SENSITISATION SESSION: TTCSI & CCULTT

Public Procurement & Disposal of Public Property Act

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Date: June 30th 2022

AGENDA

I. Introduction
II. Public Procurement & Disposal of Public Property Act
III. Procurement Methods & Procedures
IV. Evaluation
V. Procurement of Consultants
VI. Record of Procurement Proceedings
VII. Disposal of Public Property

OPR
THE OFFICE OF PROCUREMENT REGULATION

INTRODUCTION!!!

IMPACT OF CORRUPTION ON THE PUBLIC SECTOR

The Organization for Economic Cooperation and Development (OECD), Foreign Bribery Report (2014) confirms that public procurement is one of the government activities most vulnerable to corruption, due to the volume of transactions and the financial interests at stake.

In their study, they discovered that **two-thirds** of foreign bribery cases occurred in sectors closely associated with contracts or licensing through public procurement.

10-30% of the investment in a publicly funded construction project may be lost due to mismanagement and corruption.

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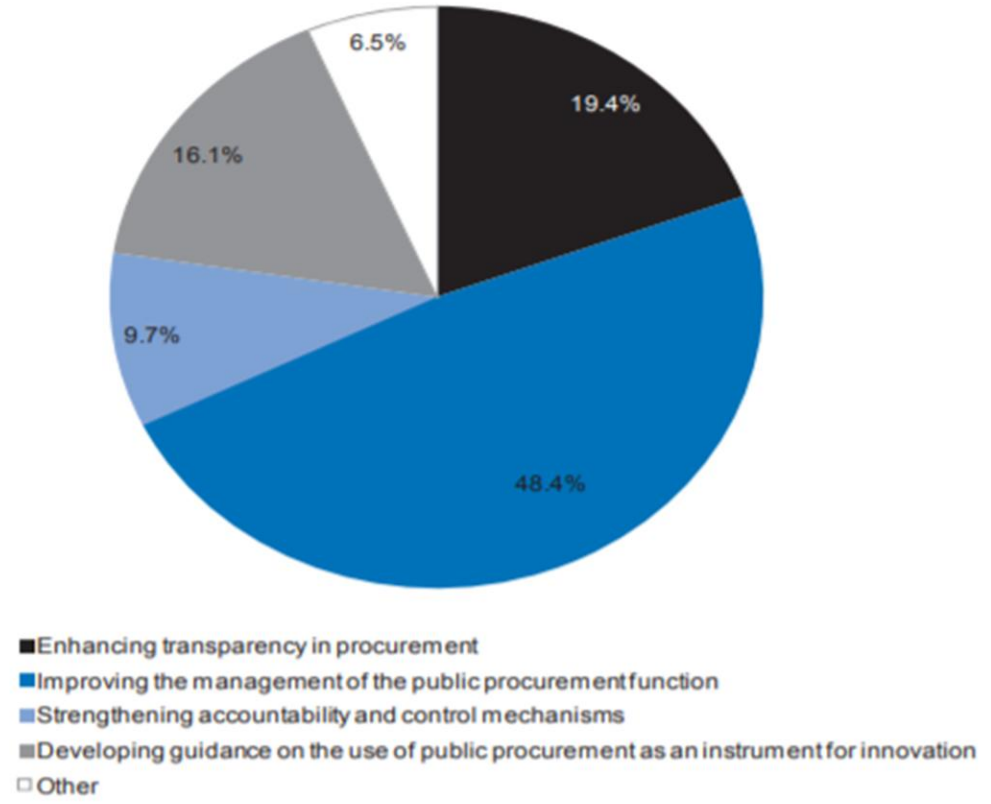
MITIGATING WASTE AND CORRUPTION IN PUBLIC PROCUREMENT

The European Commission estimates that EUR 120 billion are lost each year to corruption in the EU member countries. Studies suggest that up to 20-25% of the public contracts' value may be lost to corruption. However capacity and skills are insufficient to mitigate risks of waste and corruption.

The prominent weakness of procurement systems identified across respondent countries is the lack of adequate capability and management of the procurement function.

Figure 4.2. **The management of the procurement function: An area for improvement**



CORRUPTION IN THE PUBLIC SERVICE

The Honourable Prime Minister, in an address on public sector leadership for digital transformation to Permanent Secretaries, Heads of Department and administrators across the public service on January 31, 2022 indicated that once the public sector became digitalised, corruption would be much easier to track.

He stated that this would be “an assault on white collar criminal conduct, which currently flourishes with impunity, but which will wither if access is digitally controlled and recorded, and information in the form of evidence identifies who did what, where, when, how and under what authority.”

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THE PUBLIC PROCUREMENT & DISPOSAL OF PUBLIC PROPERTY ACT

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 …"

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 ten 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."

PUBLIC BODY (SECTION 4 OF THE ACT)

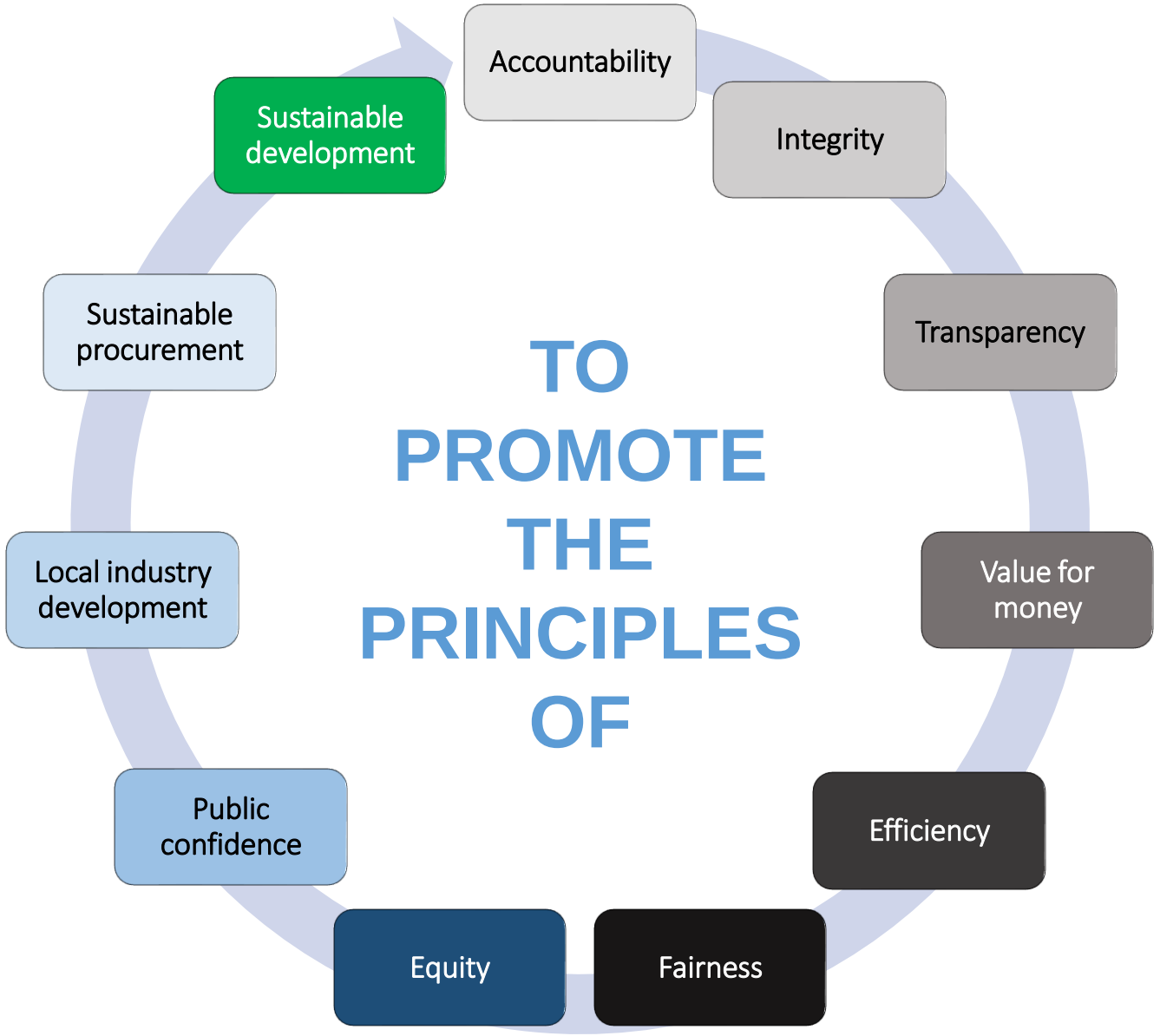
- The Office of the President
- The Parliament
- The Judiciary
- A Ministry or a department or division of a Ministry
- The Tobago House of Assembly, or a division of the Tobago House of Assembly
- A Municipal Corporation established under the Municipal Corporations Act
- A Regional Health Authority established under the Regional Health Authorities Act
- A statutory body, responsibility for which is assigned to a Minister of Government
- A State-controlled enterprise
- A Service Commission established under the Constitution or other written law
- A body corporate or unincorporated entity using public money

PUBLIC MONEY
(SECTION 4 OF THE ACT)

“Public money” means money that is—

(a) received or receivable by a public body;
(b) raised by an instrument from which it can be reasonably inferred that the State accepts ultimate liability in the case of default;
(c) spent or committed for future expenditure, by a public body;
(d) distributed by a public body to a person;
(e) raised in accordance with a written law, for a public purpose; or
(f) appropriated by Parliament.

OBJECTS OF THE ACT (SECTION 5)



FUNCTIONS OF THE OPR (SECTION 13 OF THE ACT)

Establish a comprehensive database of information on public procurement and tenders received, award and values of contracts

Set training standards, competence levels and certification requirements to promote best practice in procurement

Issue and review guidelines in relation to public procurement and the retention and disposal of public property

Prepare, update and issue model handbooks, incorporating standardised bidding documents, procedural forms and relevant documents

Approve, in respect of each procuring entity, special guidelines and handbooks in relation to public procurement and the retention and disposal of public property

FUNCTIONS OF THE OPR (CONT'D) (SECTION 13 OF THE ACT)

Promote the use of technology in public procurement and the retention and disposal of public property

Provide best practice advice in the conduct of procurement activities, including the promotion of electronic transactions

Harmonise policies, systems and practices in relation to public procurement activities and the disposal of public property

Review procurement practices and delivery systems on an annual basis to identify best practices

Determine, develop, introduce, maintain and update related system-wide databases and technology

Promote the awareness of public bodies and the public to issues relating to public procurement and disposal of public property

FUNCTIONS OF THE OPR (CONT'D) (SECTION 13 OF THE ACT)

Undertake research and surveys with respect to public procurement and disposal of public property

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

Create and publish standard form contracts for public procurement and disposal of public property

Prepare and maintain a database of pre-qualified contractors and suppliers

Prepare and maintain a list of pre-qualified mediators, arbitrators and experts for the purposes of alternative dispute resolution

Provide advice on best practice on the aggregation of the procurement or disposal of goods for the purpose of obtaining value for money

FUNCTIONS OF THE OPR (CONT'D) (SECTION 13 OF THE ACT)

Audit and review the system of procurement and disposal of public property to ensure compliance with the objectives of the Act

Investigate, on our 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

ROLES AND RESPONSIBILITIES OF BOARD OF DIRECTORS

Section 99 of the Companies Act states:

(1) Every director and officer of a company shall in exercising his powers and discharging his duties—

(a) act honestly and in good faith with a view to the best interests of the company; and

(b) exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances.

ROLES AND RESPONSIBILITIES OF BOARD OF DIRECTORS

According to the Ministry of Finance State Enterprise Performance Monitoring Manual Section **2.2.6**:

a) The Board of Directors, under the Companies Act 1995, directs the management of the business and affairs of the Company.

b) The Board must not usurp the responsibilities of executive management by involving itself in day to day management issues. It is an organ of review, appraisal and appeal.

c) The Board of Directors of the Company performs a specific set of functions which is directed to meet the mission of the Company. Its main responsibility lies in planning, monitoring and controlling the activities of the Company to ensure the optimal utilization of its resources and the achievement of its corporate objectives.

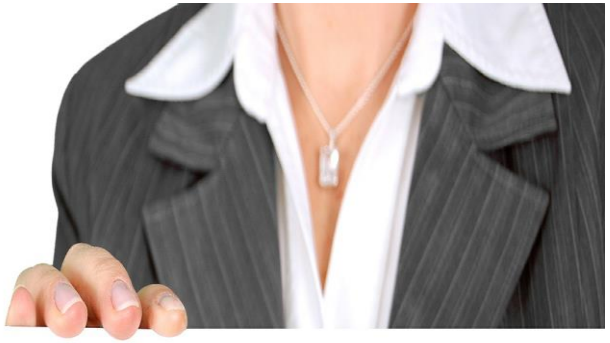
ROLES AND RESPONSIBILITIES OF BOARD OF DIRECTORS (CONT'D)

d) The Board ensures that policies and business decisions taken at the Board level are implemented. It should ensure that the policies and objectives of the Company reflect the policy of GORTT and are well defined so as to rule out ambiguity.

e) The Board is thoroughly familiar with the Company and its various publics, in order to serve them effectively.

f) The Board further ensures that the Company is staffed by competent senior management personnel, sets standards and reviews managerial performance of such staff in the context of the Company's objectives.

ROLES AND RESPONSIBILITIES ACCOUNTING OFFICER/ EQUIVALENT



CHIEF EXECUTIVE OFFICER

The Financial Regulations of the Exchequer and Audit Act set out the accountabilities of Accounting Officers as follows:

S. 4 An accounting officer shall be responsible for ensuring— (a) that the financial business of the State for which he is responsible is properly conducted; and (b) that public funds entrusted to his care are properly safe-guarded and are applied only to the purposes intended by Parliament.

S. 5 All accounting officers are personally and pecuniarily responsible for— (a) the due performance of the financial duties of their departments; (b) the proper collection and custody of all public moneys receivable by them; and (c) for any accounts rendered by them or under their authority.

ROLES AND RESPONSIBILITIES ACCOUNTING OFFICER/ EQUIVALENT (CONT'D)

S. 6 An accounting officer is not absolved from his responsibility for complying or securing compliance with the Act, these Regulations and any instructions given to him, or by him within the scope of his authority, by reason of the responsibility of the Auditor General to check and report any shortcomings in connection with the public accounts or finances.

S. 7 No accounting officer shall be relieved from responsibility for an act which he is required by the Act, these Regulations or any instructions to perform, the performance of which he has delegated to an officer subordinate to him.

S. 11 The accounting officer shall be answerable to the Public Accounts Committee for the formal regularity and propriety of accounts of all the expenditure out of the votes for which he is responsible.

WHO IS RESPONSIBLE FOR PROCUREMENT?

S. 61(2) 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.

S. 61(3) A reference in this Act to the commission of an offence by a public body shall be construed as a reference to the commission of the offence by the procurement officer referred to in subsection (2) or an officer who purports to act in such capacity, if it is proved that—

(a) the offence was committed with his direct consent or connivance; or

(b) he, with knowledge, did not exercise reasonable diligence to prevent the commission of the offence.

THE PROCUREMENT AND DISPOSAL ADVISORY COMMITTEE ("PDAC")

Part IX of the Public Procurement and Disposal of Public Property (Procurement Methods and Procedures) (No. 2) Regulations, 2021 states that:

21. (1) A procuring entity shall establish a Procurement and Disposal Advisory Committee (hereinafter referred to as "the Committee".

(2) The Committee shall comprise –

- **(a)** Corporate Secretary/Head of Legal;
- **(b)** Head of Finance;
- **(c)** Subject Matter Expert;
- **(d)** such other members as may be necessary

(3) A member of the Committee may be sourced from another public body

(4) A Senior Officer shall be appointed as the Secretary to attend all meetings of the Committee but shall not be a member of the Committee.

THE PDAC (CONT'D)

(5) The Committee shall review reports, recommendations for contract award and procurement proceedings and property disposal files to determine –

(a) adherence to the Act and the Regulations;
(b) adherence to the Handbook and Guidelines;
(c) adherence to the approved procurement/disposal strategy; and
(d) achievement of the objects of the Act.

(6) Where Committee is of the opinion that there is not adherence or achievement as set out in sub-regulations (5), it shall recommend the appropriate action to the procurement officer with a written explanation providing reason for its decision.

(7) The Committee shall cause the written explanation to be forwarded to the Accounting Officer for noting.

THE PDAC (CONT'D)

(8) Where there is an agreement, the Committee shall give the Accounting Officer a written recommendation which must be accompanied by the procurement proceedings file and property disposal file.

(9) A member of the Committee shall disclose his interest and not take part in the proceedings of the Committee where he –

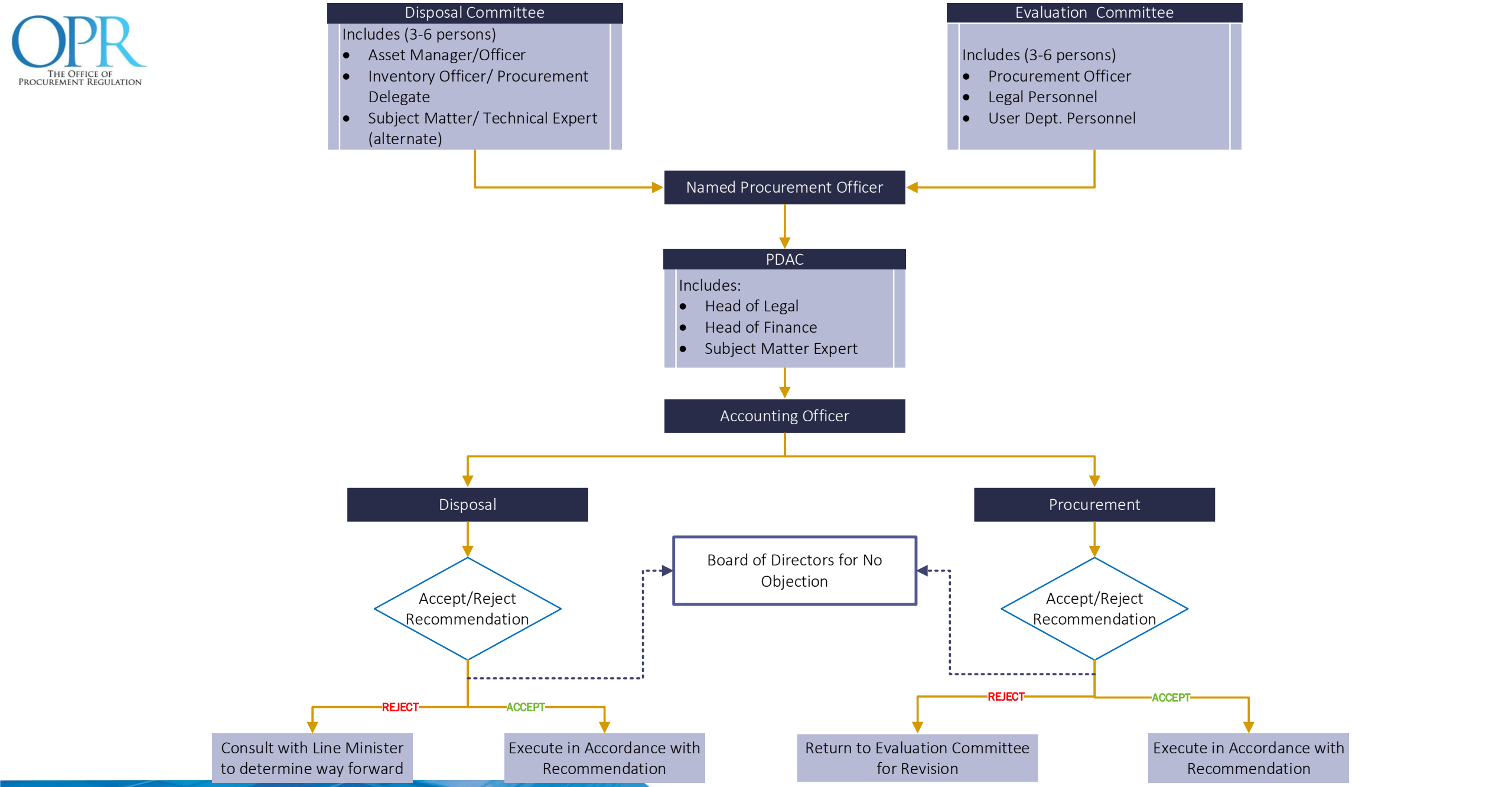
(a) is a member, director or shareholder of a company or other body corporate;

(b) is a proprietor of or partner in a firm, or partnership;

(c) is employed by or is otherwise a party to a contract for services;

(d) has a financial interest in or relationship with someone;

(e) is a relative of an individual, being reviewed by the Committee.


Disposal Committee
Includes (3-6 persons)
Asset Manager/Officer
Inventory Officer/ Procurement Delegate
Subject Matter/ Technical Expert (alternate)
Evaluation Committee
Includes (3-6 persons)
Procurement Officer
Legal Personnel
User Dept. Personnel
Named Procurement Officer
PDAC
Includes:
Head of Legal
Head of Finance
Subject Matter Expert
Accounting Officer
Disposal
Procurement
Board of Directors for No Objection
Accept/Reject Recommendation
Accept/Reject Recommendation
REJECT
ACCEPT
REJECT
ACCEPT
Consult with Line Minister to determine way forward
Execute in Accordance with Recommendation
Return to Evaluation Committee for Revision
Execute in Accordance with Recommendation

ILLEGALITY OF PROCUREMENT OR DISPOSAL

S. 6(1) Any procurement of goods, works or services or retention or disposal of public property that is not done in accordance with this Act and any procurement contract or agreement that is not entered into in accordance with this Act shall be void and illegal

S. 13(2)(a) In the exercise of its functions, the Office shall act expeditiously and take such other steps as it thinks fit in order to minimize any negative economic impact arising out of the performance of its functions

INFORMATION ON FORTHCOMING PROCUREMENT

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 AND PRE-SELECTION

- **S. 4 Pre-qualification**: the procedure to identify, prior to solicitation, suppliers or contractors who are qualified

- **S. 4 Pre-selection**: the procedure to identify, prior to solicitation, a limited number of suppliers or contractors who best meet the qualification criteria for the procurement concerned

- The OPR's Guidelines on Pre-qualification and Pre-selection can be downloaded from https://oprtt.org/handbooks-and-guidelines/

- The OPR's Procurement Depository can be accessed via https://depository.oprtt.org

PRE-QUALIFICATION
HIGHLIGHTS FROM THE ACT

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, and their directors or officers have not, been convicted of any criminal offence; per Amendment Act No. 27 of 2020

(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

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

  (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)

CHALLENGE PROCEEDINGS
HIGHLIGHTS FROM THE ACT

- A supplier or contractor may bring challenge proceedings where it is alleged that—
  - a procuring entity made a decision or took action that is not in compliance with this Act; and
  - 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.

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

(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

S. 58(5) 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.

INELIGIBILITY LIST
HIGHLIGHTS FROM THE ACT

S.58(1) "**supplier or contractor**" includes any person who is a director, manager, senior officer, partner or other similar officer or any person who purports to act in such a capacity.

"**senior officer**" means a managing director, chief executive officer, chief operating officer, deputy managing director, president, vice-president, secretary, treasurer, chief financial officer, financial controller, general manager, deputy general manager, corporate secretary, chief accountant, chief auditor, chief investment officer, chief compliance officer or chief risk officer

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 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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Procurement Methods & Procedures

Bidding Based Procurement Methods

- Open bidding
- Limited bidding
- Two-stage bidding
- Framework agreements

RFP Based Procurement Methods

- RFPs without negotiation
- RFPs with dialogue
- RFPs with consecutive negotiations

Other Procurement Methods

- RFQs
- Single-source procurements
- Sole source procurements

Factors to Consider when Selecting a Procurement Method

- The organisation's mandate and business needs
- The characteristics of the item(s) to be procured
- The market situation
- The degree to which the procurement is urgent
- The appropriate level of technology required to carry out the procurement
- The procurement method and/or technique that would be most suitable for
  a. simple low-value items that are easily obtainable
  b. more specialised or complex procurements
- The capacity (professional judgment, experience and skill) of the procurement officer to select and to successfully operate complex procuring methods, while ensuring that abuse and corruption are not introduced into the processes

The Evaluation & Approval Process

What Is The Evaluation Process?

- Evaluation is a process that enables the selection of the bid that best satisfies the requirements of the procuring entity while ensuring compliance with the objects of the Act.

- It involves the assessment of the nature, value and significance of the goods, works or services being procured.

Establishing the Framework for the Evaluation Process

- The successful outcome to an evaluation begins during the planning stages of the procurement process; and

- The evaluation process begins with the drafting of the solicitation documents.

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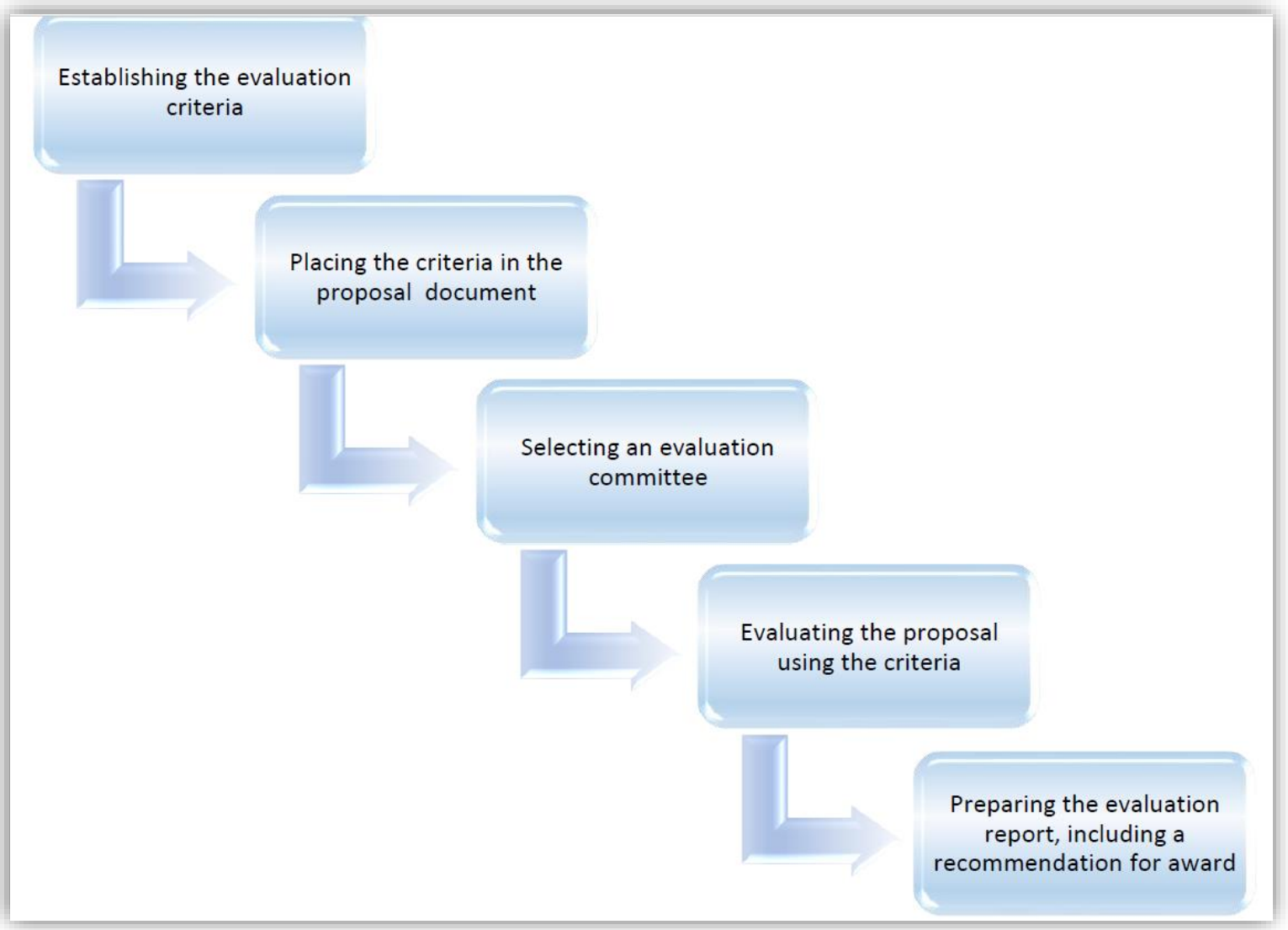
The Evaluation Process



Establishing the Evaluation Criteria

- A procuring entity shall select the successful submission based on the evaluation criteria and methodology specified in its bidding document – **Regulation 3(1)**

- A procuring entity's evaluation criteria and methodology shall be appropriate to the type, nature, market conditions, and complexity of the goods, works or services being procured – **Regulation 3(2)**

Establishing the Evaluation Criteria (Cont'd)

Typically, the evaluation criteria will comprise of both price and non-price factors.

- Price factors may include:
  - Payment Terms;
  - Extended Warranties;
  - Life Cycle Operating Costs;
  - After Sales Services;
  - Supply of Spare Parts; and
  - Timeline for Completion or Delivery

Establishing the Evaluation Criteria (Cont'd)

- Non-price factor:
  a) the quality of methodology and work plan;
  b) the performance, capacity, or functionality feature of the good, work or service; and
  c) the sustainability feature – **Regulation 5(3a-c)**

A non-price factor shall be prioritized, assigned merit points and weighted according to its relative importance in meeting the desired outcome of the procurement – **Regulation 5(4)**

Placing The Criteria in The Solicitation Document

The Solicitation Document Should:

- Define the evaluation process in summary form.
- Specify the categories on which the bid or proposal will be evaluated and the weight assigned to each factor should also be identified.
- Explain the criteria that can or will result in the rejection of an offer, affirm that the evaluation will include the price, and state the relative importance of each major selection evaluation criteria.
- Specify the evaluation criteria, sub-criteria, scoring system and methodology to guide the bidder in the preparation of its bid or proposal.

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EVALUATION COMMITTEE

Selecting An Evaluation Committee

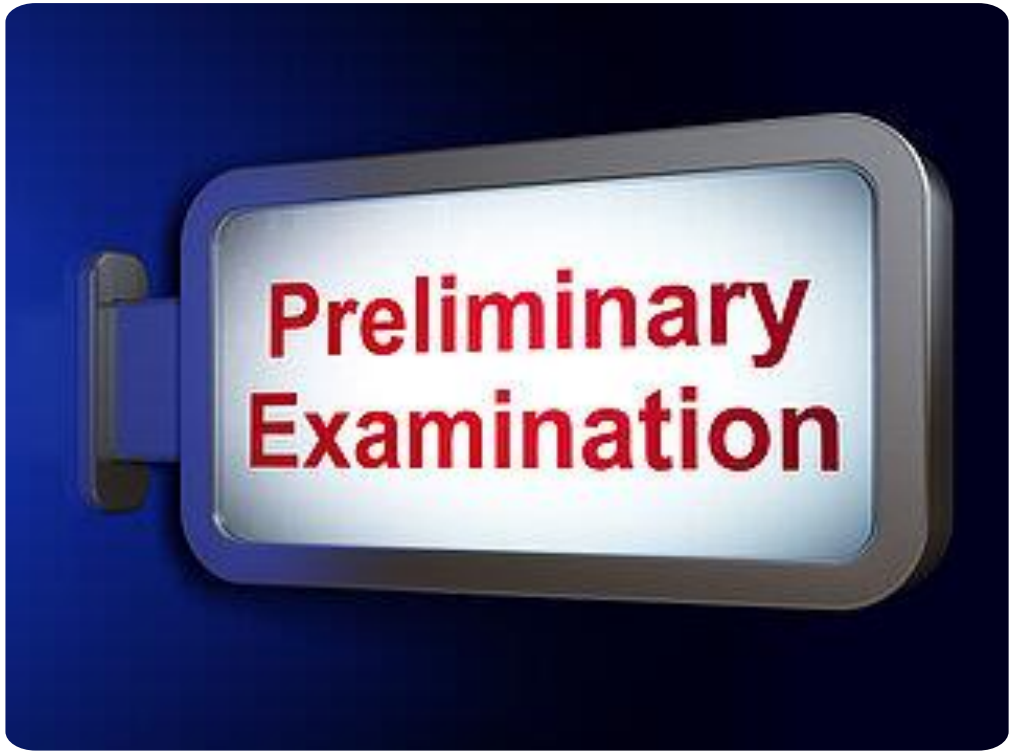
Typically, an evaluation committee should comprise three to six persons. Evaluation committee members must possess experience in the following areas:

- Technical knowledge of the subject matter being procured;
- Applicable law;
- The procurement process;
- Commercial acumen; and
- In-house technology

Evaluating The Proposals Using The Criteria

Preliminary Examination includes the following checks applied by the evaluation committee:

- Verification;
- Eligibility;
- Bid Security;
- Completeness of Bid; and
- Substantial Responsiveness



Seeking Clarification During Preliminary Evaluation

During the evaluation of submissions deemed compliant, the procuring entity:

- May seek clarification in writing from any bidder to facilitate evaluation;
- Shall neither ask nor permit any bidder to change the price or any other aspect of the bid when providing the requested clarification; and
- Shall reject any bidder and forfeit its bid security if a bidder amends its bid in any manner.

Technical Evaluation

- In the technical/qualification evaluation, members of the committee evaluate and rank the technical proposals in accordance with the pre-established criteria specified in the bidding document.
- Scoring can be done using Consensus or Independent Scoring.
- Technical/Qualifications proposals that fail to meet the relevant minimum requirements specified in the bidding document shall be considered non-responsive and shall be rejected.

Commercial Evaluation

- Only technical proposals that meet or exceed the relevant minimum technical requirements are considered for commercial/price evaluation.
- In the commercial/price evaluation, the price is examined for computational errors.
- If bids are priced in more than one currency, they are converted to a single currency.
- Commercial proposal are analysed, verified, compared and ranked using the weights assigned.

Preparation of The Evaluation Report

- Typical contents of an evaluation report include:
  - Introduction
  - Background
  - Evaluation of Bids
  - Recommendation for Award of Contract

- The evaluation report is then signed by the members of the evaluation committee and approval by the designated approver.

Award of Contract

Standstill Period

- The Act defines the standstill period as 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.

Notification of Award of Contract

- Upon fulfilment of the requirements of the standstill period, where applicable, the Notification of Award shall be made to the successful bidder.

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Procurement of Consultants

Evaluation Methods for Procurement of Consultants

- **Quality and cost-based selection (QCBS):** applies a competitive process among shortlisted consultants taking into account the combined quality of the proposal and the cost of the services in the selection of the successful consultant;

- **Quality based selection (QBS):** appropriate when assignments are complex or highly specialized making it difficult to define precise terms of reference or for assignments that can be carried out in substantially different ways such that financial proposals may be difficult to compare

- **Selection under fixed budget (FBS):** is a method used when the assignment is simple and can be precisely defined, and when the budget is fixed;

Evaluation Methods for Procurement of Consultants (Cont'd)

- **Least cost selection (LCS):** is a method that is appropriate for assignments of a standard or routine nature in which the value of the contract is relatively small;

- **Selection based on consultants' qualifications (CQS):** may be used for small assignments where –

  (i) highly specialized expertise is required for the assignment;

  (ii) recruitment time is critical and the assignment is, typically, short-term;

  (iii) few consultants are qualified;

  (iv) the preparation and evaluation of competitive proposals is not justified; and

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Record of Procurement Proceedings

The Public Procurement and Disposal of Public Property (Record of Proceedings) Regulations, 2021

The Record of Proceedings Regulation defines, “record” as’ the record of procurement proceedings referred to in Regulation 3’.

This regulation stipulates the Record of Proceedings consisting of the following information:

Requirement to Keep a Record

- A procuring entity shall maintain an easily accessible and retrievable record for each procurement proceeding, which shall be marked with the record management reference number – **Regulation 3**

Content of Record (Regulation 4(a-o)

Where appropriate, a record shall contain the original and a copy of the information, document and communication related to the procurement proceeding, including but not limited to the following information that is not contained in the proposed procurement plan:

(a) the document indicating approval to execute the various stages of the procurement proceeding

(b) the complete bidding document

(c) a description of the object of the procurement

(d) a list of each participating supplier or contractor and his qualification

(e) the reason for limiting participation, where participation is limited

Content of Record (Regulation 4(a-o) (Cont'd)

(f) any request for clarification and the relevant response

(g) the reason for the cancellation of bids, where the bids are cancelled

(h) a statement of the reason for choice of the procurement method

(i) the tender price

(j) a summary of the evaluation of submissions, including the reason for the rejection of an abnormally low bid

Content of Record (Regulation 4(a-o) (Cont'd)

(k) a decision to conduct a procurement without a standstill period and the reason for the decision

(l) a decision to suspend a standstill period

(m) the signed contract

(n) a decision of the Office pursuant to its review and the reasons for the decision

(o) such other information required by the Office

Reporting

- Regulation 7 specifies the requirements of reporting, and it states that: ‘A procuring entity shall submit a summary of the report of its procurement activities to the Office in accordance with the handbooks and guidelines, approved for the entity by the Office.’

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Disposal of Public Property: Highlights from the Act & Regulations

Public Procurement and Disposal of Public Property (PP&DPP) Act 2015, as Amended

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

Public Property means Real or Personal Property owned by a public body.

Sections 55 and 56 of the Act: A public body shall establish a Disposal Committee (DC) comprising not less than three officers for the purpose of recommending the best method of disposing of unserviceable, obsolete or surplus stores or equipment.

A public body shall refer all matters relating to the disposal of unserviceable, obsolete or surplus stores or equipment to its disposal committee within a reasonable time after the stores or equipment become unserviceable, obsolete or surplus.

Areas from Public Procurement and Disposal of Public Property (PP&DPP) Act 2015, as Amended (Continued)

Section 54: 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.

DISPOSAL OF REAL 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

Disposal of Real Property

Section 57A (1) PP&DPP Act

Notwithstanding the State Lands Act and any other written law to the contrary, the Minister may make regulations in respect of the disposal of – State Lands; real property owned by the Government; real property owned by State Controlled enterprises; and real property owned by a statutory body, responsibility for which is assigned to a Minister of Government. Regulations made under this section shall be subject to negative resolution of Parliament.

Definitions

Real property refers to land and items that are permanently attached to the land including trees, buildings and heavy machinery.

Personal Property refers to physical property, inclusive of stores, equipment, computers, motor vehicles etc. ***(Retention & Disposal of Personal Property Regulations***)

Personal Public Property Disposal Process (Highlights from Regulations)

Public entities are responsible for disposal, all disposals are to be brought to the attention of the procurement officer

Disposals are to take place in a safe manner to protect the environment and in accordance with manufacturer's instructions

Account & accurately record all net proceeds and expenses from disposal

Personal Public Property Disposal Process Highlights From Regulations (Continued)

Public sale, tendering, public auction, gift, lease, concession, transfer, destruction, trade-ins, recycling or donations

Public Sale/ Tender/ Auction where the Net Book Value, Market Value or Residual Value
≥TT $100,000, Advertise/Publish in 2 Newspapers & Website. All other methods advertise on website

Personal Public Property Disposal Process Highlights from Regulations (Continued)

Public auctions/ sales, make adequate security arrangements. For purchases provide source of funds declaration & bio-data information

Obtain technical/ subject matter expert recommendation

Notify Office of Procurement Regulation (OPR) of Disposal actions 6 weeks upon completion

Disposal to Employees of a Public Body Highlights From Regulations (Continued)

Procurement and Disposal Advisory Committee (PDAC) shall cause a notice to be sent to the Accounting Officer (AO) or equivalent in a public body, seeking prior approval to dispose to the identified person(s), which shall include the following:

(a) the details of the item(s) earmarked for disposal;
(b) valuation report, where applicable, of the items earmarked for disposal;
(c) the method to be adopted for disposal and, if by way of direct sale or transfer, the reasons for the proposed disposal to the employee or member;
(d) the name of the employee or member;
(e) the relationship of the employee or member to the public body; and
(f) any other relevant details including the proposed disposal price.

Disposal to Employees of a Public Body Highlights from Regulations (Continued)

A public body shall, within ten (10) working days of the disposal of personal property where the net book value, market value or residual value is in excess of TT$100,000.00 –

(a) notify the Office of Procurement Regulation of the disposal indicating details of the items, the disposal price and the name of the employee or member.

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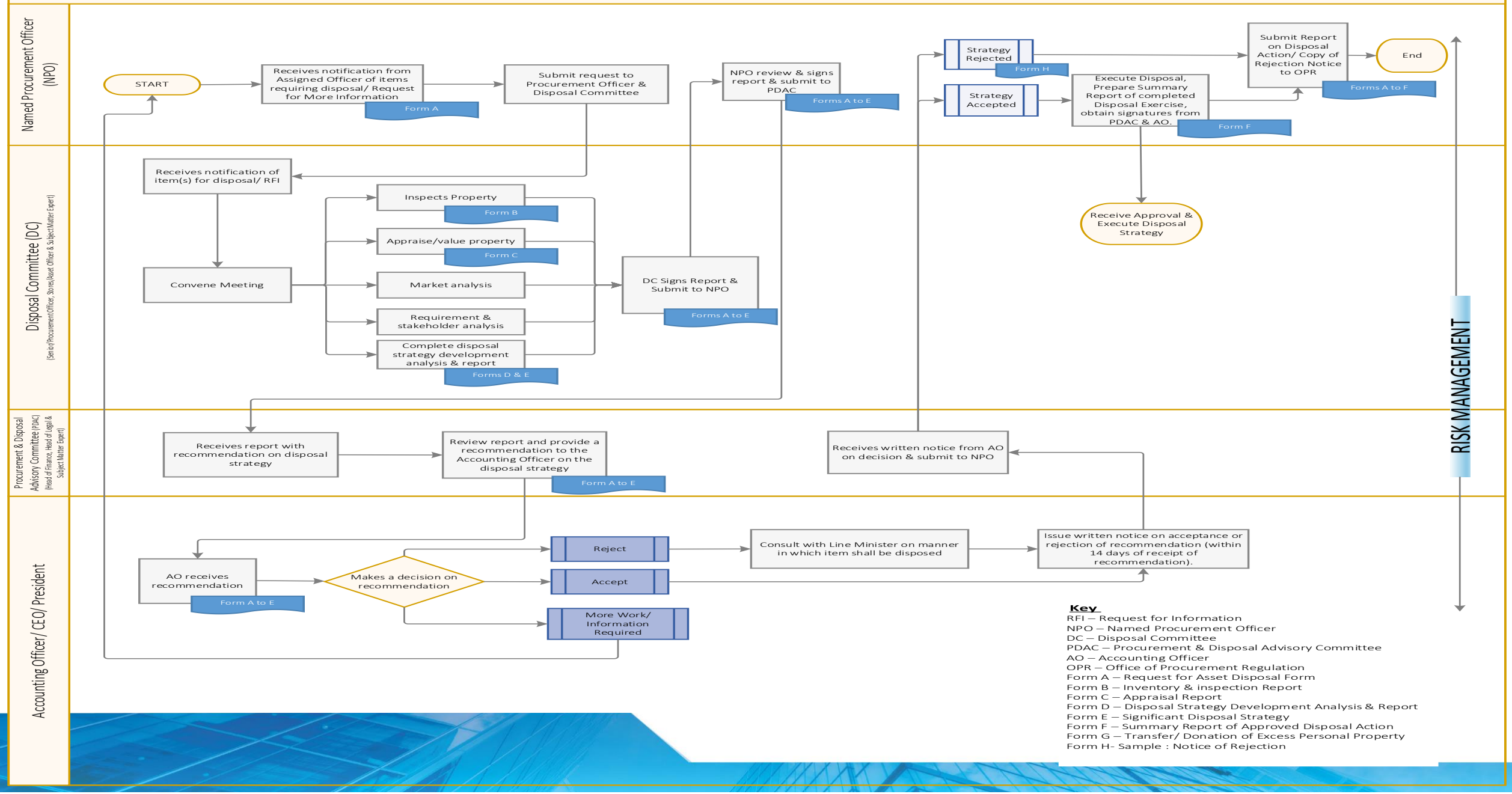
The Disposal of Personal Public Property Process

Disposal of Personal Public Property Process

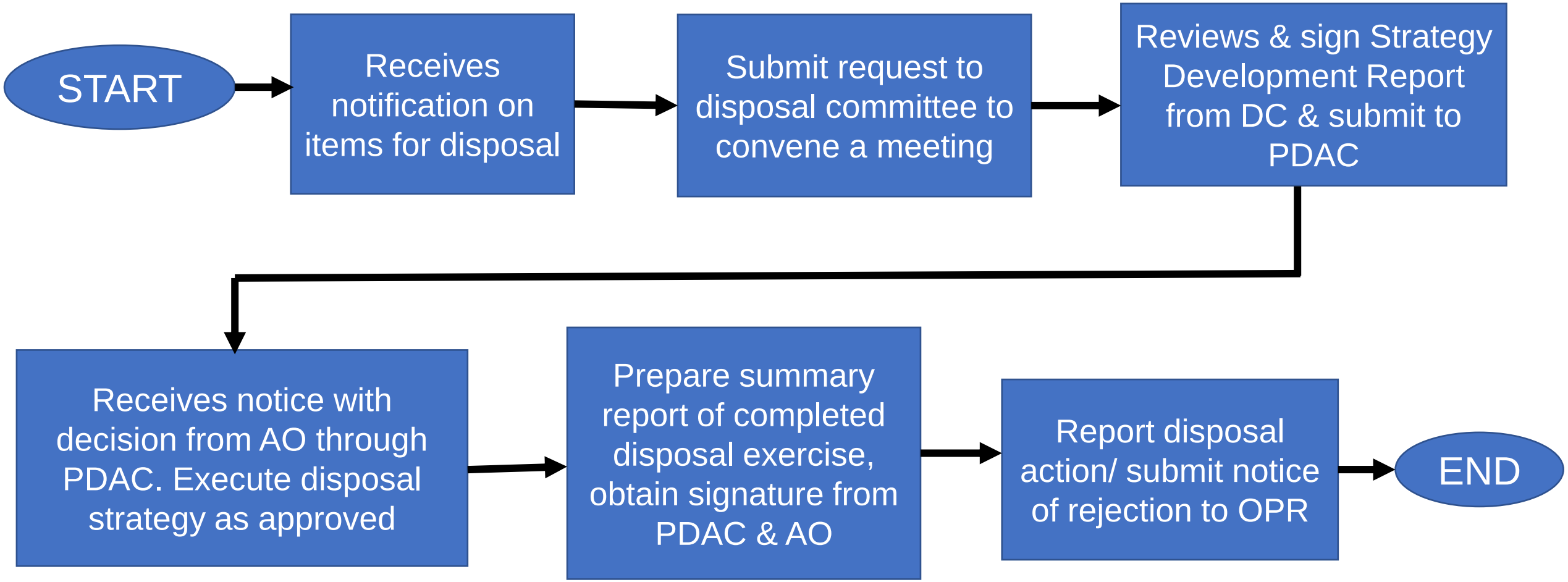


Key

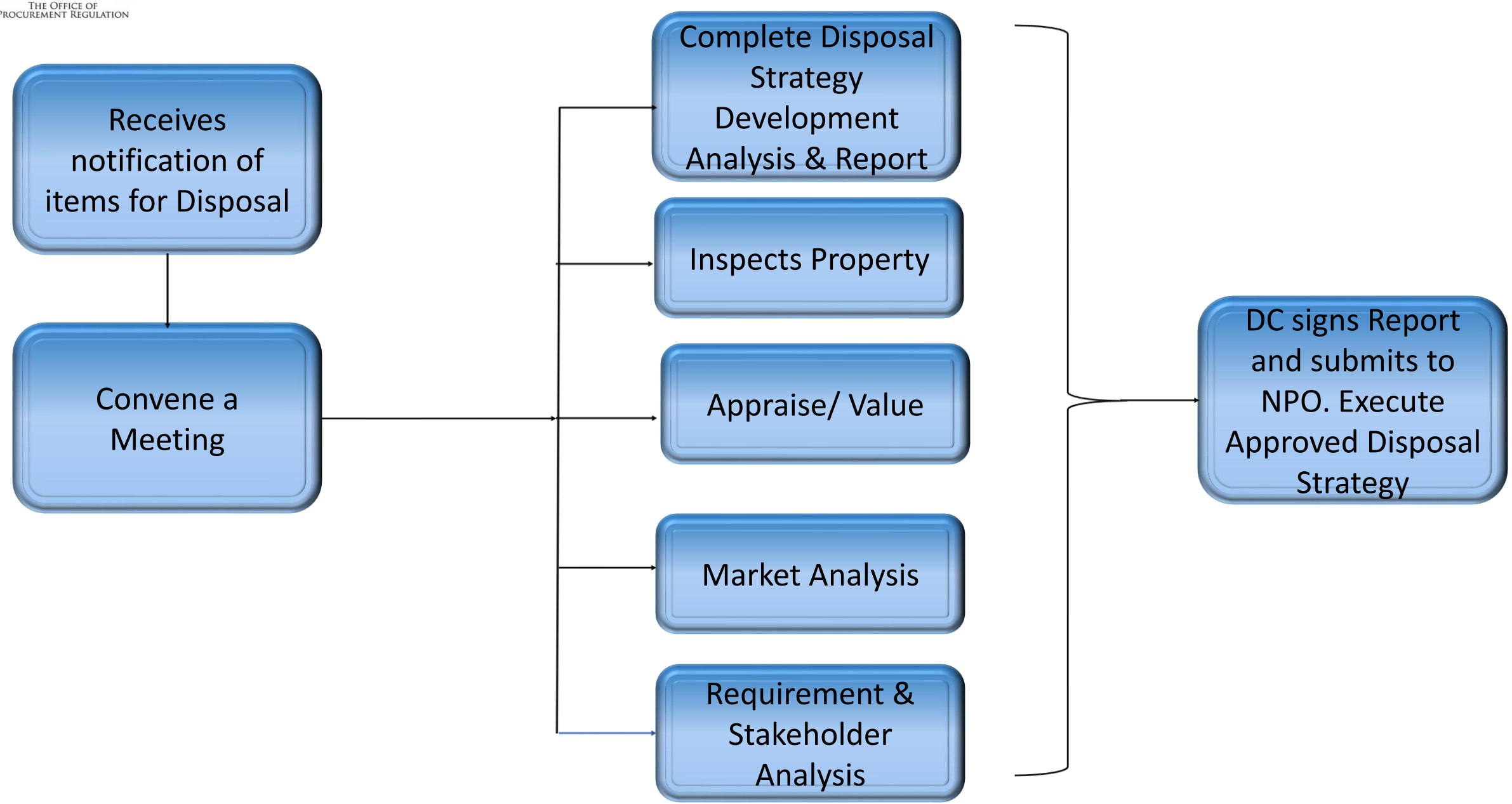
RFI – Request for Information
NPO – Named Procurement Officer
DC – Disposal Committee
PDAC – Procurement & Disposal Advisory Committee
AO – Accounting Officer
OPR – Office of Procurement Regulation
Form A – Request for Asset Disposal Form
Form B – Inventory & inspection Report
Form C – Appraisal Report
Form D – Disposal Strategy Development Analysis & Report
Form E – Significant Disposal Strategy
Form F – Summary Report of Approved Disposal Action
Form G – Transfer/ Donation of Excess Personal Property
Form H- Sample : Notice of Rejection

‘Named’ Procurement Officer (NPO)

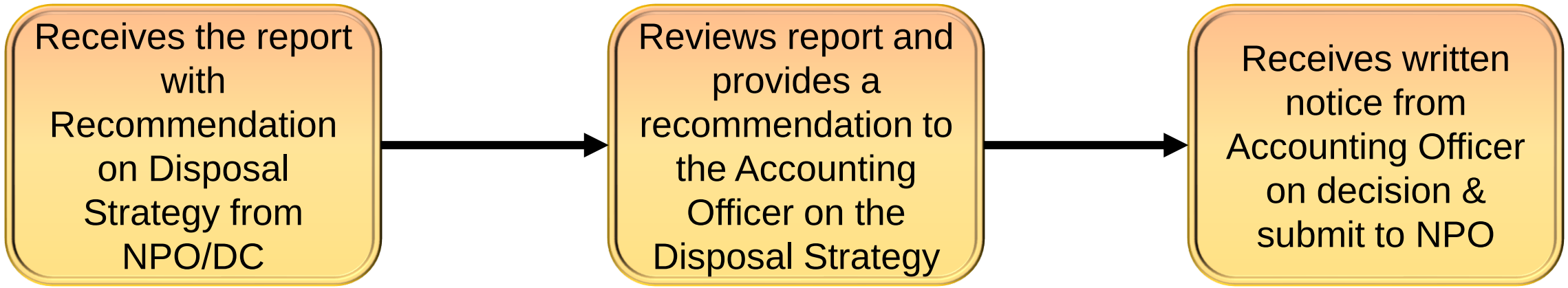
Section 61 (2) A public body shall have a procurement officer who shall be responsible for public procurement and disposal of public property.



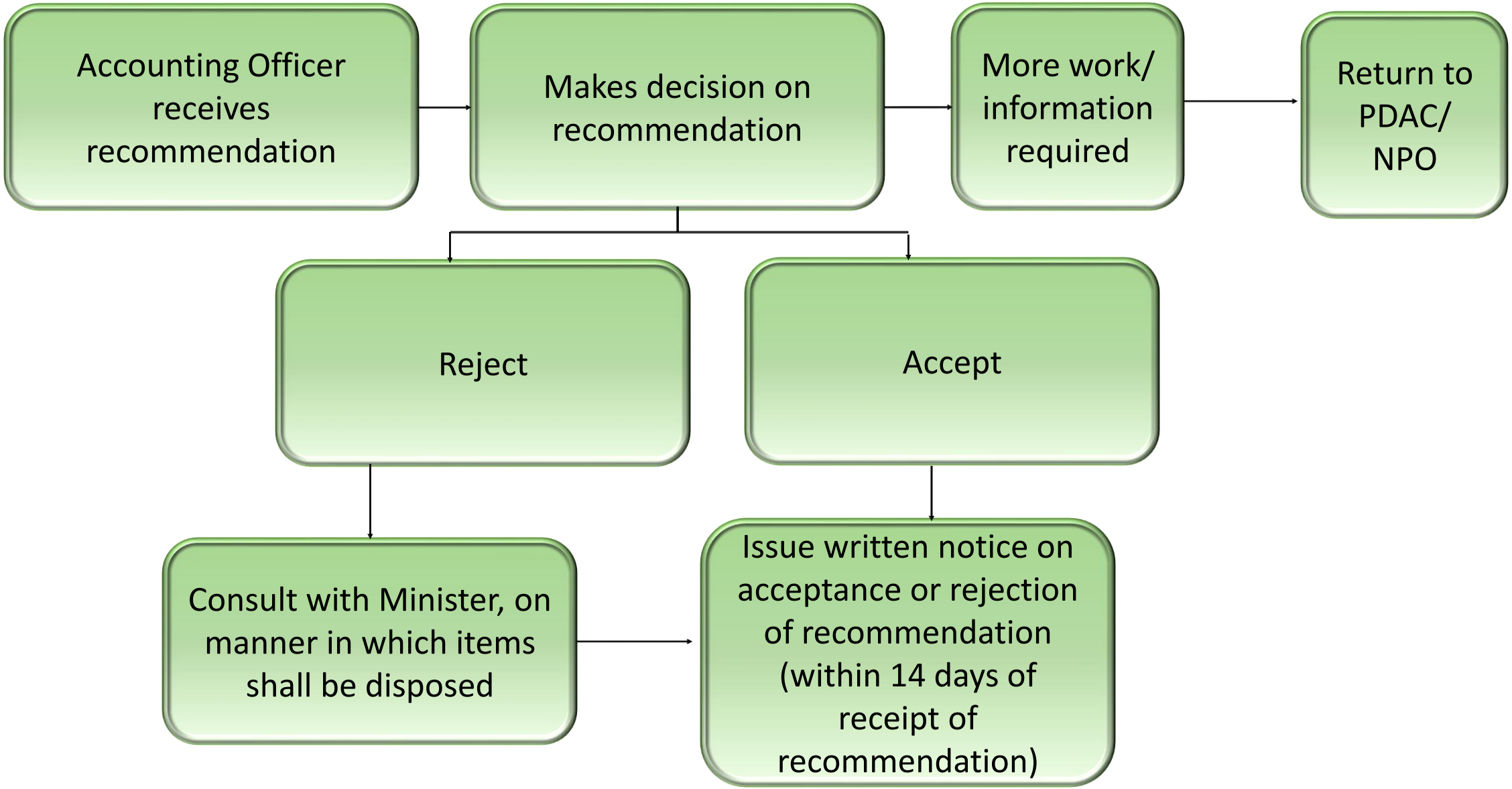
Disposal Committee (DC)

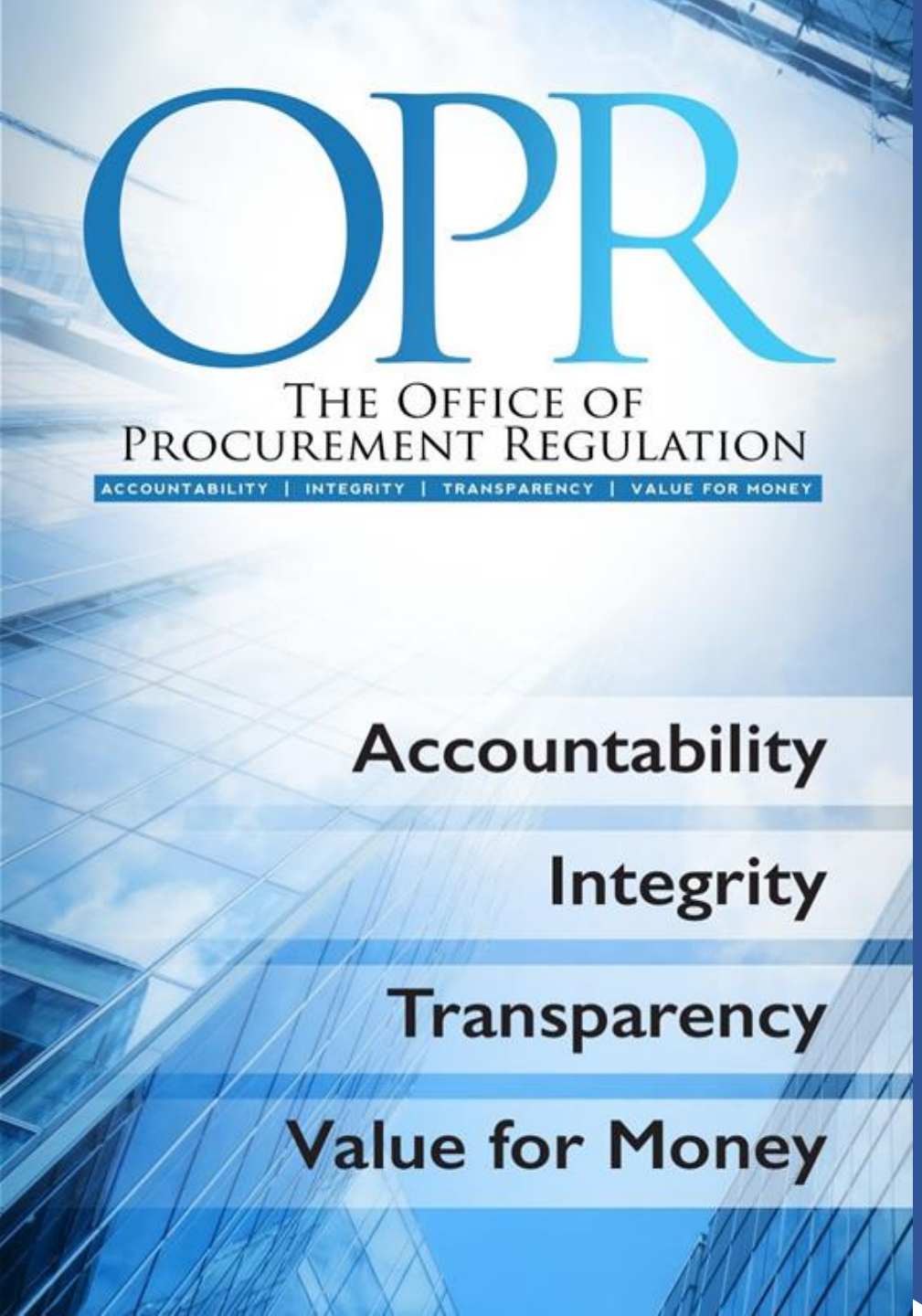


Procurement & Disposal Advisory Committee (PDAC)



Accounting Officer/CEO/President





Thank you for your kind attention!

We are happy to answer any questions you may have.

- **Level 19, Tower D, Port of Spain International Waterfront Centre, 1A Wrightson Road, Port of Spain**
- **Tel: 1 868 627 4677**
- **Website: www.oprtt.org**