STAKEHOLDER ENGAGEMENT SESSION

PUBLIC BODIES

OPENING REMARKS

Ms. Beverly Khan

AGENDA

I. The Legal and Regulatory Framework

II. Question and Answer Segment

III. Compliance

- The Roadmap for Compliance
- Handbooks & Guidelines & The Annual Procurement Plan
- Retention and Disposal of Personal Property

IV. Question and Answer Segment

V. The Procurement Depository

VI. Redress Functions (Complaints, Challenge and Ineligibility)

OPR
THE OFFICE OF PROCUREMENT REGULATION

THE LEGAL AND REGULATORY FRAMEWORK

Mrs. Stasha Mahabir

THE PUBLIC PROCUREMENT & DISPOSAL OF PUBLIC PROPERTY ACT, 2015, AS AMENDED ("THE ACT")

"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 …"*

The Act came into ***full operation on April 26, 2023,*** *by way of* ***proclamation*** *of the remaining sections of the Act via* ***Legal Notice No. 106 of 2023.***

THE ACT (CONT'D)

- The Act was subsequently amended by the following:
  - Act No. 5 of 2016
  - Act No. 3 of 2017
  - Act No. 27 of 2020
  - Act No 13 of 2023

- It is supported by **10 individual Regulations** which were approved in the House of Representatives on 14th January, 2022 and in the Senate on 8th February, 2022

- The 10 different documents may be downloaded from our website at https://oprtt.org/regulations-laid-in-parliament/

THE OPR

The OPR is a **regulatory body governed by an independent board.**

The functions of the OPR are listed in Section 13(1) of the Act.

Section 13(2)(a): In the exercise of its functions, the Office shall—

(a) 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; and

(b) 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 BODIES (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

KEY ROLES AND AREAS OF IMPORTANCE FOR COMPLIANCE

While the Accounting Officer retains the fiduciary responsibility for the public body, the Act places responsibility for procurement and disposal of public property for each public body firmly under the purview of the '**named' Procurement Officer.**

However the **Accounting Officer is the person with Approval Authority which can be delegated**.

Section 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".

ROLE OF THE ‘NAMED’ PROCUREMENT OFFICER

Identifying

- Identifying the risks associated with each category of goods and services being procured.

Preparing

- Preparing the Annual Procurement Plan.

Managing

- Managing the total procurement effort in accordance with the approved Annual Procurement Plan.

ROLE OF THE ‘NAMED’ PROCUREMENT OFFICER

Compiling

- Compiling reports as required by the legislation to be submitted to the Office of Procurement Regulation.

Approving or withholding

- Approving or withholding approval of recommended contract awards following procurement undertaken by a junior procurement officer.

THE ACCOUNTING OFFICER (AO)

An **Accounting Officer** is defined under Regulation 2 of the Public Procurement and Disposal of Public Property **(Procurement Methods and Procedures) Regulations, 2021** as:

- A person appointed by the Treasury and charged with the duty of accounting for any service in respect of which monies have been appropriated by the Constitution or by Parliament; or
- any person to whom issues are made from the Exchequer Account in accordance with the Exchequer and Audit Act; or
- the Chief Executive Officer or any other person holding the equivalent position in a procuring entity

ROLES AND RESPONSIBILITIES OF ACCOUNTING OFFICER/CEO OR EQUIVALENT

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

Regulation 4

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

Regulation 5

Personally and pecuniarily responsible for —

(a) the due performance of the financial duties of their departments;

(b) proper collection and custody of all public moneys receivable by them; and

(c) for any accounts rendered by them or under their authority

ROLE OF PROCUREMENT AND DISPOSAL ADVISORY COMMITTEE (PDAC)

Procurement Methods and Procedures Regulation 21 (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 Handbooks and Guidelines;
(c) adherence to the approved procurement/disposal strategy; and
(d) achievement of the objects of the Act.

The PDAC may consult with the Named Procurement Officer and/or the evaluation committee during its review of the procurement proceedings.

PDAC (CONT'D)

Regulation 21 (1) Part IX of the Procurement Methods and Procedures Regulations – a procuring entity shall establish a Procurement and Disposal Advisory Committee (PDAC)

Regulation 21 (2) – PDAC shall comprise of the following:

Corporate Secretary /Head Legal	Head Finance	Subject Matter Expert	Such other members as may be necessary

Regulation 21 (3) – A member of PDAC may be sourced from another Public Body

Regulation 21 (4) – A Senior Officer shall be appointed as Secretary to attend all meetings but shall not be a member of the PDAC

THE ROLE OF THE BOARD IN PUBLIC PROCUREMENT

The OPR's *General Guidelines: Framework of Internal Control For Procurement* emphasises the importance of the system of internal controls within public bodies in relation to public procurement, in keeping with the objects of the Act

The Guideline summarises the role of the Board of Directors in relation to public procurement. The Board is responsible for:

- governance and oversight of the organisation and is accountable to the respective line Ministry
- approving budgets from which procurements are funded
- approving Handbooks & Guidelines issued by the OPR to guide public procurement and the retention and disposal of public property by public bodies

The Board maintains independence from the management and operational aspects of public procurement

THE ROLE OF THE BOARD IN PUBLIC PROCUREMENT

Important points to note:

- The Board of Directors should **NOT** play a role in the Evaluation and Award process within a public body
- A public body may keep its Board of Directors informed on critical operational decisions
- Where the Board objects to a procurement decision, the reasons for such objection must be provided in writing for consideration by the Accounting Officer, who makes the final decision.

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	$5M & 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**)	$1M & 5 Years Imprisonment
60 (1)	**Bid-rigging**, influencing procurement proceedings	$5M & 10 Years Imprisonment
60 (2)	**Altering a procurement document** to influence the outcome of the procurement proceedings	$2M & 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 $1M & 5 Years Imprisonment

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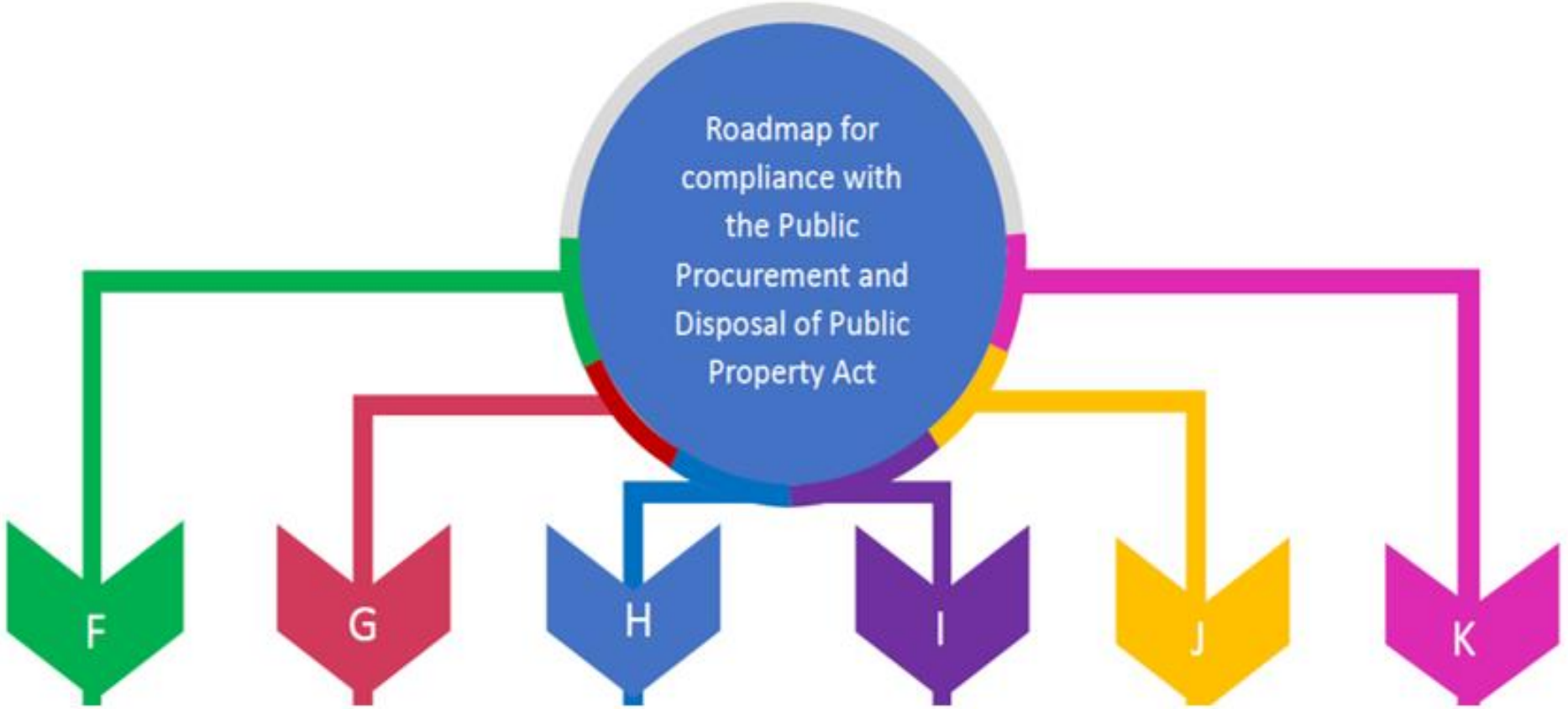
QUESTION & ANSWER SEGMENT

THE ROADMAP FOR COMPLIANCE



Ms. Heidi Eastman

ROADMAP FOR COMPLIANCE

A. CODES OF CONDUCT

- Adopt the Code of Conduct for Public Bodies & Public Officers & the Code of Conduct for Suppliers & Contractors developed by the OPR
- Implement the Codes of Conduct in the public procurement and disposal proceedings
- Develop & Implement a training plan for staff & stakeholders

B. INTERNAL CONTROL FRAMEWORK

- Develop an Internal Control Framework for Public Procurement, Retention & Disposal of Public Property
- Establish a delegation of authority for the conduct & management of Public Procurement, Retention & Disposal of Public Property

ROADMAP FOR COMPLIANCE

C. CAPACITY NEEDS ASSESSMENT

- Undertake a Needs Assessment & Determine Procurement & Disposal Capacity Needs
- Assess the procurement & disposal capacity needs based on the mandate and level of expenditure
- Establish an organisational structure for procurement & disposal
- Establish job descriptions & budget for recruitment, training and development of the staff

D. RECRUITMENT

- Recruit/Appoint a Procurement Officer with the appropriate level of competence
- Notify the Office, in writing, of the name & designation of the 'named' Procurement Officer
- Assign a Public Officer to be responsible for retention of stores & equipment
- Assign a trained, technically capable Public Officer for Stores & Inventory

E. RECORDS MANAGEMENT & PROCUREMENT DEPOSITORY

Establish a Records Management System

Establish a Stores & Inventory Management System

Inform the OPR of the name, designation & contact info. for the AO & NPO to be granted access to the Procurement Depository

Create Line(s) of Business on the Procurement Depository via UNSPS codes

F. HANDBOOKS & GUIDELINES

Comply with the General Guidelines issued by the OPR in relation to Public Procurement, Retention & Disposal

Prepare Handbooks & Special Guidelines using the template provided by the OPR

Submit completed Handbook & Special Guidelines to the OPR for its approval

ROADMAP FOR COMPLIANCE

ROADMAP FOR COMPLIANCE

G. PDAC & DISPOSAL COMMITTEE

- Appoint members/alternates of PDAC
- Establish a Disposal Committee

H. TRAINING

- Provide internal training for staff on the Act, Regulations H&G and Special H&G
- Assess the capacity of staff involved in public procurement & disposal against the OPR's Competence Standards
- Provide training opportunities to procurement & disposal staff

ROADMAP FOR COMPLIANCE

I. ANNUAL PROCUREMENT PLAN

Prepare Annual Procurement Plan & Annual Schedule of Planned Procurement Activities & obtain approval of Accounting Officer

May Submit the Annual Procurement Plan to the OPR

Publish Annual Schedule of Planned Procurement Activities on the Public Body's website or any other electronic format

J. REPORTING REQUIREMENTS

Publish notices of award of procurement contracts or framework agreements

Prepare and submit quarterly reports to the OPR within 3 weeks after the end of each quarter

Prepare & submit the Annual Procurement Performance Report within 6 weeks of end of fiscal year

Prepare & submit all other documents & reports requested by the OPR

ROADMAP FOR COMPLIANCE

K. COMPLIANCE MONITORING

Create & implement an action plan for complying with the Act & Regulations

Continuously monitor the procurement & disposal functions

Implement measures to improve the performance & address any gaps & weaknesses identified in the procurement & disposal functions

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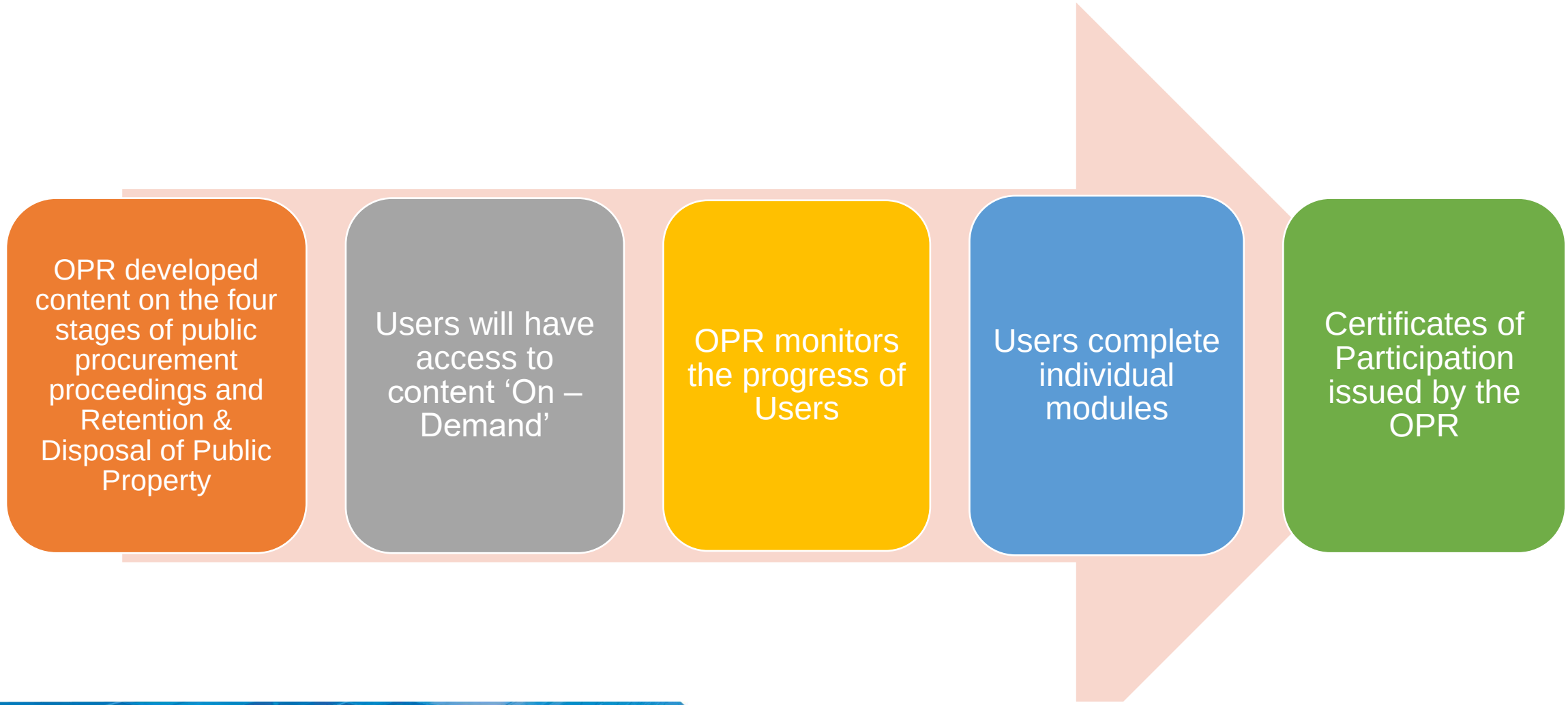
THE OPR'S LEARNING MANAGEMENT SYSTEM (LMS)

HOW THE LMS FUNCTIONS



OPR'S PLAN FOR CAPACITY BUILDING

- Outreach and Sensitisation
- Learning Management System
- Professionalisation of the public procurement function in T&T
- Development of a comprehensive training certification programme for PP&DPP in T&T
- CIPS accredited workshops for public procurement, retention and disposal in Trinidad and Tobago

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- HANDBOOK & GUIDELINES
- ANNUAL PROCUREMENT PLAN & SCHEDULE
- ANNUAL PROCUREMENT PERFORMANCE REPORT

Ms. Devika Singh

DEFINITION

"Procurement Proceedings"

"… includes the process of procurement from the **planning stage**, s**oliciting of tenders**, **awarding of contracts** and **contract management** to the formal acknowledgement of completion of the contract:" (Section 4)

CONSISTENT VS VOID AND ILLEGAL

A public body shall carry out public procurement and the disposal of public property in a manner that is consistent with the objects of this Act. – S. 5 (2)

… 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.6 (1)

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HANDBOOKS AND GUIDELINES

GENERAL AND SPECIAL GUIDELINES

1) General Guidelines issued by the OPR - S. 30 (1) (a) and 54 (1) (a)

2) Special Guidelines prepared by public bodies, comprising:

   - ✓ Amendments
   - ✓ Exemptions

to the General Guidelines – S. 30 (2) and 54 (2)

GENERAL GUIDELINES – A BODY OF KNOWLEDGE

Handbooks with:

1) General Information on the new system of procurement
2) General Guidelines for:
   a) Planning
   b) Tendering
   c) Evaluation and Award
   d) Contract Management
   e) Retention and Disposal of Personal Property

29

3) Procedural Forms and Templates *(sample bidding documents, forms of contract)*

16

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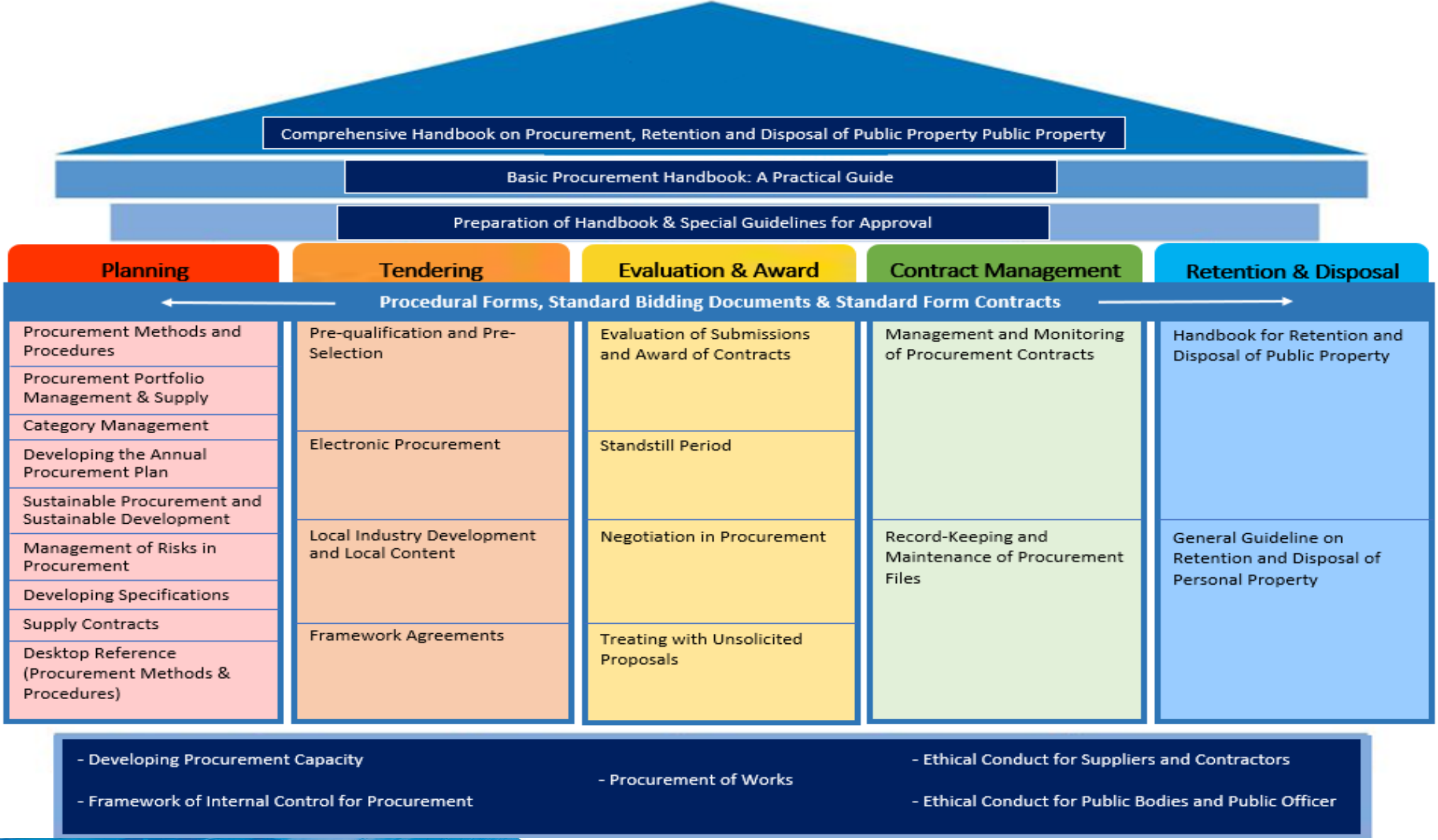
HANDBOOKS WITH GENERAL GUIDELINES



PUBLIC BODY'S SPECIAL GUIDELINES

1) **Comply** with General Guidelines issued by the OPR - S. 30 (1) (a) and 54 (1) (a)

2) Comply with Special Guidelines approved by the OPR, comprising:

- Amendments – *a small change*
- Exemptions – *not required to*

to the General Guidelines – S. 30 (2) and 54 (2)

ANNUAL PROCUREMENT PLAN AND SCHEDULE

PLAN VS SCHEDULE

Annual Procurement Plan

- Internal document
- Assists the public body with strategic level planning for procurement

Annual Schedule of Planned Procurement Activities

- Outward facing document
- Lists possible procurement activities for the coming year

IMPORTANCE OF THE ANNUAL PROCUREMENT PLAN

Important for strategic level planning. Helps public body to (*consciously and proactively*) :

- (Re)examine is mandate, goals, objectives
- Identify and link its procurement projects to its goals, and so forth
- Consider all of its forthcoming procurements (**portfolio analysis**)
- Plan and execute its procurements to be consistent with the **objects of the Act**
- Develop its Schedule of Planned Procurement Activities

IMPORTANCE OF THE ANNUAL SCHEDULE OF PLANNED PROCUREMENT ACTIVITIES (ASPPA)

1. Ensures compliance with:
    - Publication requirements – S. 27
    - Principle of transparency – S. 5
    - Principle of fairness, equity, public confidence – S. 5
2. Improves the readiness of suppliers and contractors to respond to invitations to bid and so forth.

REQUIREMENT OF THE ACT – S27 (1) (A)

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.

ASPPA – FORTHCOMING PROCUREMENTS

No.	Project Number	Project Name	UNSPSC Code Lvl 3	Brief Description	Proposed date for Issue of Bidding Documents	Expected Delivery/ Completion Date	Estimated Project Duration (for works and services)	Procurement Method	Standstill period (if applicable) – No. of days	Contract Type
1	RFP# 003/2019-2020	Supply and Delivery of Computer Equipment	81112300	Supply and Delivery of 80 Laptops and Desktops	Nov-19	Sep-20	N/A	Open Bidding	10	Fixed price contract

Transparency

Accountability

Public Confidence

UNSPS CODE

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ANNUAL PROCUREMENT PERFORMANCE REPORT (APPR)

THE ANNUAL PROCUREMENT PERFORMANCE REPORT (APPR)

What is an Annual Procurement Performance Report?

A review of how the public body conducted its procurement function for the previous year, prior to the start of the next financial year.

Quantitative and qualitative analysis of the public body's procurement performance for effective monitoring and measurement.

The document that discloses how a public body's procurement activities complied with its published planned procurement activities/strategies (APP).

Why is an Annual Procurement Performance Report needed?

To measure the effectiveness of the procurement strategies employed.

To measure and monitor performance in order to identify areas for performance improvement in the next planning period.

To report on how the public body meets its strategic and programmatic goals and objectives through procurement.

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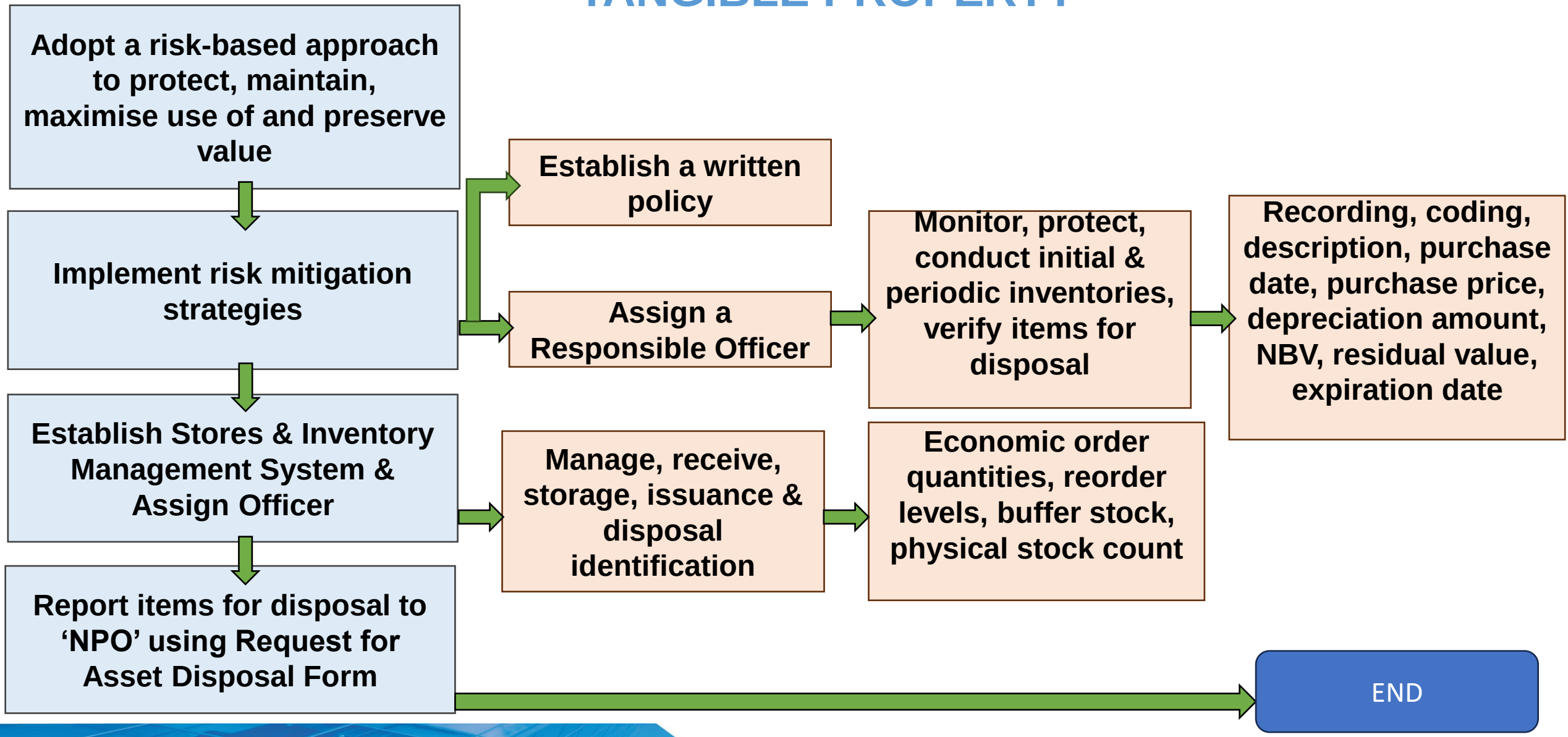
RETENTION & DISPOSAL OF PERSONAL PROPERTY PROCESS

Ms. Laura Heeralal

RETENTION OF PERSONAL PROPERTY
TANGIBLE PROPERTY



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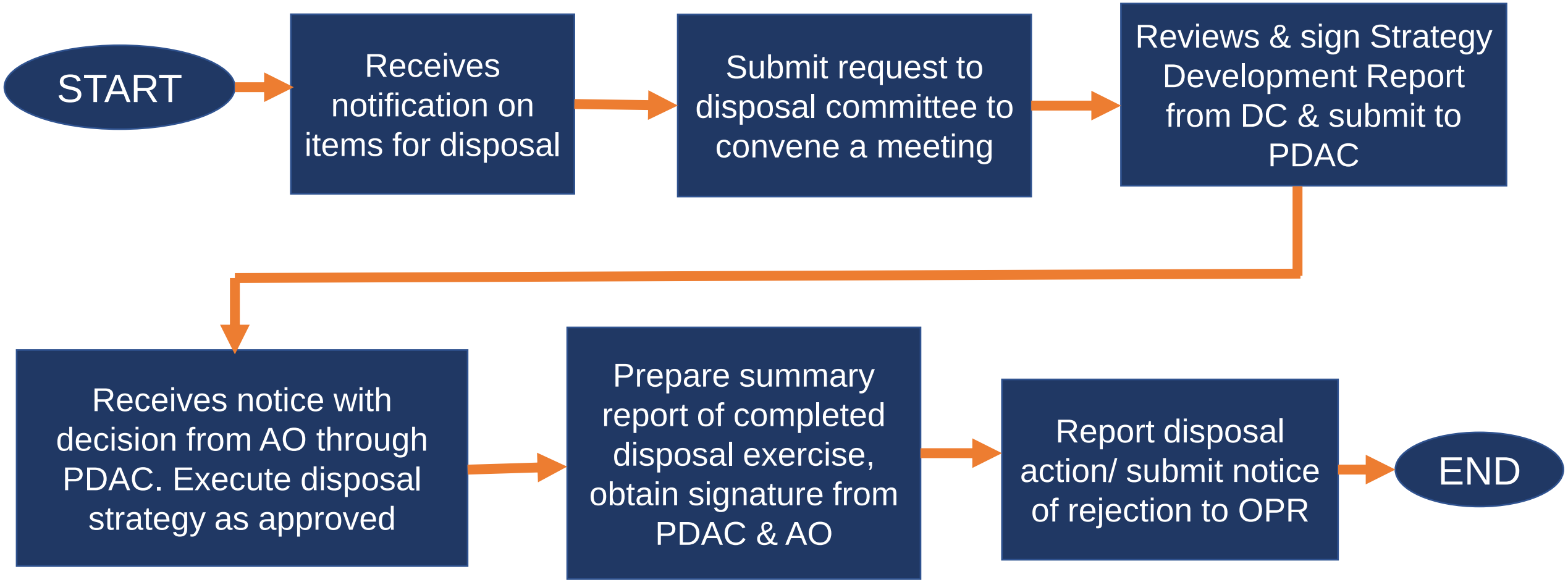
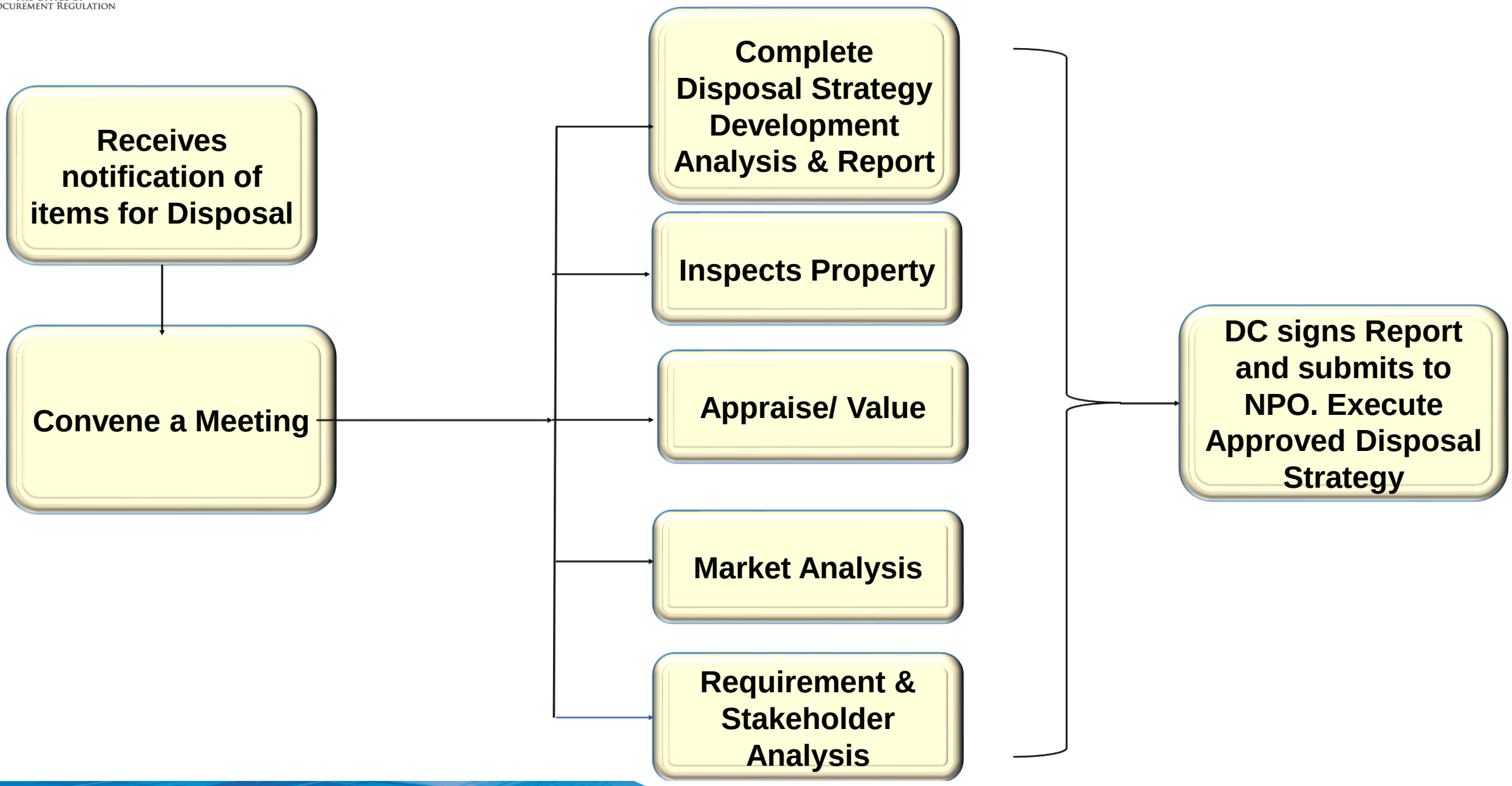
THE DISPOSAL OF PERSONAL PROPERTY PROCESS

‘NAMED’ PROCUREMENT OFFICER (NPO)

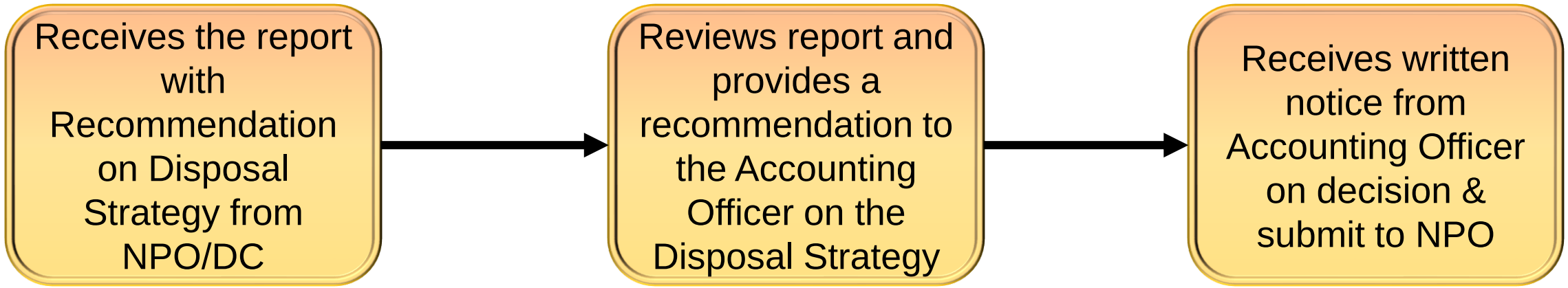
Section 61 (2) A public body shall have a procurement officer who shall be responsible for public procurement and disposal of public property.



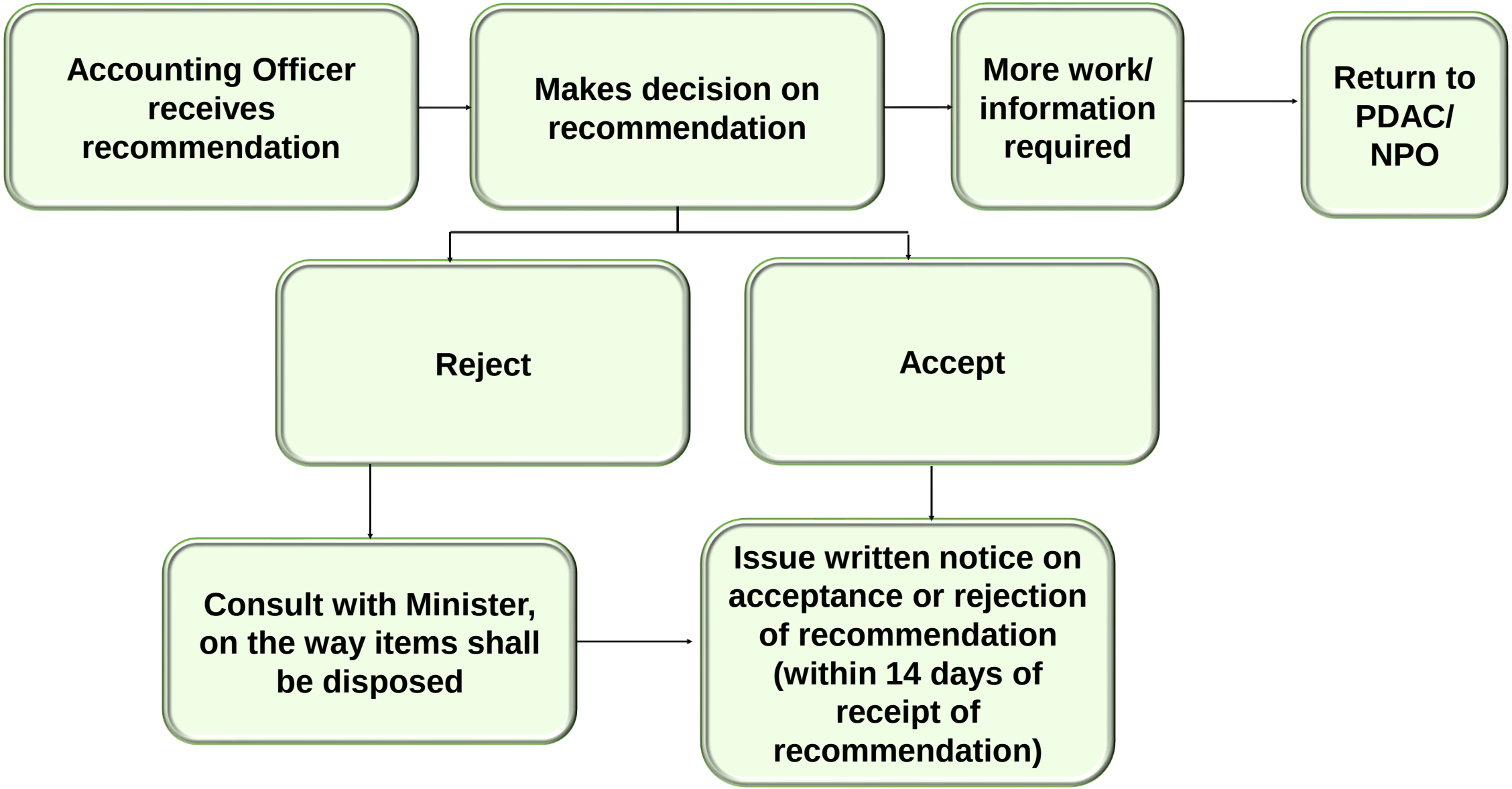
DISPOSAL COMMITTEE (DC)



PROCUREMENT & DISPOSAL ADVISORY COMMITTEE (PDAC)



ACCOUNTING OFFICER/CEO/PRESIDENT



RETENTION AND DISPOSAL RESOURCES

- General Guidelines – Retention & Disposal of Public Property (pdf)
- Handbook – Retention & Disposal of Public Property (pdf)
- Disposal Forms Templates (docx)
- Disposal Case Study Scenario & Solution (pdf)

Checklist for the Retention & Disposal of Personal Property/ Stores & Equipment
General Action Items for Public Bodies

For both Retention & Disposal: Comply with General Guidelines and such Special Guidelines as the Office may approve for a Public Body √	
1. Retention	**Check**
Risk Mitigation Strategies - Establish a written policy - Assign a responsible officer - Establish a 'Stores & Inventory Management System' and assign a trained technically capable public officer	√
Adopt a risk-based approach (protect and maintain personal property)	√
2. Disposal	
Assign a 'named' Procurement Officer, establish a Disposal Committee and a PDAC	√
Notify the OPR of all disposal actions within 6 weeks of its completion (Procurement Depository)	√

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QUESTION & ANSWER SEGMENT

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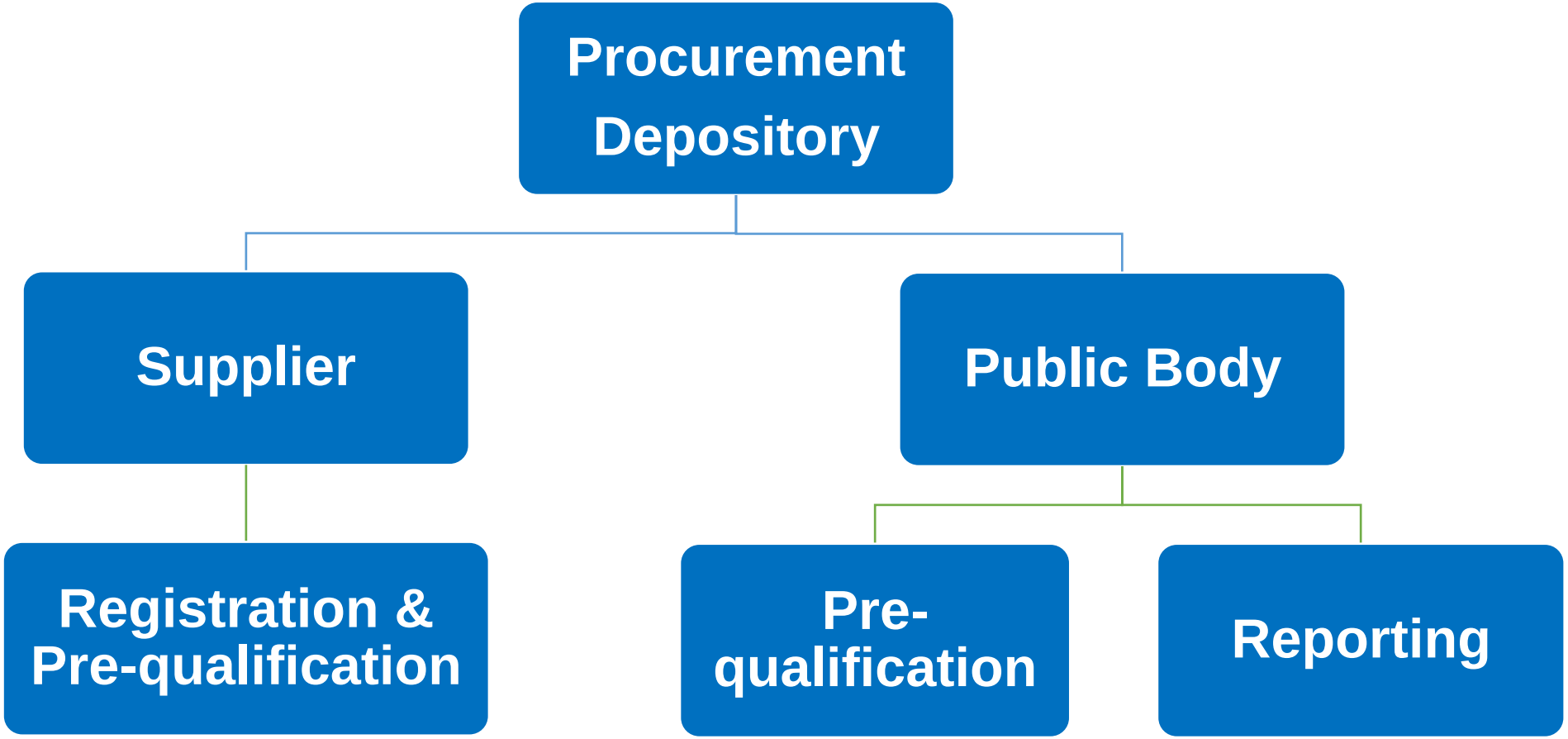
PROCUREMENT DEPOSITORY

Mr. Aleem Baksh

THE PROCUREMENT DEPOSITORY

The system will manage, capture and report information as described in Sections 13, 24, 26, 29 and 58 of the Act.



RESPONSIBILITIES OF PUBLIC BODIES

1) Provide the contact information of the Accounting Officer & 'Named' Procurement Officer for registration in the Depository

2) Pre-qualify suppliers/contractors in the Procurement Depository - Reg 4 (1)

3) Ensure that a supplier/contractor meets the requirements set out in section 29(1) of the Act for each line of business and value category – Reg 4 (2)

A procuring entity shall only invite suppliers or contractors who are pre-qualified in the Procurement Depository to participate in procurement proceedings.- *(Regulation 8)*

PUBLIC BODIES REPORTING REQUIREMENTS

1) Details of Tenders and Contracts awarded, including progress reports on work completed, payments made and contract variations

2) Details of Disposals of Personal Property

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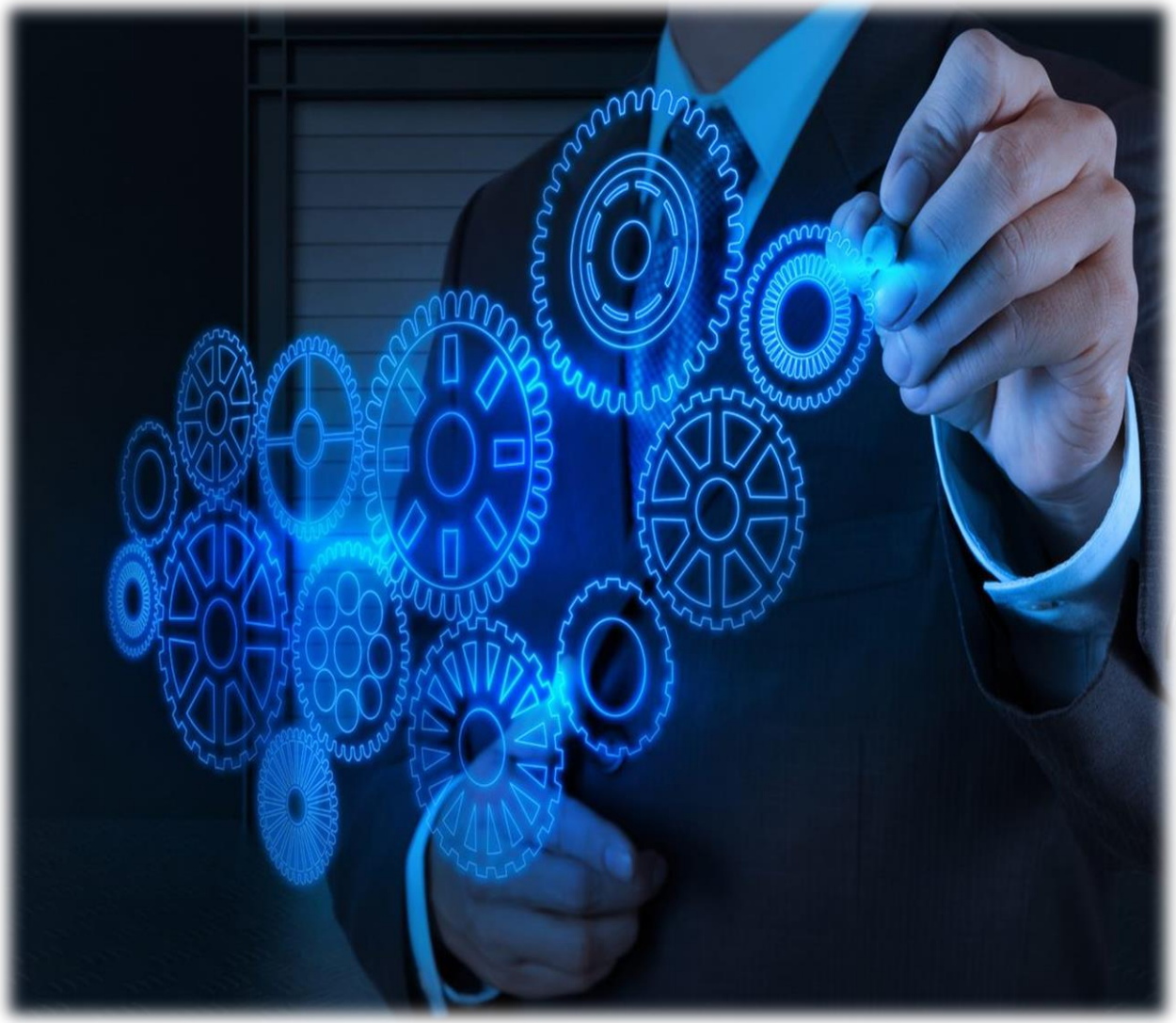
SYSTEM OVERVIEW



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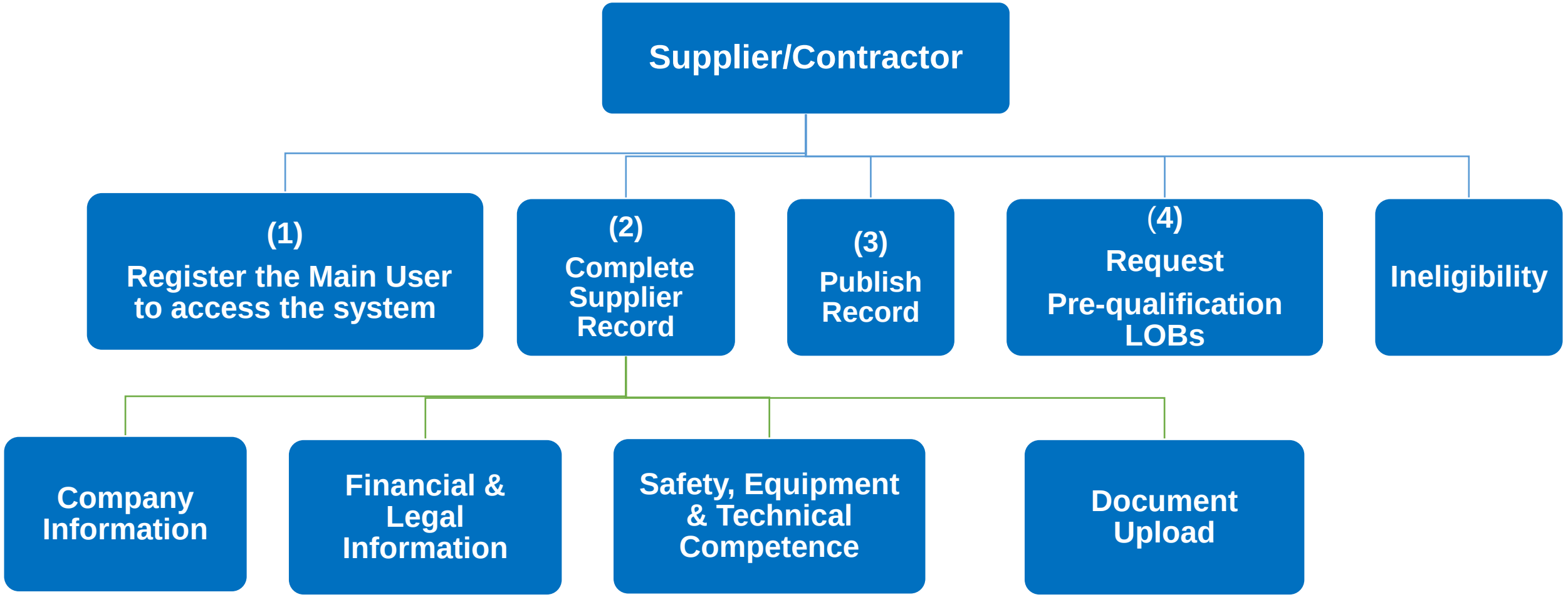
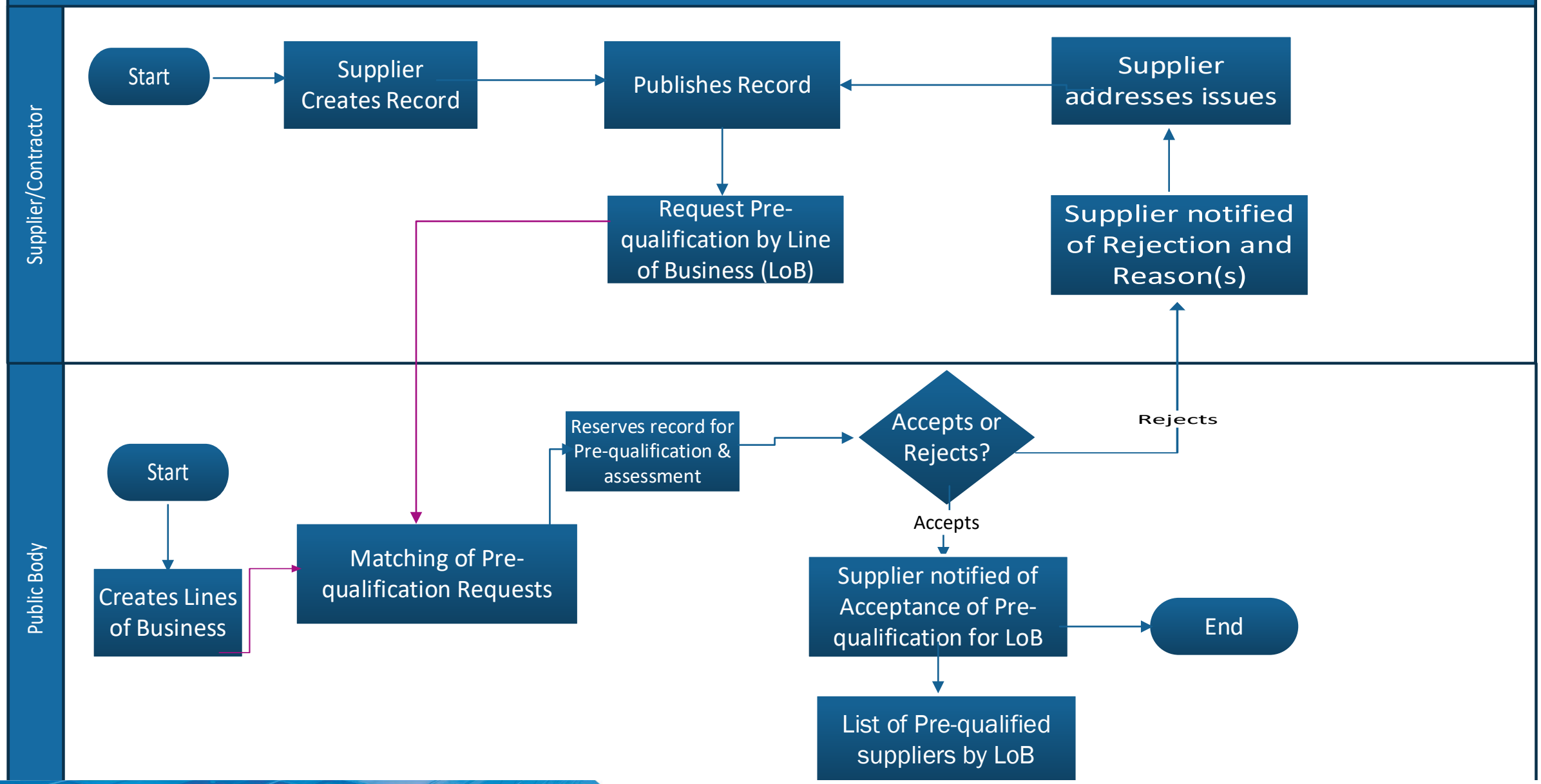


Pre-qualification Process



BENEFITS TO PUBLIC BODIES

1. Access to a central pool of potential suppliers or contractors who can provide the goods and services that they are seeking to acquire. Simplifies market research process.

2. Search for registered suppliers or contractors based on the line of business, value category, and geographic location.

3. Wider scope of participating bidders leads to increased competition and better value for money

KEY ISSUES FROM PUBLIC BODIES & SUPPLIERS/CONTRACTORS

1. Granularity of UNSPSC

2. Unable to locate their Line of Business

3. The process for uploading and assigning documents is not clear
   - Public Bodies are therefore not seeing the documents which are uploaded.
   - Refer to pages 29 - 33 of the Procurement Depository User Guide

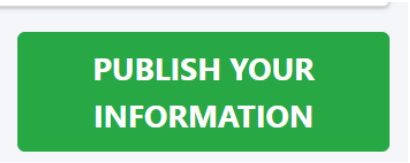
4. Public Bodies are not seeing the supplier on the system.

KEY ISSUES FROM PUBLIC BODIES & SUPPLIERS/CONTRACTORS (CONT'D)

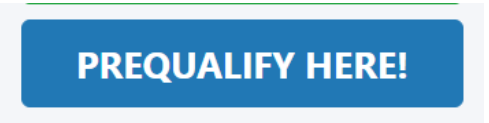
Reasons why this may occur:

i. Public Body did not create line of business

ii. The supplier has not published the information i.e. has not clicked on button



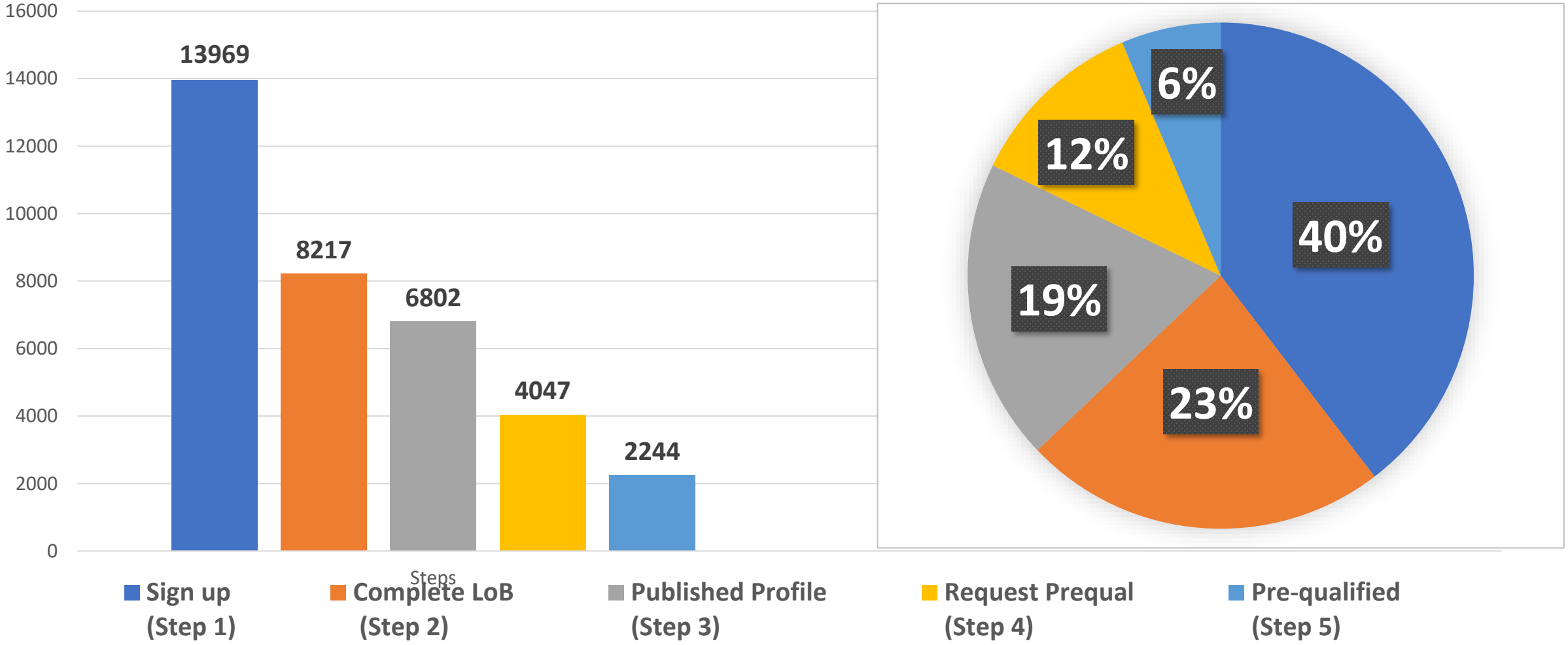
iii. The supplier did not request pre-qualification for the line of business



iv. The supplier clicked on the "Publish your Information" button after they requested Pre-Qualification. This action moves all pre-qualification requests from the "Pending" tab to the "For Resubmission" Tab.

KEY ISSUES FROM PUBLIC BODIES & SUPPLIERS/CONTRACTORS (CONT'D)

5. Suppliers not completing the process to advance to the pre-qualification stage



KEY ISSUES FROM PUBLIC BODIES & SUPPLIERS/CONTRACTORS (CONT'D)

6. Public Bodies are not pre-qualifying suppliers

7. Registration and pre-qualification of Foreign Suppliers

8. Time for the Public Body to pre-qualify lines of business can vary from 1 day to a few weeks/months

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UPCOMING CHANGES

CHANGES TO SYSTEM

1. Utilise Excel template to submit quarterly contract reports

2. Change Lines of Business from Level 4 to Level 2
   - Historical data migrated to Level 2

3. Move from pre-qualification to registration system
   - Dependent on changes to regulations relating to pre-qualification and pre-selection

4. Simplified Procurement Depository

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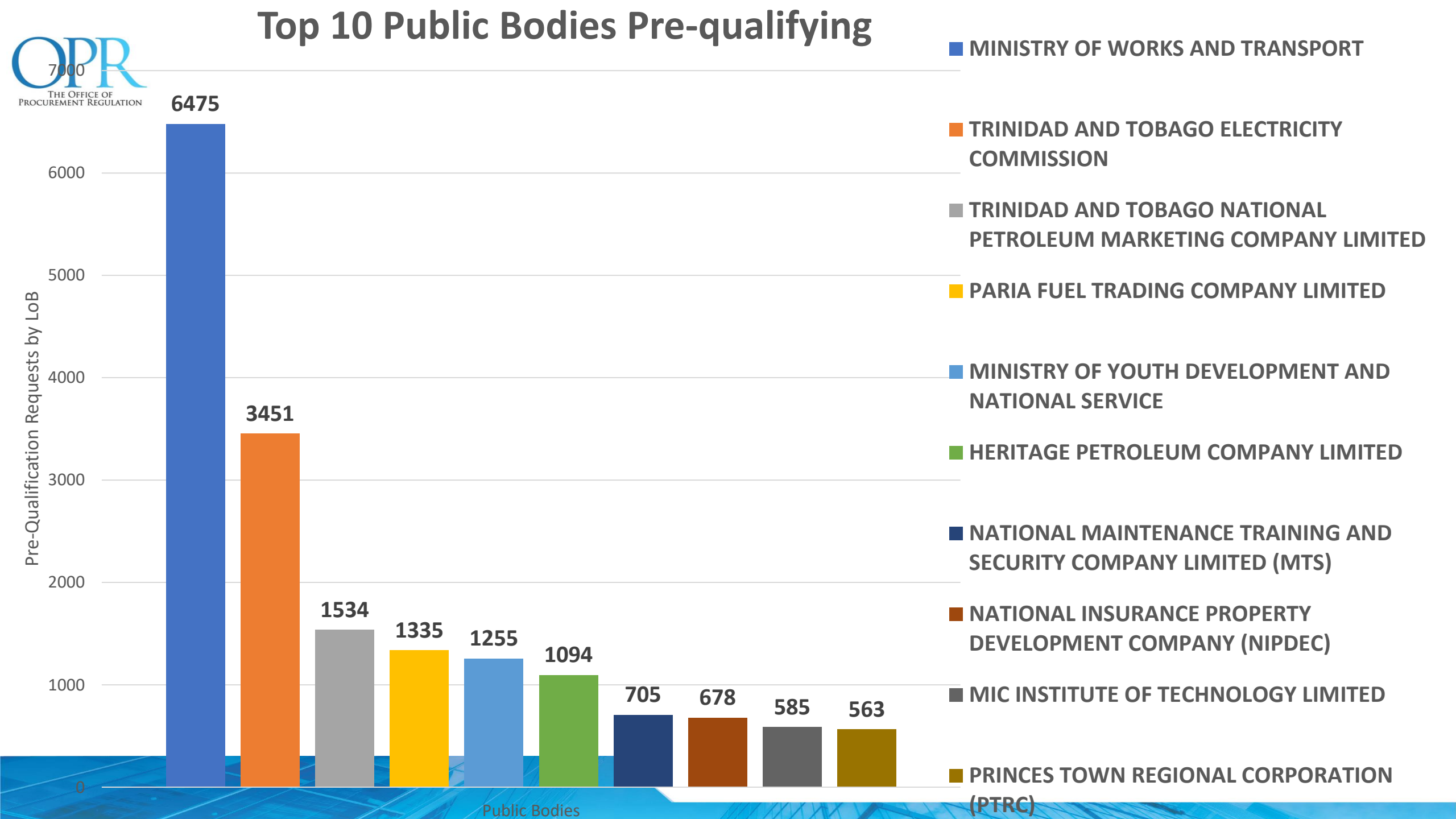
KEY STATISTICS
&
NEXT STEPS

PUBLIC BODY POPULATION: 330

- 222 PB Profiles exist on Depository
- 198 with Accounting Officers
- 206 with ‘Named’ Procurement Officers
- 167 PB created Lines of Business
- 131 PB have pre-qualified suppliers, 23,999 LoBs
- 129 PB submitted response to Contract Reporting data for Q1 FY 2023-2024
- 15 PB Created 90 Disposal Records

Top 10 Public Bodies Pre-qualifying



IMPORTANT STEPS

1. Provide the office with any changes to NPO and AO designation

2. Continue to pre-qualify suppliers and utilise the list of Pre-qualified suppliers until legislation changes.

3. Enter information relating to Tenders, Contracts & Contract Progress in Excel template

4. Enter information relating to Disposals in Depository

KEY LINKS

1. Depository: https://depository.oprtt.org

2. OPR's Website: https://oprtt.org
   - Resources → The Act, Regulations, Handbooks & Guidelines
   - Portals → Procurement Depository Training Documents, Templates, Policies

3. Support email: support@opr.org.tt

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REDRESS FUNCTION

Ms. Sanchel Ferreira

PART IV - COMPLAINTS

A complaint is formal written statement of an allegation that **bid rigging** or another form of collusion, an **irregularity in procurement proceedings** or a **breach of the Act** has occurred.

SECTION 41

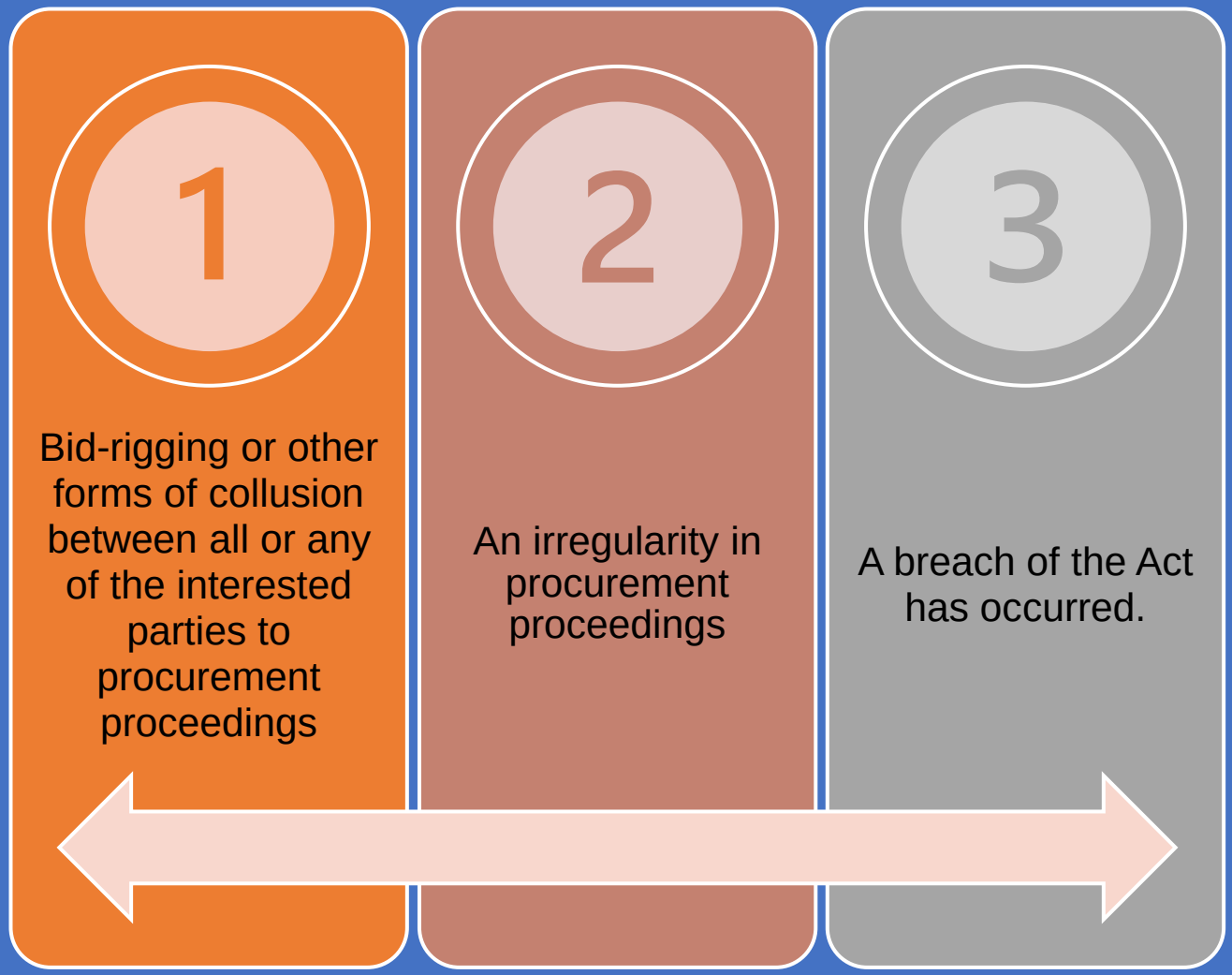
WHO CAN MAKE A COMPLAINT?

Any member of the public may make a complaint.

The OPR may also, on its own initiative, consider, enquire into or investigate any alleged breaches of the Act.

SECTION 41 (2)

WHAT CAN I COMPLAIN ABOUT?



HOW TO FILE A COMPLAINT- COMPLAINT FORM

- Online
- Mail-in/ Post
- Walk-in

YOUR NAME

MAILING ADDRESS

TELEPHONE CONTACT DETAILS

EMAIL ADDRESS

INFORMATION ABOUT THE SUBJECT OF THE COMPLAINT

PARTICULARS OF THE COMPLAINT

SUPPORTING DOCUMENTS

A FEW TIPS…

Consult	Provide	Use	Be	Provide	Ensure	Cooperate
Consult Guidance Notes before completing the Form	Provide adequate supporting documents where possible	Use clear and concise language	Be specific: use dates, times, locations, and names as far as possible	Provide the names of persons or witnesses who can provide evidence of the allegations made	Ensure that you provide up to date contact information so that you can be contacted by the OPR if necessary	Cooperate with the authorised officers of the OPR, when called upon

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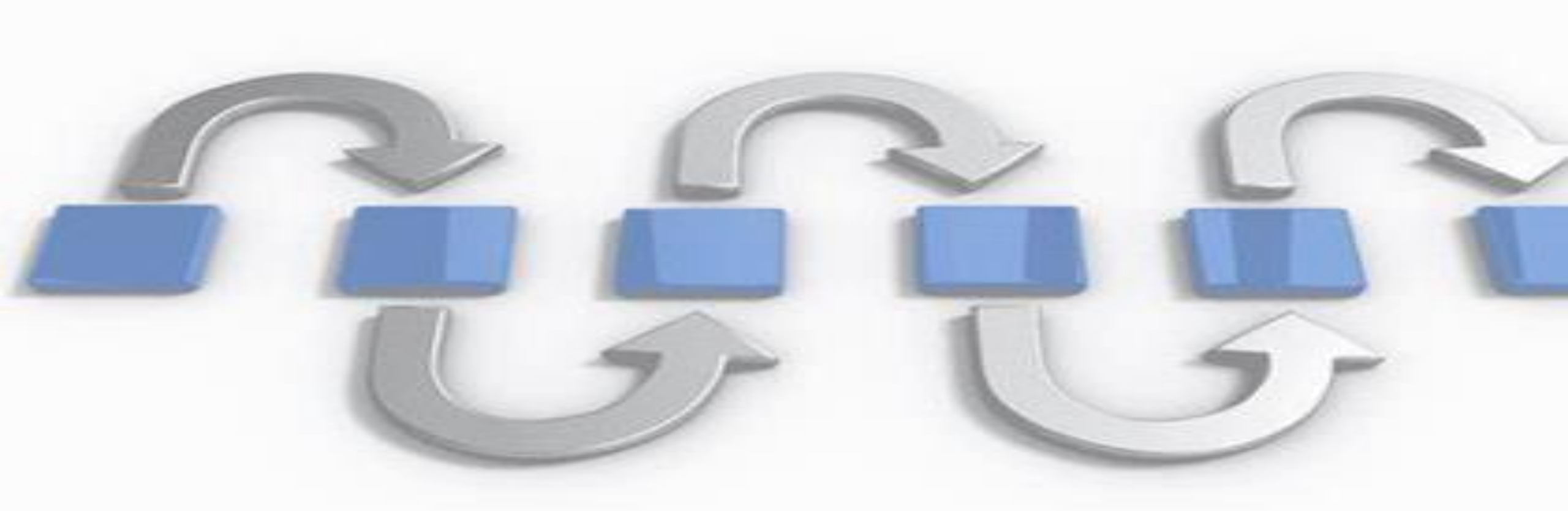
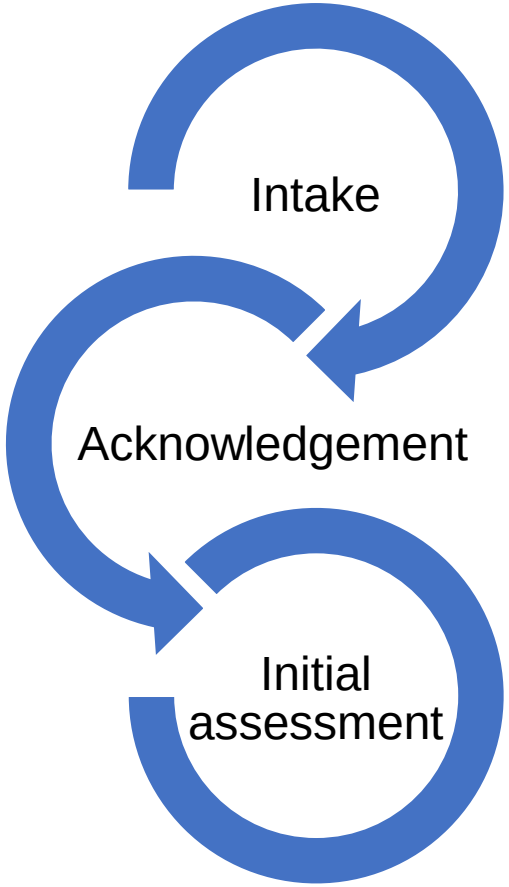
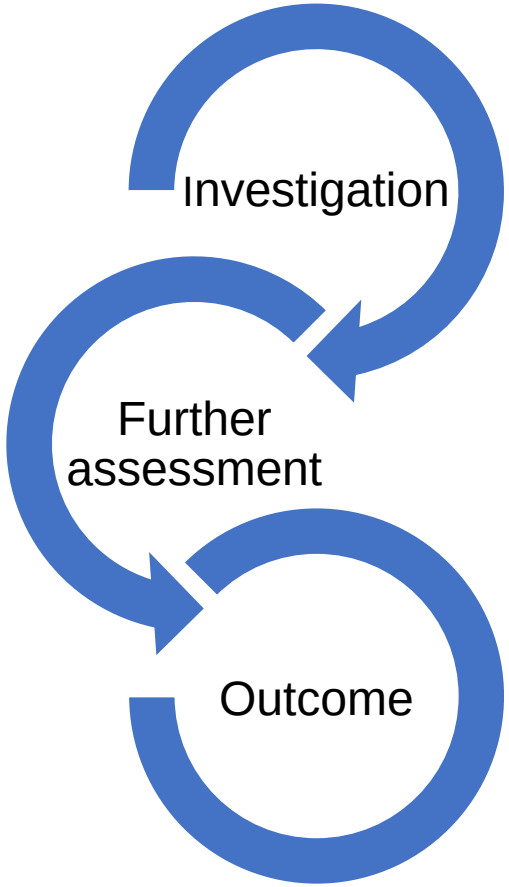


THE COMPLAINT PROCESS

THE COMPLAINT PROCESS





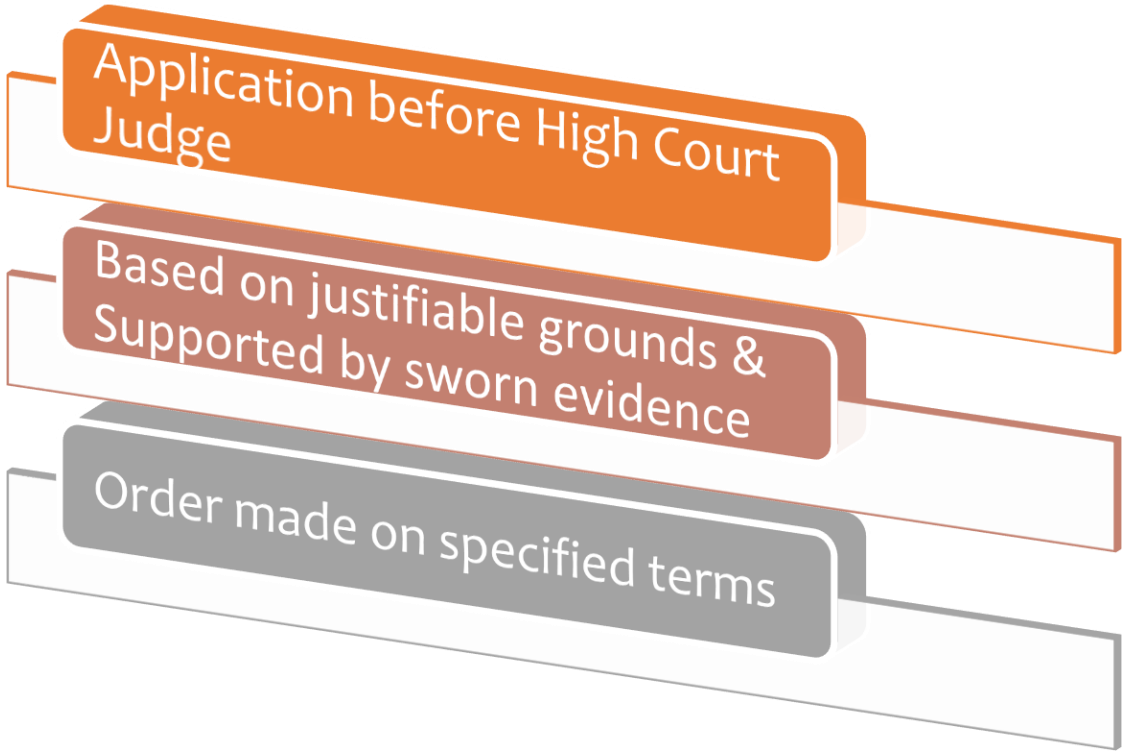
INVESTIGATION BY AUDIT & INVESTIGATIONS DEPARTMENT

- ✓ Investigation plan
- ✓ Evidence
- ✓ Interviews
- ✓ Site visits
- ✓ Entry and seizure
- ✓ Investigation report

A CLOSER LOOK AT OPR'S POWERS…

Section 42- order to compel a person to appear to give information

Section 43- order to enter premises



OUTCOMES AFTER AN INVESTIGATION

No further action

Correspondence to parties

Notice of adverse report and opportunity to be heard

Report to the Director of Public Prosecutions

OPR'S WHISTLEBLOWING PLATFORM - SPEAKUP

- ✓OPR's **Whistleblowing Platform–** managed by an external third party.
- ✓Influenced by the status of the OPR as a designated authority in the Whistleblower Protection Bill, 2018.
- ✓OPR can receive and investigate reports of improper conduct or illegal conduct within the Office, or any breach or suspected breach of law or regulations that may fall within the areas of responsibility of the Office.

HOW TO MAKE A COMPLAINT USING SPEAKUP ANONYMOUSLY OR NOT!

Call the hotline @**224-5707**
Online – www.oprtt.org
In Writing
All information provided is confidential

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REDRESS FUNCTIONS

Mr. Dustin Serrette

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CHALLENGE PROCEEDINGS

WHAT ARE CHALLENGE PROCEEDINGS?

Challenge Proceedings is the process by which a Supplier or Contractor ("the Applicant") may apply to the Office for a review of a decision or action taken by a procuring entity ("the Respondent") in a procurement proceeding.

Key legislative and procedural documents:

- The Public Procurement and Disposal of Public Property Act 2015, as amended
- The Public Procurement and Disposal of Public Property (Challenge Proceedings) Regulations, 2021
- Hearing Rules and Procedures for Part V Challenge Proceedings
- Electronic Hearing and Filing Rules for Challenge Proceedings

HOW TO REPLY TO A CHALLENGE

Form 9 is the Reply which must be signed by the Accounting Officer or equivalent

- **"Rules and Procedures"** icon on Challenge Tab of OPR's website

Supporting Documents

- **Regulation 9(5)**
- **"Rules and Procedures"** icon on Challenge Tab of OPR's website

Form 2 is required where a representative is appointed

Email to challenge@opr.org.tt

THE 20 DAY PROCESS FOR CHALLENGE PROCEEDINGS-OVERVIEW

DAYS 1-3

- Application for Review (AFR) Form 8 submitted by Applicant
- Procuring Entity Notified of AFR by OPR
- Publication of Notice of AFR by OPR
- OPR to decide whether to suspend

DAYS 4-6

- Reply submitted by Respondent
- Request for Authorisation can be submitted by Respondent

DAYS 8-9

- Notice of Case Management Conference (CMC) issued by OPR
- Application for leave to call Expert Witnesses to be submitted to by Parties

DAY 11

- CMC
- Notice for Interpreter to be submitted by Parties
- Notice for Accommodation to be submitted by Parties

DAYS 12-13

- Notice of CMC directions and Hearing date issued by OPR
- Qualifications of Interpreter Witness Statements, Expert Evidence, Skeletal Submissions to be submitted by Parties

DAYS 15-16

- Hearing
- Application for costs to be submitted by Applicant

DAY 20

- Decision issued by OPR
- Suspension (if any) lifted

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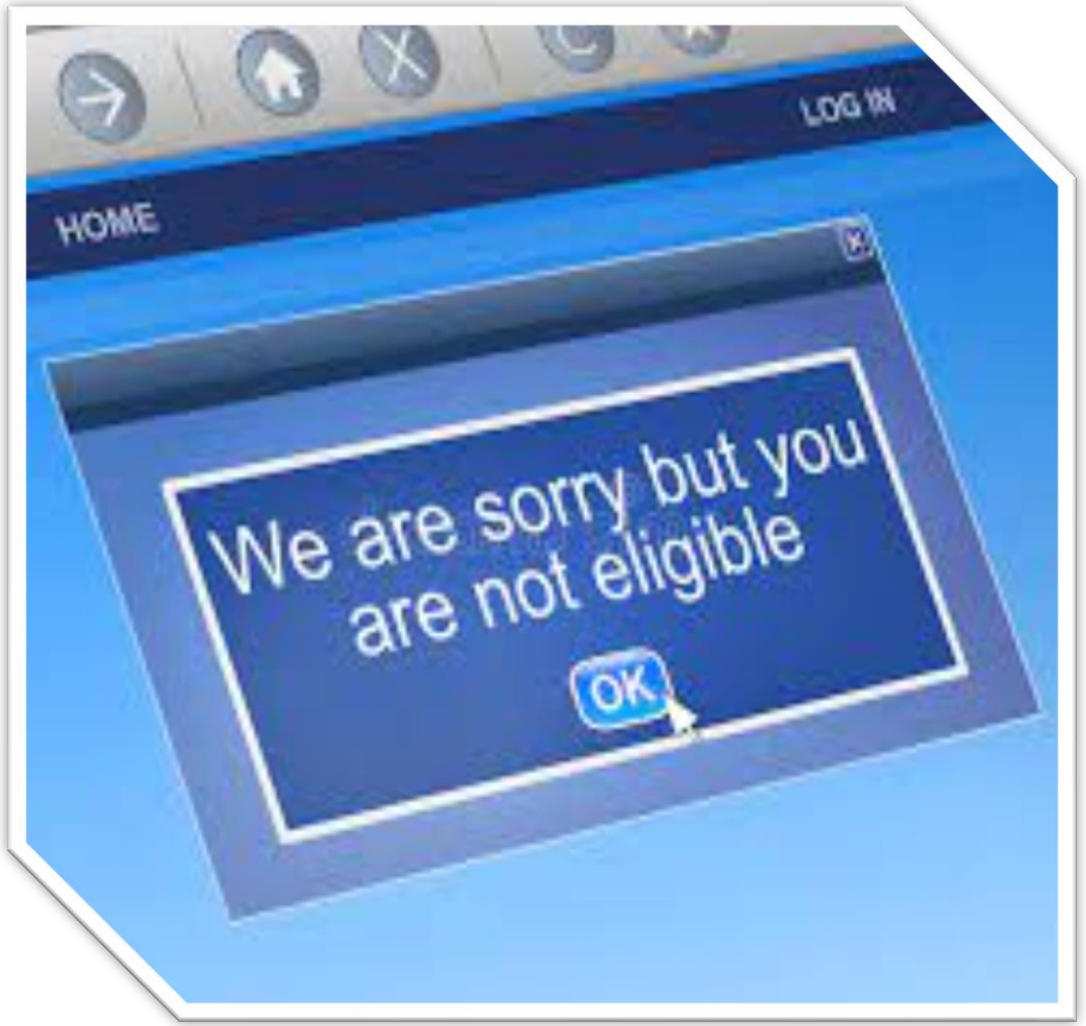
INELIGIBILITY



WHAT ARE INELIGIBILITY PROCEEDINGS?

It is the process by which a **supplier** or **contractor** or **senior officer** who has engaged in **prohibited conduct** is placed on an **ineligibility list** which has the effect of excluding them from participating in public procurement proceedings.

Key legislative and procedural documents:

- The Public Procurement and Disposal of Public Property Act 2015, as amended
- The Public Procurement and Disposal of Public Property (Ineligibility Proceedings) Regulations, 2021
- Hearing Rules and Procedures for Ineligibility Proceedings
- Electronic Hearing and Filing Rules for Ineligibility Proceedings

WHAT FALLS UNDER "PROHIBITED CONDUCT"?

Section	Prohibited Conduct
58 (3)	• consistently failing to provide satisfactory performance • indulging in corrupt or fraudulent practices, or • conviction of an offence under the Act.
59 (7)	• offering an inducement or any corrupt, fraudulent, collusive, coercive or obstructive practice in relation to a tender or proposal.

HOW TO MAKE A REPORT OF PROHIBITED CONDUCT?

A reporter can submit a report with supporting documents either to:

i. The Accounting Officer or equivalent of a procuring entity
ii. The OPR via email to ineligibility@opr.org.tt

The reporter must provide at least the following details:

- The name and details of the intended Respondent
- The grounds or basis on which the reporter is seeking the intended Respondent to be placed on the Ineligibility List
- The facts and evidence to support the grounds of the report and the alleged prohibited conduct allegedly carried out by the intended Respondent

WHAT HAPPENS AFTER A REPORT OF PROHIBITED CONDUCT IS MADE

Report of Prohibited Conduct made to AO

Reg. 3(2)-AO to conduct investigation- transmit report and evidence to OPR if there is sufficient evidence

Reg. 3(3)- OPR to review Report

Reg. 3(4)- If insufficient Evidence- AO can resubmit revised report

Reg. 3(6)-If sufficient evidence- OPR to issue Notice of Proposed Ineligibility to Respondent

What are the Ineligibility Sanctions?

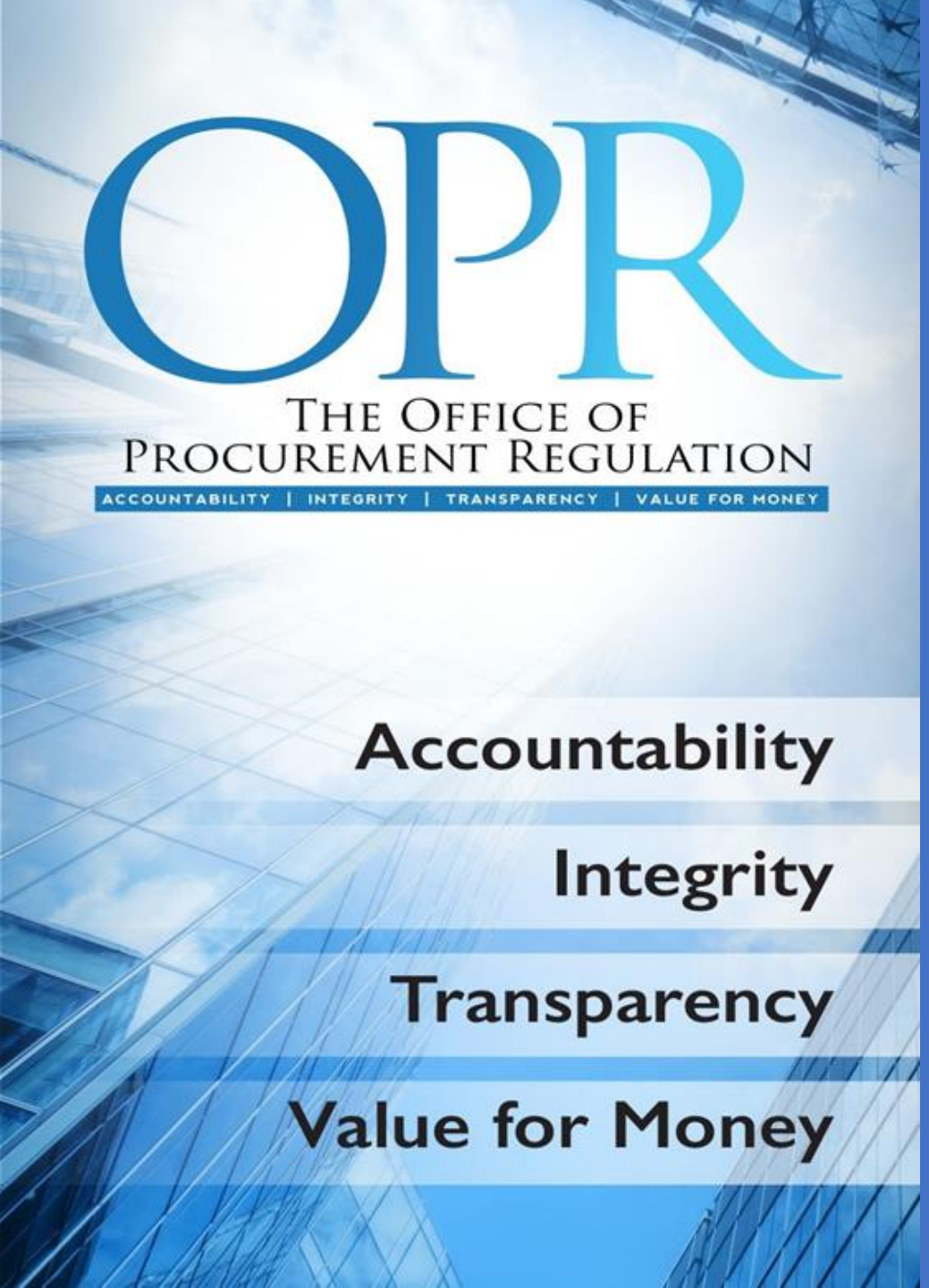
- **Letter of Reprimand-** imposed where it is the Respondent's first offence and its conduct is relatively minor or there are sufficient compelling mitigating factors
- **Conditional non-debarment-** This requires the Respondent to comply with certain conditions set out by the OPR within a set period of time, not longer than six (6) months.
- **Declaration of Ineligibility-** being placed on the Ineligibility List for a period of one (1) to ten (10) years

OBLIGATIONS OF PROCURING ENTITIES UPON INELIGIBILITY OF RESPONDENT

Exclude	Solicit	Reject	Evaluate	Consent
Exclude them from receiving contracts awarded by it	Not solicit offers from, award contracts to, or consent to sub-contracts with them	Reject any bids received from them in response to an invitation for bids	Not evaluate any proposals, quotations, or offers received from them or enter into discussions with them	Not consent to their appointment as a sub-contractor to a supplier or contractor who has not been declared ineligible.

For more information

- Visit the Challenge tab on our website at https://oprtt.org/challenge-proceedings/
- Visit the Ineligibility tab on our website at https://oprtt.org/ineligibility/
- Call us at (868) 627-4OPR (4677) or (868) 226-4OPR (4677)
- E-mail our Help Desk secretariat@opr.org.tt



Thank you for your kind attention!

We are happy to answer any questions you may have.

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Tel: 1 868 627 4677 or 1 868 226 4677
Website: www.oprtt.org