handbooks. You have to do so many different aspects in putting and pulling these things together in a more cohesive way. Do you have any restraints, what are the limiting factors with respect to money? Do we have money to do all these things?

Mr. Lalchan: I must say our friends in the Ministry of Finance have us adequately financed. We do have and we have gotten the draw-down that was set aside for the operation of the OPR for the 2017/2018 period and we have already received our first draw-down for the 2018/2019 period and I believe based on our experience so far we will be adequately funded.

Mrs. Gayadeen-Gopeesingh: That is very good news.

Mr. Lalchan: Thank you.

Mr. Chairman: Thank you very much Mr. Lalchan. I just want to close by asking you very quickly about three areas. One is the issue of disposal. Now, disposal now includes the disposal of land by the State. But I am more focused on this vexing issue of disposal of fixed assets by the State. As you go around the country you will see, and as you go in the compounds of Ministries, you see derelict vehicles, discarded computers, small items—the current arrangement for disposal is very frustrating for Ministries. I want to ask if you have addressed your mind to this issue

of disposal, not State land. I understand that regulations would govern disposal. That is one.

Second is this—in your response to us you have identified two areas in which the legislation should be amended and you have used very strong language in terms of the need for that. You have also said it has been brought to the attention of the Ministry of Finance, so I just want to ask you about if you have anything further on those two amendments. And the third area I would get to when you deal with the first two.

Mr. Lalchan: Thank you very much Chair. The first one, the disposal of assets. Under the guidelines and handbooks, we are recommending procurement and disposal committees for each public body. And that committee will be responsible for developing the internal procedures to be followed in conjunction with the office, because every procedure under the guidelines and handbooks must be approved by the office. So the recommendation is to set up these procurement and disposal committees to deal with the disposal. It will be guided by the regulations that we have put in place in terms of the disposal and also the handbooks and guidelines will cover the detailed process to be followed. So the answer is yes. Because we have been getting a lot of request for multi-million write-off in terms of the disposal and it seems to be that a number of these things are being held in abeyance until we get to a position that they feel comfortable to go ahead and dispose of it. So that is the first answer to your questions, Chair.

The second one, in terms of the two issues that we would have mentioned under 16, 17 and 18, one is, during the discussion with the consultant in the forum, he indicated that the Act specifically speaks to when you enter into these Government to Government relationships and so on, if there is any issue with procurement, procurement has to follow the Act. The international lending agencies

themselves require that you follow their process. And we believe that there may be some concerns in terms of conflict where either you follow the international lending agencies' requirements or you follow the Act and therefore there could be some contention as to whether or not the funding will be released. That does not necessarily mean that the Act has to be amended. However, we have to be aware that that could be a concern and that is why we brought it to the attention of the Ministry of Finance to deal with it at that level.

So the other area is really a red flag that we were flagging in terms of—in some cases like international procurement when you are dealing with some of the big companies, they come with their standard form of contracts and therefore you are almost required to follow their standard form of contracts. And what we are saying is that some of the requests for proposal may not include our standard form of contract and we are at their beckon. We are saying that this is something that we need to be aware of, but we believe that we will have mitigating steps that we can put in the handbooks and guidelines in terms of mitigating that so that the public bodies are not disadvantaged. Because sometimes you almost feel that you have to accept everything wholesale but we need to put necessary mechanisms in place so we safeguard the public entities in terms of our standard terms and conditions of the contract. So those were the two issues really that we highlighted.

Mr. Chairman: Okay, and the next area deals with—in the Act and in your operation you are likely to come across issues, you definitely will come across issues dealing with IT security, data privacy, cybercrime and separately, the issues of whistle-blowing and conflicts of interest. So I know you have engaged a Chief Information Officer; I wanted to know in the context of cybercrime legislation, for example, which is the subject of a Joint Select Committee that is sitting at this time, if you have examined the proposed Bill and if you believe that there are things in

there that you need to address and on the wider issue of data security, IT security and data privacy given the operations of the Regulator.

Mr. Lalchan: In terms of the new proposed Act I know our Corporate Secretary would have highlighted that to us, both that and the whistle-blowing Act also. So she has sent the information to us. We have not had the time as yet to go through it. In the preparation of our data bases one of the requirements that we have put forward in terms of internal control has to do with the issue of, not only cyber security but any issue in terms of accessibility and all these different things. Simple things like as to where we keep our permanent records, whether it is in the Cloud, or on premise, and where would that information be held eventually, whether we are happy with where the Cloud is being permanently housed.

So those are the things, the issues that—and in the request for proposal for our database requirements we have stipulated specifically what internal control mechanism that we require to safeguard the data. Not only that, but as an extension to that the public bodies now—in fact, the biggest fine under the Act is in terms of the record keeping, because it carries a fine, I believe of $5 million and 10 years imprisonment. So we have to work very closely with the public bodies in terms of that aspect also of security of information. So IT information is one aspect but on the whole we are looking at the overall aspect of record-keeping, retention and submission back to the office and so on. So it is a comprehensive view that we are taking in terms of security of documentation and information technology.

Mr. Chairman: I want to thank you. I want to invite the Ministry of Finance first and then the Office of the Procurement Regulator to make closing comments before we close.

Mrs. Durham-Kissoon: Thank you, Chair. We want to thank you and the Committee for inviting us here this morning to clarify issues with respect to the roll-

out of the implementation, procurement regime. This is an exciting time. We are on the cusp of a new era, and we look forward to facilitating the work of the office and also to benefit from the guidelines, both general and special that the Regulator may approve. Thank you very much.

Mr. Lalchan: Thank you very much, Chair and members of the Committee. Since the appointment of the board we have been working very hard to get things in place towards full proclamation and we really appreciate having to share with not only the members of the Committee but the national listening audience and viewing audience. I want to take this opportunity to really thank the Ministry of Finance and all the other Ministries who have been assisting us; all the stakeholders in all the public consultations, they have been very, very, helpful; the UNDP, the IADB. And lastly, I want to really thank my staff and members of the board. For the first three months—literally had to sit sometimes coffee shops while we get our accommodation, to get the office running. The Office of the Parliament that assisted us in accommodation, in terms of meeting rooms and so on, for the first three months of our board meeting. So I really want to say thanks.

And in closing for the listening audience, this is a gift I believe—the Procurement Act—that was given to this country and we all have a part to play in making sure that this becomes reality. Are we going to really continue to be same agent or change agent. This is a gift that we have to really take on board, leave a legacy for our children and our grandchildren and this nation. I thank you, Chairman and members of the Committee.

Mr. Chairman: Thank you very much. As we close I want to thank the media, the persons in the public gallery for attending, and for those who have been viewing and listening to the broadcast. I want to thank the Ministry of Finance and the Office of the Procurement Regulator. Most importantly, I want to thank my colleagues, Sen.

Obika and MP Gayadeen-Gopeesingh. We all have competing schedules even within the Parliament. Right now we have another Joint Select Committee, some of us would have been required to sit there also if we could split ourselves in two, and I am very grateful to have them attending and, of course, the support from the Secretariat of the Parliament. I want to thank you very much.

11.09 a.m.: *Meeting adjourned*.