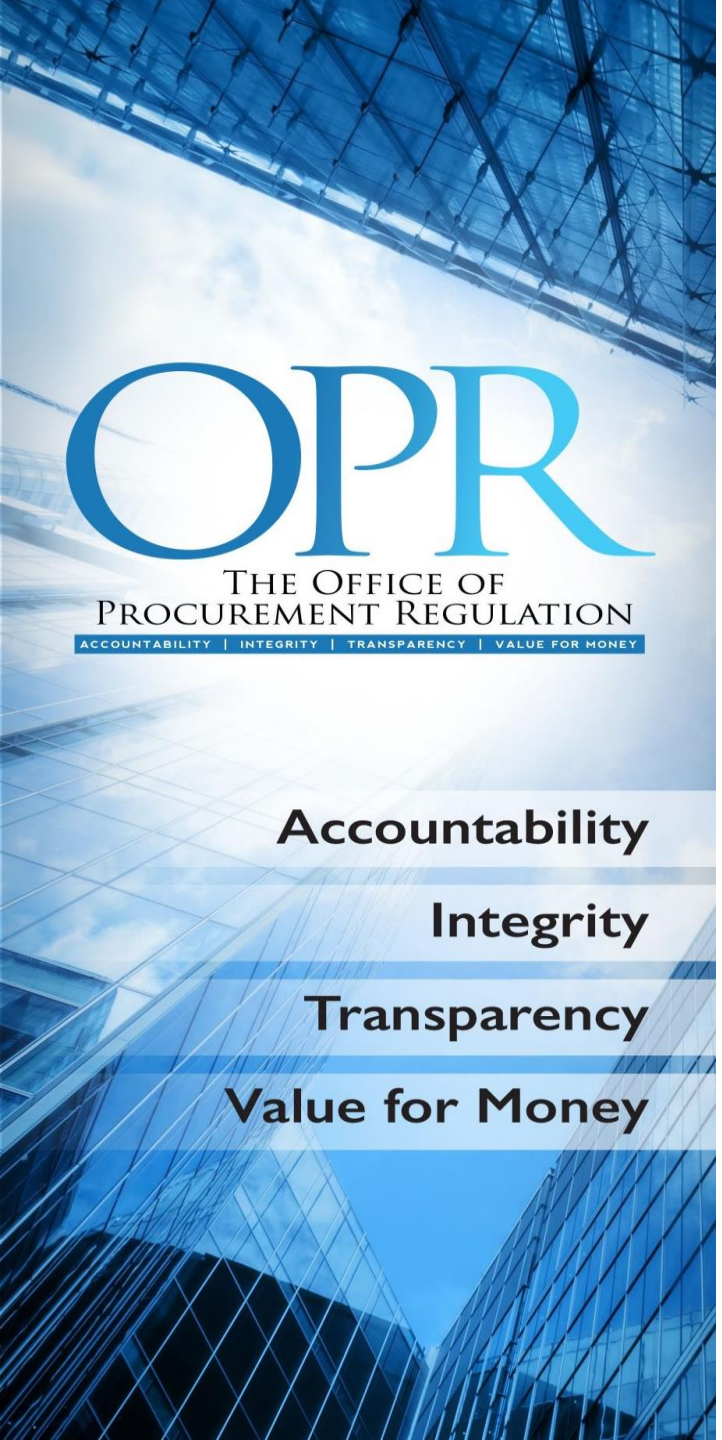



# SENSITISATION SESSION FOR NATIONAL QUALITY COUNCIL

## Public Procurement & Disposal of Public Property Act

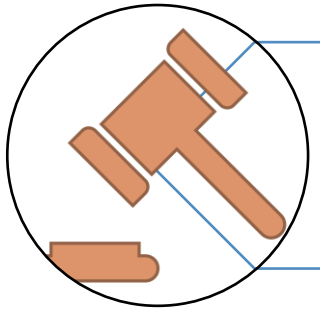
PRESENTERS: MR. MOONILAL LALCHAN
MS. MAURISSA SHARI DE LA ROSA

DATE: 11TH AUGUST 2021

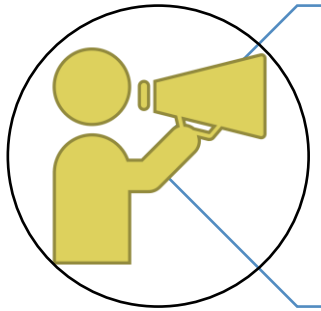
# AGENDA

I. OBJECTIVES
II. THE ACT, AMENDMENTS & IMPLICATIONS
III. STATUS OF THE ACT & DRAFT REGULATIONS
IV. THE MANDATE OF THE NATIONAL QUALITY COUNCIL (NQC) & THE ACT
V. REFERENCES

# OBJECTIVES

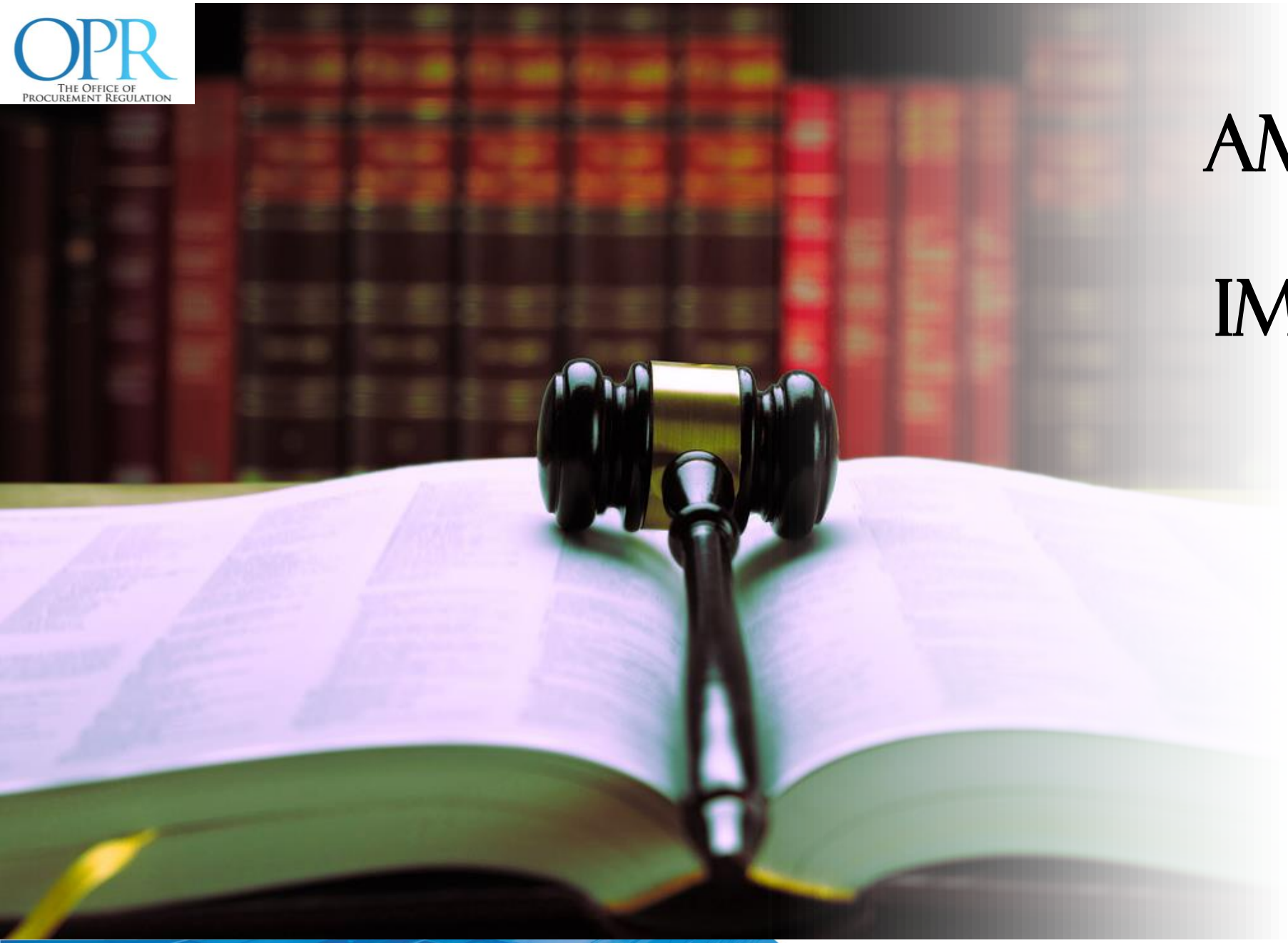


To sensitise National Quality Council about the Act, 2015 (as amended) and Draft Regulations

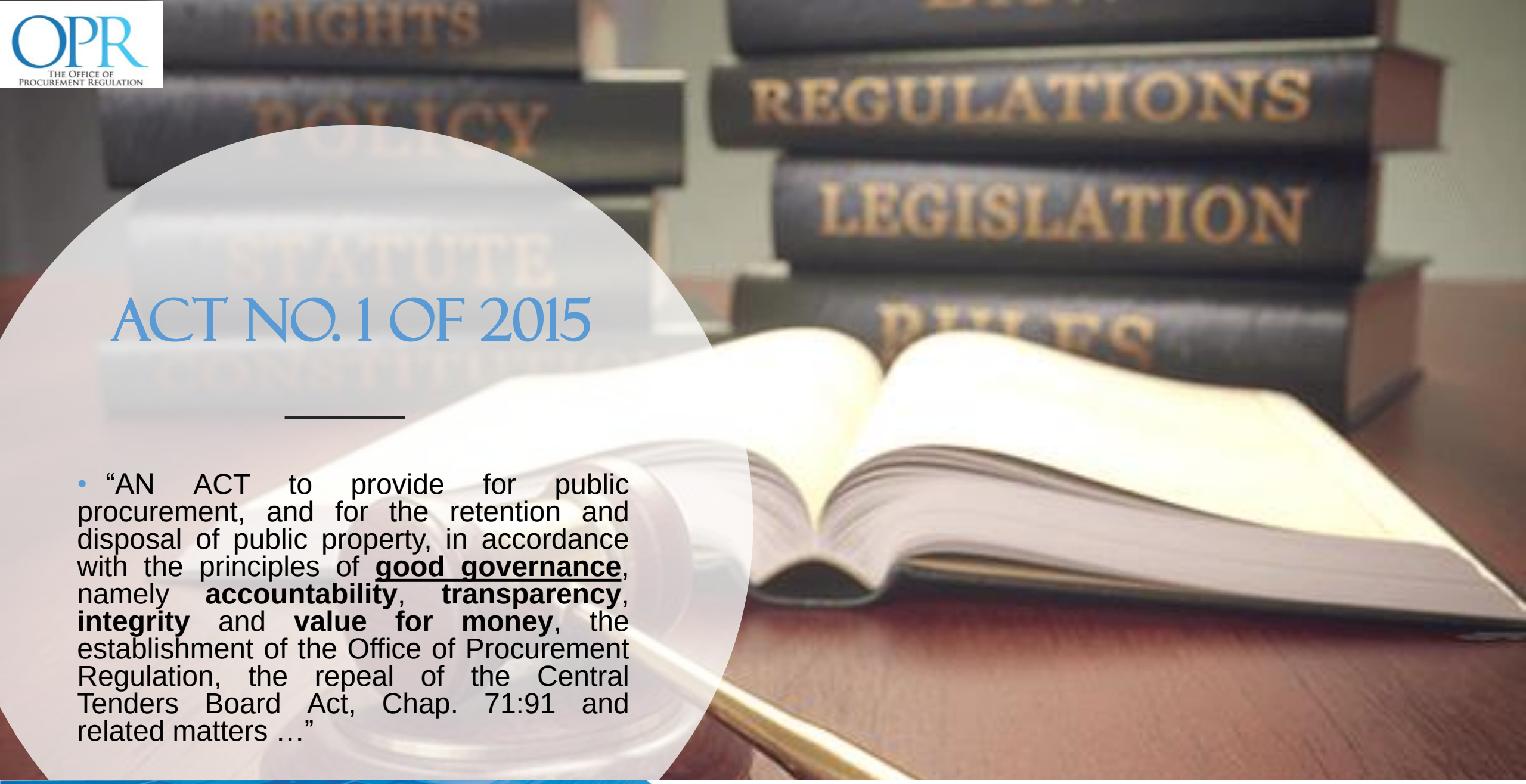


To highlight the aspects of the Act that will impact the mandate of the National Quality Council

OPR
THE OFFICE OF PROCUREMENT REGULATION



# THE ACT, AMENDMENTS & IMPLICATIONS




# ACT NO. 1 OF 2015

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

# PUBLIC PROCUREMENT LEGISLATION

***The Act covers all procurement and disposal actions involving public monies and public property. The Act therefore applies to all public bodies identified in Section 4.***

## Section 64 of the Act

- Provides for the repealing of the CTB Act and the transference of the existing procurement proceedings to the purview of the OPR

## *Act No.5 of 2016*

- Review Board to review decisions made by the Office of Procurement Regulation

***Each public body will be obligated to establish its own Procurement Department with the Accounting Officer (Permanent Secretary) accountable for contracts regardless of size***

# PUBLIC BODIES

Brings all bodies spending Public Money under a single regulatory framework that covers all stages of the procurement process.

- The Office of the President
- Parliament
- The Judiciary
- A Ministry or a department or division of a Ministry
- The Trinidad House of Assembly (THA) or a division of the THA
- A municipal corporation
  A Regional Health Authority (RHA)

OPR
THE OFFICE OF PROCUREMENT REGULATION

# PUBLIC BODIES (CONT'D)

A statutory body

A State-controlled enterprise

A service commission

A body corporate or incorporate, established by the President, a Minister or another public authority, performing a function on behalf of the State

A body corporate or incorporate that uses public money

# OBJECTS OF THE ACT

| Principle | Definition |
|---|---|
| Accountability | Allows interested party to ensure that the objectives are being achieved. |
| Integrity | Avoiding corruption and conflicts of interest. |
| Transparency | Appropriate information is placed in the public domain. |
| Value for Money | Includes the value derived from the optimal balance of outcomes and input costs on the basis of the total cost of supply, maintenance and sustainable use. |
| Efficiency | Achieving procurement objectives within reasonable time and cost. |
| Fairness | Level playing field, where all suppliers or contractors are treated equally. |
| Equity | All suppliers or contractors have a fair chance of winning the contract. |
| Public Confidence | Trust and confidence in the integrity of the procurement process. |

# OBJECTS OF THE ACT (CONT'D)

| Principle | Definition |
|---|---|
| Local Industry Development | Includes those activities that serve to enhance local capacity and competitiveness by involvement and participation of local persons, firms and capital market and knowledge transfer during the conduct of the programme of goods, works or services that are being procured. |
| Sustainable Procurement | A process whereby public bodies meet their needs for goods, works or services in a way that achieves value for money on a long-term basis in terms of generating benefits not only to the public body, but also to the economy and wider society, whilst minimising damage to the environment. |
| Sustainable Development | Developmental projects that meet the needs of the present without compromising the ability of future generations to meet their own needs. |

OPR
THE OFFICE OF PROCUREMENT REGULATION

# WHO IS THE OPR?

The Office of Procurement Regulation ("the OPR") is established by the Public Procurement and Disposal of Public Property Act, 2015 as amended ("the Act").

It is a regulatory body governed by an independent board appointed by the President of Trinidad and Tobago after consultation with the Prime Minister and the Leader of the Opposition.

The Board was appointed on January 12, 2018 and comprises eleven members in accordance with Section 10 of the Act.

The independence of the OPR is made clear in Section 13(2)(b) of the Act which states that the OPR shall "not be subject to the direction or control of any other person or authority in the performance of its functions but shall be accountable to the Parliament."

# THE ROLE OF THE OPR

Responsibility for oversight and control rests with the **OPR** which is headed by the **Procurement Regulator** and managed by a Board both appointed by the President – **Sections 10 & 14**

The **OPR** shall issue guidelines, model Handbooks and standard bidding documents for use in public procurement and shall review special guidelines & handbooks for use by public bodies **– Section 13**

The **OPR** shall establish a comprehensive database of information on public procurement and tenders received, award and values of contracts **– Section 13**

The **OPR** shall set training standards, competence levels and certification requirements to promote best practice in procurement **– Section 13**

The **OPR** shall prepare and maintain a Database of pre-qualified suppliers or contractors **– Section 13**

The **OPR** shall establish the Procurement Depository to which suppliers or contractors can submit information with respect to qualifications and experience – **Section 26**

# THE ROLE OF THE OPR (CONT'D)

The OPR shall prepare prepare, update and issue model handbooks, incorporating standardized bidding documents, procedural forms and relevant documents– **Sections 13**

The **OPR** shall approve, in respect of each procuring entity, special guidelines and handbooks in relation to public procurement and the retention and disposal of public property **– Section 13**

The **OPR** shall promote the use of technology in public procurement and the retention and disposal of public property **– Section 13**

The **OPR** shall provide best practice advice in the conduct of procurement activities, including the promotion of electronic transactions **– Section 13**

The **OPR** shall harmonise policies, systems and practices in relation to public procurement activities and the disposal of public property **– Section 13**

The **OPR** shall review procurement practices and delivery systems on an annual basis to identify best practices – **Section 13**

# THE ROLE OF THE OPR (CONT'D)

The OPR shall promote the awareness of public bodies and the public to issues relating to public procurement and disposal of public property– **Sections 13**

The **OPR** shall undertake research and surveys with respect to public procurement and disposal of public property **– Section 13**

The **OPR** 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 **– Section 13**

The **OPR** shall create and publish standard form contracts for public procurement and disposal of public property **– Section 13**

The **OPR** shall prepare and maintain a list of pre-qualified mediators, arbitrators and experts for the purposes of alternative dispute resolution under this Act; **– Section 13**

The **OPR** shall provide advice on best practice on the aggregation of the procurement or disposal of goods for the purpose of obtaining value for money – **Section 13**

# THE OPR'S COMPLIANCE & ENFORCEMENT ROLE

- Any procuring of goods, works and services or retention or disposal of public property that is not done in accordance with the Act shall be void and illegal **– Section 6.**
- The **OPR** may conduct audits and periodic inspection of public bodies and issue directions to them – **Sections 13 & 14**
- The **OPR** has the power to investigate any alleged breaches of the **Act** and if of the view that an offence has been committed shall make a report to the **Director of Public Prosecutions Sections 41 – 48**
- The **OPR** must submit an Annual Report to the Parliament including the total number and value of contracts awarded by public bodies, the number of unfulfilled procurement contracts and those bodies that have failed to comply with the Act. – **Section 24.**

# ANNUAL PROCUREMENT PLAN HIGHLIGHTS FROM THE ACT

- A procuring entity shall— (a) no later than six (6) weeks after the approval of the National Budget, publish on its website or in any other electronic format, information regarding all planned procurement activities for the following twelve months; (b) update the information referred to in paragraph (a) as necessary; and (c) provide a printed copy of the information referred to in paragraph (a) upon request and payment of the prescribed fee – Section 27 (1)

- Where the information referred to in subsection (1) is unavailable or not forthcoming, a complaint may be made to the Office which shall conduct an investigation in accordance with section 41, and if justified, grant an extension of time or issue such direction as it thinks fit – Section 27 (2)

# PROCUREMENT DEPOSITORY
## HIGHLIGHTS FROM THE ACT

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

The Procurement Depository shall be accessible by the public for viewing – Section 26 (2)

A supplier or contractor who submits information to the Procurement Depository shall be responsible for ensuring its accuracy – Section 26 (3)

In conducting its due diligence, pursuant to section 29(1)(e), a procuring entity may require a supplier or contractor who has submitted information to the Procurement Depository to confirm the accuracy of the information submitted – Section 26 (4)

# PRE-QUALIFICATION
## HIGHLIGHTS FROM THE ACT

- Pre-qualification: the procedure to identify, prior to solicitation, suppliers or contractors who are qualified – Section 4
- A procuring entity shall ensure that suppliers and contractors – Section 29 (1)

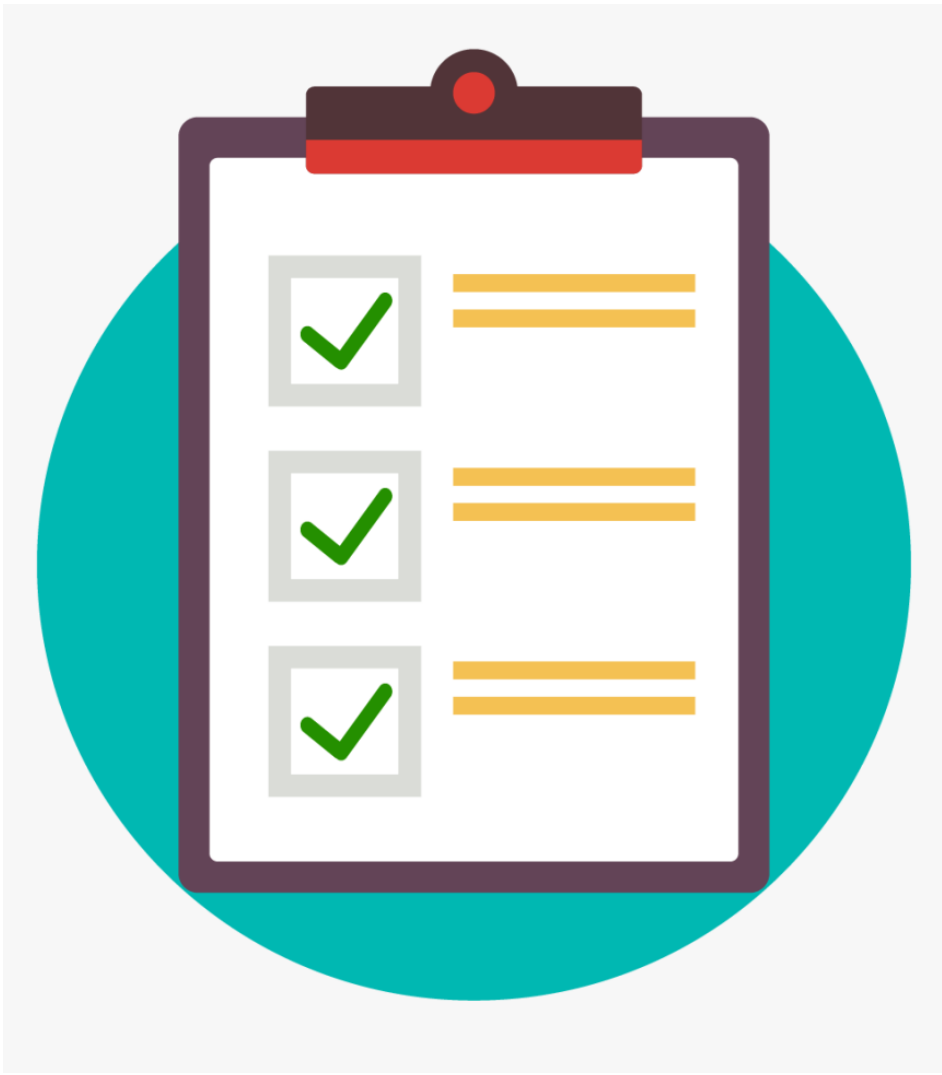
(a) have the legal capacity to enter into the procurement contract;

(b) are not insolvent, in receivership, bankrupt or being wound up, their affairs are not being administered by a court or a judicial officer, their business activities have not been suspended and they are not the subject of legal proceedings for any of the foregoing;

(c) have not been convicted within the past ten years of corruption or fraud related offences locally or internationally-

(i) as individuals; or

(ii) as directors or officers of a company;



# PRE-QUALIFICATION – (CONT'D)
## HIGHLIGHTS FROM THE ACT

- A procuring entity shall ensure that suppliers or contractors – Section 29 (1)

(d) have fulfilled their obligations to pay all required taxes and contributions in Trinidad and Tobago;

(e) have the necessary professional and technical qualifications and competence, financial resources, equipment and other physical facilities, managerial capability, reliability, experience and personnel to perform the procurement contract; and

(f) meet relevant industry standards.

- Any requirement established pursuant to this section shall be set out in the pre-qualification or pre-selection documents, if any, and in the solicitation documents and shall apply equally to all suppliers or contractors – Section 29 (3)

# STANDSTILL PERIOD
## HIGHLIGHTS FROM THE ACT

"Standstill period" means the period from the dispatch of a notice as required by section 35(2), during which a procuring entity cannot accept the successful submission and suppliers or contractors can challenge the decision so notified – Section 4

A procuring entity shall promptly notify each supplier or contractor who presented submissions of its decision to accept the successful submission at the end of the standstill period – Section 35 (2)

Subsection (2) shall not apply to awards of procurement contracts where a procuring entity determines that urgent public interest considerations require the procurement to proceed without a standstill period – Section 35 (4)

# RETENTION AND DISPOSAL HIGHLIGHTS FROM THE ACT

- Disposal of public property includes the transfer without value, sale, lease, concession, or other alienation of property that is owned by a public body – Section 4

- Public property means real or personal property owned by a public body – Section 4

- A public body shall comply with:

a) Such general guidelines in relation to the retention and disposal of stores and equipment of a public body as the Office may issue;

b) Such special guidelines in relation to the retention and disposal of stores and equipment of a public body as the office may approve for that public body

# CHALLENGE PROCEEDINGS
## HIGHLIGHTS FROM THE ACT

- A supplier or contractor may bring challenge proceedings where it is alleged that—

  a) a procuring entity made a decision or took action that is not in compliance with this Act; and
  b) the supplier or contractor has suffered or is likely to suffer loss or injury because of the decision or action of the procuring entity – Section 49 (1)

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

# CHALLENGE PROCEEDINGS (CONT'D)
## HIGHLIGHTS FROM THE ACT

- Applications for review shall be submitted to the Office in writing within the following time periods: (Section 50 (2))

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

b) applications for review of other decisions or actions taken by a procuring entity in the procurement proceedings—

(i) within the standstill period applied pursuant to section 35(2); or

(ii) where no standstill period has been applied, within seven working days after the publication of the notice of the decision or action that is taken in accordance with this Act.

- Within three (3) days of receiving an application for review the Office shall publish a notice of the application in at least two newspapers in daily circulation in Trinidad and Tobago and on its website or any other electronic format – Section 50 (3)

# CHALLENGE PROCEEDINGS (CONT'D)
## HIGHLIGHTS FROM THE ACT

- The Office may, within three (3) days of the receipt of an application for review—

a) Order the suspension of the procurement proceedings at any time before the entry into force of the procurement contract; or

a) Order the suspension of the performance of a procurement contract or the operation of a framework agreement that has entered into force, if and for as long as it finds such a suspension necessary to protect the interests of the applicant – Section 50 (4)

# INELIGIBILITY LIST
## HIGHLIGHTS FROM THE ACT

The ineligibility list is a list of suppliers or contractors who shall not participate in procurement proceedings. Where a supplier or contractor is added to the ineligibility list, the fact of this addition shall be published and communicated to all public bodies.

- The Office may add a supplier or contractor to the ineligibility list where the supplier or contractor – Section 58 (3)

(a) consistently fails to provide satisfactory performance

(b) is found to be indulging in corrupt or fraudulent practices; or

(c) is convicted of an offence under this Act

- A supplier or contractor shall be accorded an adequate opportunity to be heard and to make representation before he is added to the ineligibility list pursuant to this section – Section 58 (5)

# SPECIFIC IMPACT OF ACT ON PUBLIC BODIES

- Removal of the Central Tenders Board –public bodies now have to carry out all procurement and disposal activities – Section 64
- Named Procurement Officer (“NPO”) – Section 61 (2)
- Establishment of Disposal Committee (“DC”) – Section 55
- Establishment of Procurement and Disposal Advisory Committees (“PDAC”) - Part V of the Draft Regulations)
- Development of Annual Procurement Plans (“APPs”) – Section 27
- Approved Procurement Handbooks and Special Guidelines – Section 30
- Implementation of Internal Control Frameworks for Public Procurement

# OFFENCES AND PENALTIES

| Section | Offence | Specified Penalty |
|---|---|---|
| 14 (2) | **Failure to comply** with a direction by the OPR issued under the Act to ensure compliance with the Act (public body or person) | $100,000 |
| 17 (2) | Failure of a member of the Board (OPR) or a Committee constituted by the Board (knowingly or willfully) **to disclose an interest** | $500,000 & 1 Year Imprisonment |
| 31 | Splitting of Procurement | $500,000 & 1 Year Imprisonment |
| 39 | Failure of procuring entity to comply with requirements with respect to confidentiality of information | $500,000 & 1 Year Imprisonment |
| 40 | Victimisation | $500,000 & 1 Year Imprisonment |
| 41 | Failure of a person to report instances of collusion | $500,000 & 1 Year Imprisonment |
| 41 (4) | False report to the Office | $500,000 & 1 Year Imprisonment |
| 46 | Concealing or destroying information required for an investigation | $5Million and 10 Years Imprisonment |
| 52 | Failure to comply with requirements with respect to confidentiality in challenge proceedings | $500,000 & 1 Year Imprisonment |

# OFFENCES AND PENALTIES (CONT'D)

| Section | Offence | Specified Penalty |
|---|---|---|
| 59 (10) | Conduct influencing public officer (**bribery, conflicts of interest, corrupt, fraudulent, collusive, coercive or obstructive practices**) | $1Million & 5 Years Imprisonment |
| 60 (1) | **Bid-rigging**, influencing procurement proceedings | $5Million and 10 Years Imprisonment |
| 60 (2) | **Altering a procurement document** to influence the outcome of the procurement proceedings | $2Million and 7 Years Imprisonment |
| 63 (2) | **Contravention of a regulation made by the Minister** on the recommendation of the OPR (challenge proceedings, ineligibility list) | Up to $1Million & 5 Years Imprisonment |

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THE OFFICE OF PROCUREMENT REGULATION

# STATUS OF THE ACT & DRAFT REGULATIONS

# STATUS

The Office of Procurement Regulation (OPR) met with the Legislative Review Committee (LRC) on the 21st and 22nd of January 2021. Key stakeholders representing the Ministry of Finance (MoF) and the Office of the Chief Parliamentary Council (CPC) were present at these meetings

The OPR was asked to submit its further amendments to the Draft Regulations for consideration based on the OPR's review of the Public Procurement and Disposal of Public Property (Amendment) Act, 2020, i.e. Act No.27 of 2020.

These said amendments to the Draft Regulations were submitted to the LRC and the MoF on Monday January 25, 2021. Therefore, the version of the Regulations on the OPR's website will be updated in due course to reflect the changes made.

The Government of Trinidad and Tobago would move with alacrity in respect of finalising the draft Regulations and having the said Regulations placed before the Parliament for affirmative resolution.

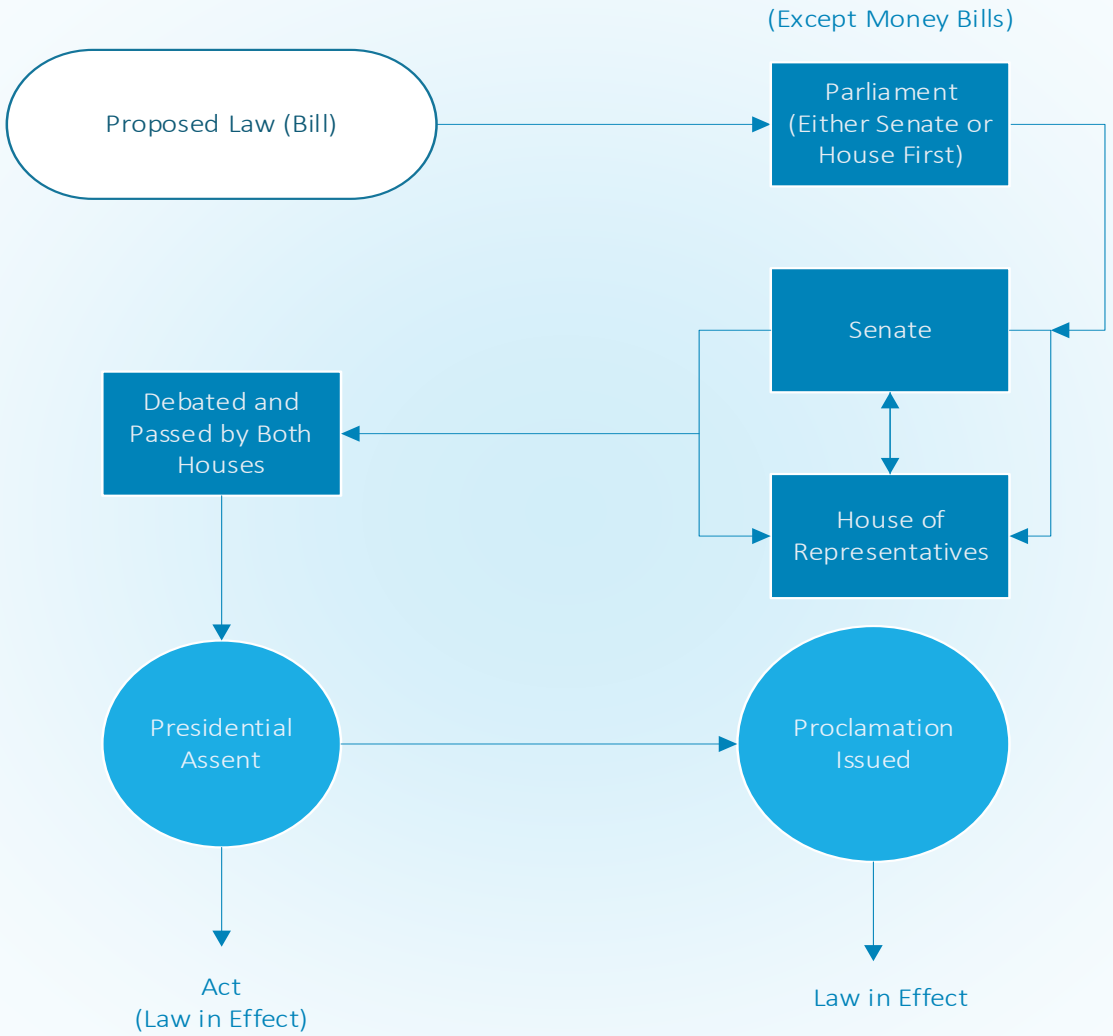
**NEXT STEP:** After the review of the LRC and the CPC has been completed, the next step would be for Cabinet to deliberate on the recommendations of the OPR in the form of the draft Regulations.

# KEY FEATURES OF THE AMENDMENT ACT

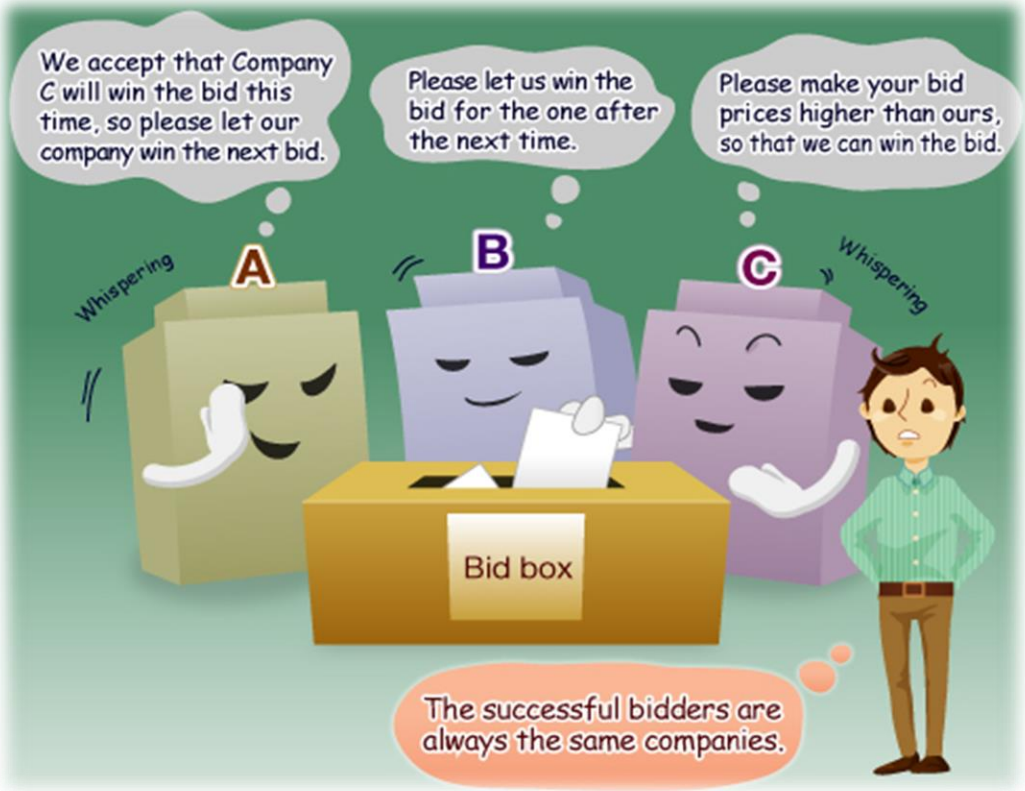
| | |
|---|---|
| First feature | Definition of Bid Rigging |
| Second feature | Section 7 (2) |
| Third feature | Disposal of Public Property |
| Fourth feature | Criminal Offences- Due Diligence |
| Fifth feature | Time of Decision of Review of Action by Entity |
| Sixth feature | Conduct of Influencing Public Officer |
| Seventh feature | Options Available to Public Officers |

# PROCLAMATION

- The Act shall come into effect by proclamation on a date set by the President after she has been advised by Parliament that all necessary action to facilitate same has been done



# BID RIGGING




- **The definition was changed from:**

S4 “collusion between persons for the purpose of manipulating the proceedings”

**To:**

S4 “collusive price-fixing and anti-competitive behaviour which is designed to unfairly influence the outcome of a competitive tender process in favour of one or more bidders”

# SECTION 7 (2)

- The following wording (in red) was deleted:

S7 (2) To the extent that this Act conflicts with an obligation of the State under or arising out of the following:

(a) a treaty or other form of agreement to which Trinidad and Tobago is a party with one or more States or entity within a State;

(b) an agreement entered into by the Government of Trinidad and Tobago with an international financing institution;

(c) an agreement for technical or other cooperation between the Government of Trinidad and Tobago and the Government of a foreign State,

the requirements of the treaty or agreement shall prevail [except that the procurement of goods, works or services shall be governed by this Act and shall promote the socio-economic policies of Trinidad and Tobago and shall adhere to the objects of this Act.]

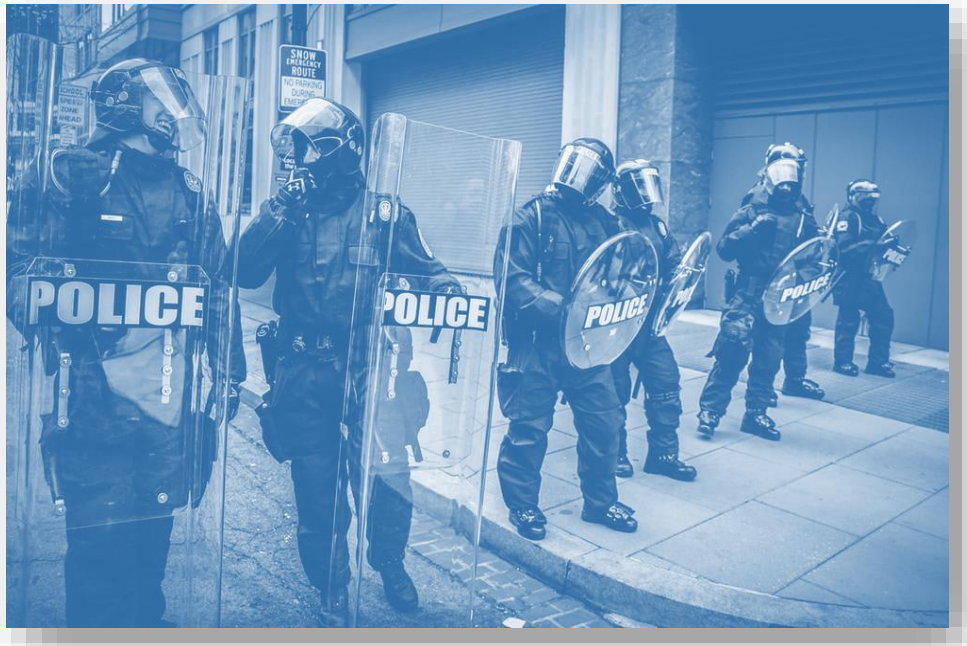
(3) A procuring entity engaged in procurement proceedings relating to a treaty or agreement referred to in subsection (2)(a) shall comply with section 29 and submit a report on such compliance to the Office.

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

# NATIONAL SECURITY EXEMPTION

- "S7 (3) A procuring entity engaged in procurement proceedings relating to a treaty or agreement referred to in subsection (2)(a) shall comply with section 29 and submit a report on such compliance to the Office"

**The above subsection no longer applies to reports related to National Security**



# DISAPPLICABILTY OF THE ACT

The Act shall **no longer** apply to:

- Legal services;
- Debt financing services for the national budget;
- Accounting and auditing services;
- Medical emergency or other scheduled medical services; or
- Such other services as the Minister may, by Order, determine

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

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# DISPOSAL OF PUBLIC PROPERTY

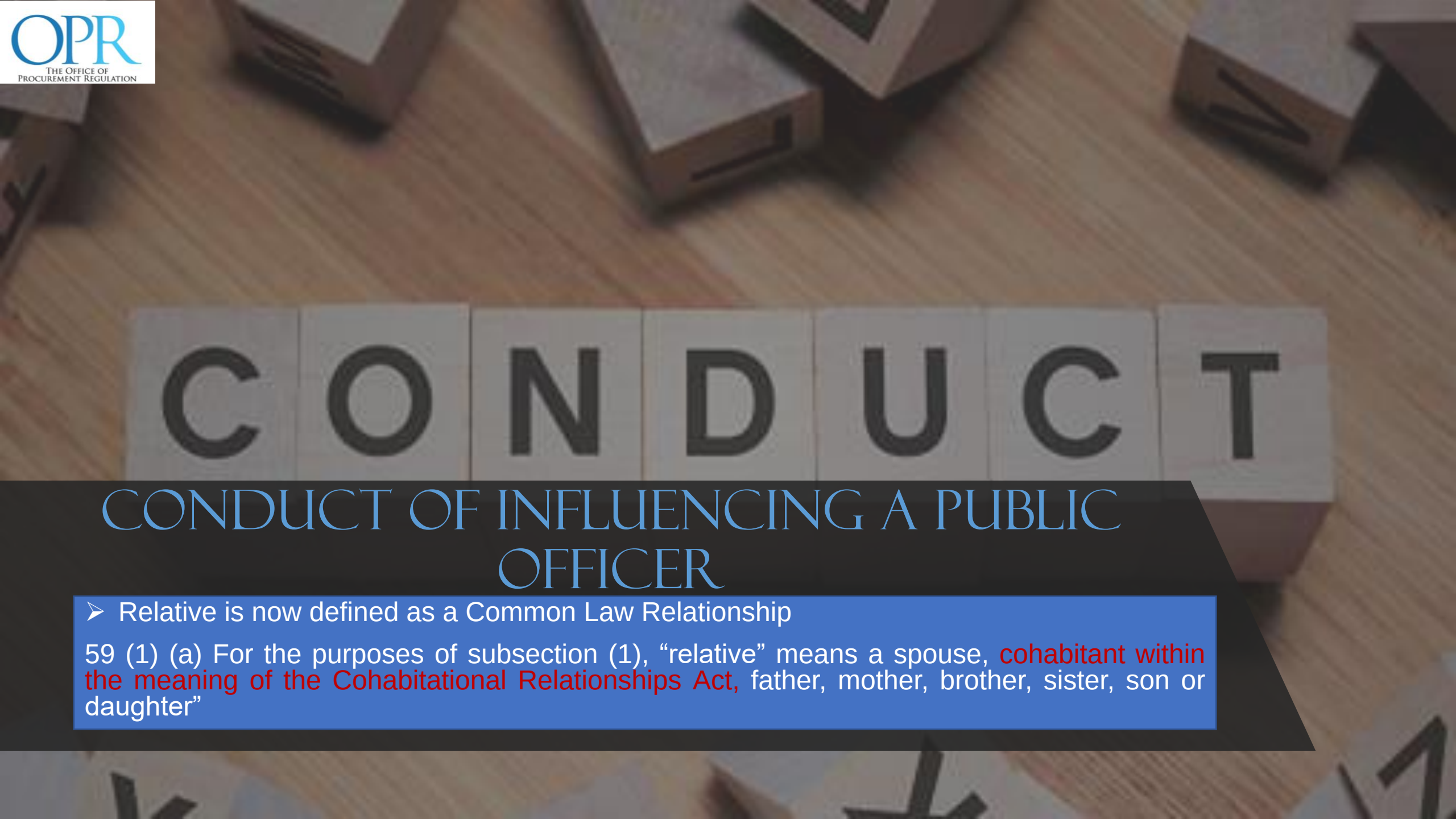
- The Act shall no longer provide for the Office to:

S13 (1) (o) act for, in the name and on behalf of the State to dispose of real property owned by the Government in such manner as the Government may consider appropriate and desirable

# TIME OF DECISION AFTER REVIEW OF ACTION TAKEN BY PROCURING ENTITY

- The Office shall now give all its decisions in **thirty** days S50:

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




# CONDUCT OF INFLUENCING A PUBLIC OFFICER

- Relative is now defined as a Common Law Relationship

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

OPR
THE OFFICE OF PROCUREMENT REGULATION

# THE MANDATE OF THE NATIONAL QUALITY COUNCIL (NQC) & THE ACT

# NQP: KEY COMPONENTS

The implementation of the NQP is structured around four (4) key components:

- Component 1: Governance and Institution Building. This component seeks to promote greater collaboration among key stakeholders in the implementation of NQI related activities.
- Component 2: Regulatory Reform and Policy Integration. This component addresses legislative reform and policy integration.
- Component 3: Physical Infrastructure Development, Capacity Building and Organizational Strengthening. This component addresses projects that strengthen the Institutional Capacity of QI related Agencies and Key Stakeholders.
- Component 4: Developing the Enabling Quality Culture and Proactive Environment. This component is focused on building a high level of Quality-Intelligence and Quality-Consciousness among all stakeholders in Trinidad and Tobago.

# RELATIONSHIP BETWEEN NQP & THE ACT

| Comparison Table: NQP & The Act | | |
|---|---|---|
| **NQP** | **Description** | **The Act** |
| Component 3:Physical Infrastructure Development, Capacity Building and Organizational Strengthening | The development of a training programme for the Technical Regulation Coordination Committee and good regulatory practices, promoting quality in the procurement processes in the Public and Private Sectors | Value for Money<br><br>Local Content & Local Industry Development<br><br>Sustainable Development & Sustainable Procurement |
| Component 4: Developing the Enabling Quality Conscious and Proactive Environment | Quality Intelligence and Quality-consciousness that describes the target characteristics of the Demand Side of Quality Infrastructure | |

# VALUE FOR MONEY

**Value derived from the optimal balance of outcomes and input costs on the basis of the total cost of supply, maintenance and sustainable use.**

**EFFECTIVENESS**

The items procured must meet the needs under the most favourable delivery conditions (Functionality & Availability)

**ECONOMY**

"Most economically advantageous tender" (Price & Quality)

**EFFICIENCY**

Life-cycle cost (Cost over the whole life considering cost to society Sustainability)

# DEFINITION OF REQUIREMENTS

Your requirements can take the form of:

- Specifications for goods or equipment;
- Terms of reference (TOR) for services; or
- Statement of work (SOW) for works.

Specifications may be developed as one or a combination of the following types:

- **Functional** - Concentrates on the function or purpose of the product.
- **Performance** - Describes what is to be achieved rather than providing a fixed description of how it should be done.
- **Technical** - Defines exact design and details of a good. Technical specifications may also take a long time to create due to their detailed and complex nature.

(UN Procurement Practitioner's Handbook, 2017)

# IMPROVES CLARITY OF SPECIFICATION

Standards provide a clear indication of the levels of quality or other critical performance requirements for the goods, works and services.

Standards assist in avoiding under-specify requirements as incomplete specifications pose risks to the scope, cost and timing of the delivery of the requirement.

Standards assist in avoiding over-specification. Over-specification unnecessarily narrows the market and increases cost.

# REDUCED COST

- Reduced cost associated with developing specifications
- Reduced cost of associated with poor quality goods, works or services

# REDUCES TIME

- Less time associated with Public Bodies Developing Specifications as the Public Body can utilise the national standards created for the goods and services being procured.
- Less time spent in Procurement Planning and Market Research Stages
- Less time spent evaluating bids

# LOCAL CONTENT & LOCAL INDUSTRY DEVELOPMENT

**Section 4 of the Act defines "local content" as the local value added to goods, works or services measured as the amount of money or percentage of each dollar of expenditure remaining in Trinidad and Tobago after the production of the good or the performance of the work or service.**

**Local Industry Development: Enhancing Local capacity & competitiveness**

- Use of National Competitive Tendering where appropriate capacity and competitiveness exists in the local market.
- Reservation of contracts (e.g. within a geographical catchment area by Regional Corporation)
- Use of Sub-contracting to develop the capacity of Small Medium Enterprises (SMEs).
- Allocation of Lots in tender documents.
- Allowing domestic preference where the socio-economic policies support development of a sector.

# DOMESTIC PREFERENCE: CONDITIONS

Bidders participating in international competitive bids may benefit from domestic preference mechanisms set out in the bidding documents under the following conditions:

**Regulation 3 (1):**

**In the case of goods contracts, preference may be applied to bids that propose the supply of:**

a) goods manufactured exclusively in Trinidad and Tobago, or

b) goods partially manufactured or assembled in Trinidad and Tobago where the supplier/contractor establishes, to the satisfaction of the procuring entity that the proportion of domestic value added to the total value of manufactured or assembled goods is at least 35% of the ex-works price of the goods offered.

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# DOMESTIC PREFERENCE: CONDITIONS (CONT'D)

2) In establishing the domestic value added in accordance with Regulation 3(1)(b), the procuring entity shall take account of the value of domestic labour, raw materials or components manufactured within Trinidad and Tobago as well as the value of any manufacturing and/or assembly carried out in facilities within Trinidad and Tobago.

3) As part of their bids, suppliers/contractors are required to certify that the necessary manufacturing capacity exists where domestic value is to be added.

# DOMESTIC PREFERENCE CONDITIONS (CONT'D)

Regulation 3 (4) A supplier or contractor who participates in an international competitive bid may benefit from domestic preference mechanisms set out in the bidding documents where the procurement involves the performance of works and the supplier or contractor proposes the employment of at least 65% of domestic labour.

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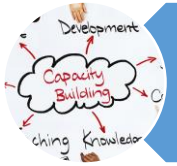
# KEY CONSIDERATIONS FOR LOCAL CONTENT & LOCAL INDUSTRY DEVELOPMENT




Local firms must possess the capability and capacity to supply the required goods, works or services and be able to compete

It serves to enhance local capacity and competitiveness by involvement and participation of residents, firms and capital market.

Knowledge transfer during the procurement and use of goods, works or services that are being procured

Opportunities for growth, improved national and international reputation

Increased diversity of markets

# SUSTAINABLE DEVELOPMENT & SUSTAINABLE PROCUREMENT

Development is a shorthand term for a range of social, economic, industrial and technological activities that are aimed at bettering conditions for human life. **Sustainable development is economic development that is conducted without the depletion of natural resources**

Sustainable procurement takes **social**, **environmental** and **economic factors** into consideration when making procurement decisions. It involves looking beyond the traditional economic parameters and making decisions based on whole-life costs, associated risks, measures of success and implications for society and the environment. This approach requires setting procurement into a broader strategic context including value for money, performance management, corporate and community priorities

# VISION 2030 DEVELOPMENT PILLARS

## Theme II. Delivering Good Governance and Service Excellence:

- Goal 1: Our society will be grounded in the principles of social justice
- Goal 2: The public service will have modern, effective and efficient management systems
- Goal 3: Public Service delivery will be customer focused
- Goal 4: Trinidad and Tobago will have modern legal, regulatory and law enforcement systems

## Theme IV. Building Globally Competitive Businesses:

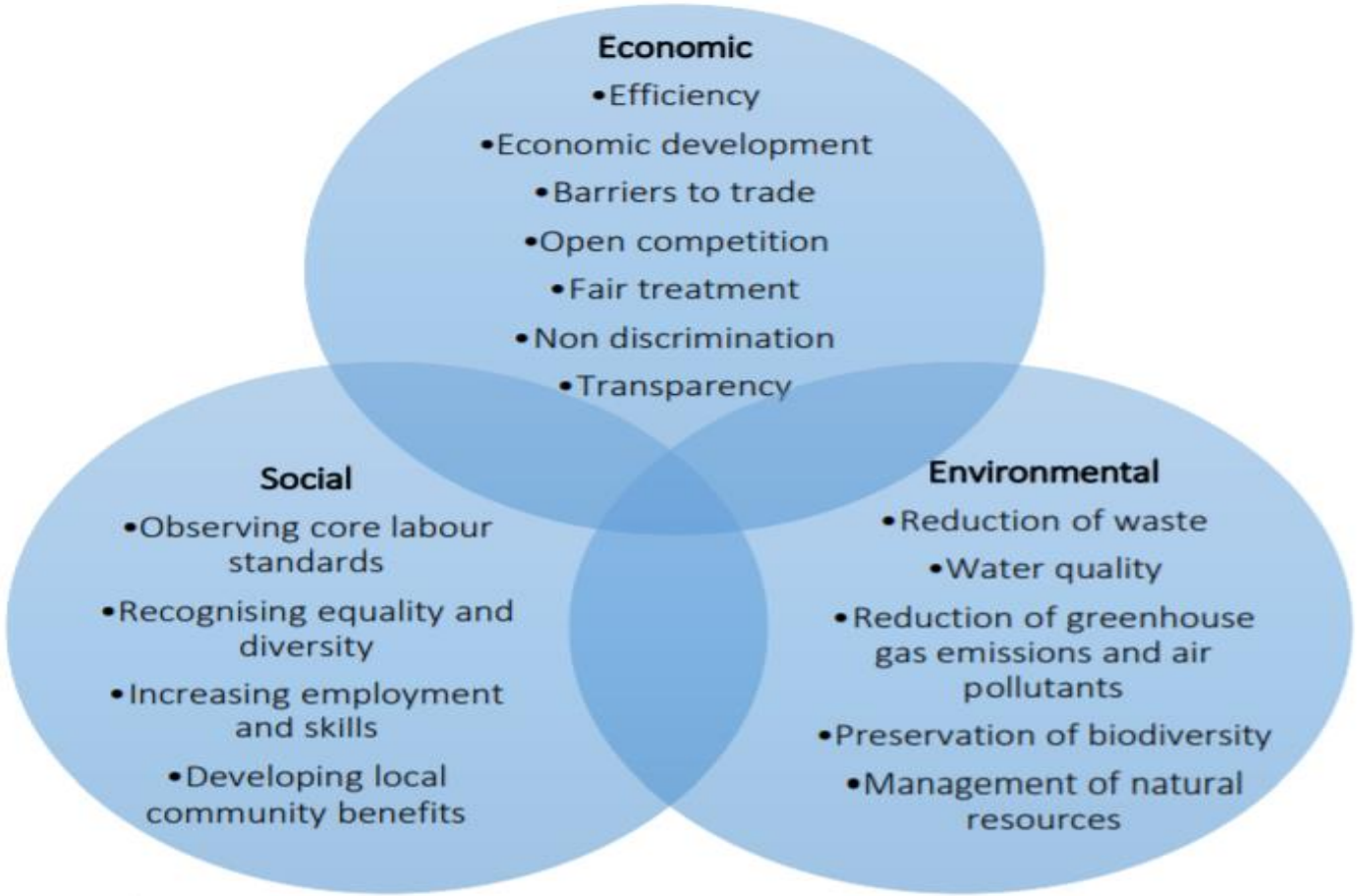
- Goal 1: Macroeconomic stability will be maintained
- Goal 2: A business environment that is conducive to entrepreneurship
- Goal 3: A more attractive destination for investment and trade
- Goal 4: Firms will produce high value products and services that can compete in export markets

## Theme V. Placing the Environment at the Centre of Social and Economic Development

- Goal 1: Environmental governance and management systems will be strengthened
- Goal 2: Carbon footprint will be reduced
- Goal 3: Climate vulnerability will be assessed
- Goal 4: Comprehensive waste and pollution management systems will be created
- Goal 5: Natural resource management will be improved

# SUSTAINABLE DEVELOPMENT & SUSTAINABLE PROCUREMENT (CONT'D)

## Three Pillars of Sustainable Development



# SUSTAINABLE DEVELOPMENT & SUSTAINABLE PROCUREMENT (CONT'D)

**Economic factors:** Developing standards for goods and services can lead to reducing the cost associated with developing specifications, it allows for consideration of quality in our acquisition decisions we save resources spent on poor quality goods, by implementing life cycle costing (price, maintenance, operations and disposal), it can result in more economic, efficient and effective procurement (value for money). Building competitiveness will lead to sustained economic development, employment, improved trade and investment.

**Social factors:** By building competitive business through the NQI and developing standards encourage local businesses to compete internationally. This will impact the standard of living, assist in the eradication of poverty, it will address aspects such as the distribution of resources, developing local communities, employment and economic securities for whole families. This also has the potential to address inequality in the distribution of resources by allowing SMEs to participate and compete globally, it can impact labour conditions through the implementation of quality processes.

**Environmental factors**: By taking environmental factors into consideration in developing standards it ensures that factors such as greenhouse gas emissions, resource depletion (water, energy, raw material) and the release of harmful chemical substances into the environment are automatically factored into procurement of products, services and works. It considers the environmental impacts that the assets, goods and/or services have over the entire lifecycle (green procurement) as well as incorporating sustainable practices and products in the procurement decisions e.g. recycled materials/products

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# BENEFITS OF SUSTAINABLE DEVELOPMENT & SUSTAINABLE PROCUREMENT

- Controlling costs by adopting a wider approach to whole-life costs
- Achieving internal and external standards
- Complying with environmental and social legislation
- Managing the risks and the reputation of the organisation
- Creating new, vibrant markets
- Ensuring security of sustainable supply for the future
- Ensuring maximum community and financial benefits

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# BARRIERS TO SUSTAINABLE DEVELOPMENT & SUSTAINABLE PROCUREMENT (CONT'D)

- Difficulty in changing procurement behaviour
- Lack of suppliers of sustainable assets, works or services
- Complexity of comparing costs and value for money assessments
- Failure to include factors other than environmental ones into considerations
- Perception that the process and outcomes are more costly or time consuming

The table provides some examples of sustainability criteria to consider when determining appropriate standards giving consideration to the potential environmental and social impacts of goods, services and works

| Criteria | Factors to consider |
|---|---|
| ***Environmental*** | |
| Fit for the purpose and provide value for money | Ensure that the product you are considering does the job you want it to do for all potential users, including groups with special needs. |
| Biodegradability | Some products may be suitable for composting. Where that is the case, ensure that the materials can break down speedily and safely. |
| Design for disassembly | When products are made up of thousands of different types of materials, particularly plastics and metals, it helps if they are designed to be easily taken apart or disassembled so that the materials can be recycled. This is particularly relevant to electronic and electrical products (e.g. refrigerators, televisions, personal computers and printers). |
| Minimum use of virgin and non-renewable materials | Wherever possible, the use of recycled or re-used materials should be encouraged, as these generally have a much lower impact on the environment. |
| Resource, energy and water efficiency | Running costs are often overlooked when procuring products. Seek equipment that is energy efficient, such as Energy Star rated products. Also check that your product does not have a 'knock-on' effect of using more resources (e.g. specifying paper towels over hand-driers), which also has a cost. |
| Fault controls to prevent unnecessary waste | When procuring plant equipment, such as boilers, ensure that you specify metering and monitoring equipment. Whilst it might increase acquisition costs it will alert you to inefficient use and enable you to reduce running costs, spills or waste problems. |
| Maximum durability, reparability, reusability, recyclability and upgradeability | Essentially this is a quality issue. Seek long-life products, that will survive being mistreated, that can be repaired, reused and ultimately recycled. Importantly, seek products that enable you to upgrade them and improve performance over time rather than having to buy new equipment to do the same job. |

# TABLE (CONT'D))

| Criteria | Factors to consider |
|---|---|
| Minimum packaging | Most products are bought with excessive levels of packaging, either to add cosmetic value, or to enable the product to survive poor handling. Packaging has to be disposed of once it has performed its task, and in most cases the cost of disposal falls to the customer, not the supplier. |
| Maximum use of postconsumer materials | There are many grades of recycled materials. Where possible, seek materials that have been used once and are being reused to perform a repeat or new function, rather than materials that have been reused from a manufacturing process waste, which has never been used by the consumer. |
| No (or reduced) polluting with minimum use of toxic chemicals, CFCs, ozone and other pollutants. | Not only do these products help reduce your environmental impact but choosing low-polluting alternatives often means you can avoid lengthy COSHH assessments and training (e.g. cleaning staff or lab technicians). |
| ***Social criteria*** | |
| Health and safety standards | These should never be overlooked, and it is sensible to evaluate many products with a qualified health and safety officer. Examples include electrical equipment, vehicles, cleaning chemicals and furniture. |
| Local production | Sourcing your purchases from local suppliers means that the economic benefits can be felt in the communities in which you live and work. This inward investment can help ensure the ongoing economic sustainability of your local area through job creation. |
| Ethically sourced | You should seek to ensure that the products you buy are not exploiting child labour, or labour and economies in the developing world and that you meet recognised fair-trade standards wherever possible. |

# KEY CONSIDERATIONS

- Public procurement accounts for a large portion of Government Expenditure. Quality goods and services can be demanded through referencing quality standards in specifications.
- This reinforces the need for making key requirements mandatory through appropriate legislation.
- The need for Trinidad & Tobago to develop and adapt their own Sustainable Policy given that one does not exist currently.

***"Educated and quality-conscious consumers in the country, and in foreign markets, are the drivers of quality. Therefore, the promotion of a quality culture begins with awareness raising and capacity building of the consumers."***

**National Quality Policy, 2017**

***"Technical regulations are not always enforced and local companies seldom use voluntary standards and certification."***

**National Quality Policy, 2017**

***"A sustainable procurement policy will align and support a Public Body's commitment to procure all goods, works and services in a sustainable manner. The aims are to integrate sustainability into all procurement activities, to ensure systems are in place to support and develop the policy and to develop mechanisms for measuring and reporting on performance."***

**Sustainability in Supply Chains, CIPS 2016**

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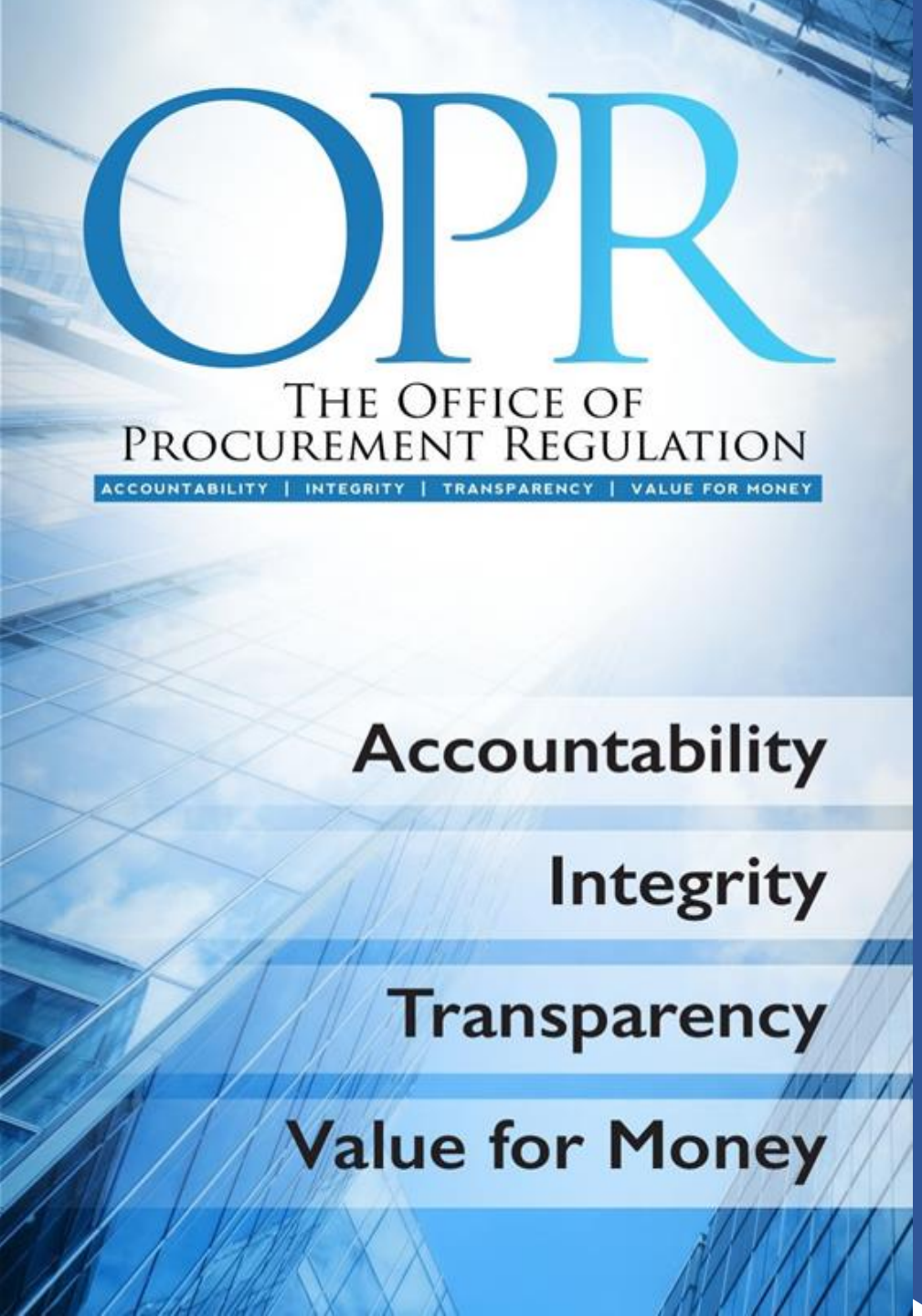


**Thank you for your kind attention!**

**We are happy to answer any questions you may have.**


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