

2015

National Contracts Commission: Specialist Sector Committee

Terms of Reference



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**NATIONAL CONTRACTS COMMISSION
SPECIALIST SECTOR COMMITTEE
TERMS OF REFERENCE**

BACKGROUND

The Contractor General Act of 1983 (Amendment of 1999) provides the legal foundation of the NCC. Section 23 of the Contractor General Act outlines the objectives and functions of the Commission. Sub-sections 23E and 23F empower the Commission to make regulations and establish sector committees. Section 23F (3) states that the sector committees should be under the general direction and control of the NCC.

KEY ROLE & RESPONSIBILITY

The principal function of a Sector Committee is to support the Commission by reviewing submissions for contract awards by Procuring Entities and to make recommendations to the Commission with respect to the award of contracts.

The Sector Committees will assist the Commission in fulfilling its responsibilities and in this regard, will review the procurement process; including tendering, evaluation for ensuring compliance with relevant laws, regulations and procedures governing public sector procurement.

In performing its duties, the Sector Committees will maintain effective working relationships with, inter alia, the Commission, Ministry of Finance and Planning, Cabinet Infrastructure Subcommittee, Auditor General's Department and the Office of the Contractor General.

COMPOSITION of SPECIALIST COMMITTEES

To ensure the efficient and effective operation of the Commission, the following Specialist Sector Committees should be established with a membership comprised of expertise drawn from the following Ministries, Departments, Agencies and other entities.

- i. **Insurance** - Ministry of Finance and Planning, Financial Services Commission, Insurance College and private sector representative with industry experience.
- ii. **Consulting and General Services** - Ministry of Finance and Planning, Ministry of Industry, Investment and Commerce, Ministry of Science, Technology, Energy and Mining, Office of the Prime Minister, Ministry of Water, Land, Environment and Climate Change, Ministry of Transport, Works and Housing, Ministry of Education and private sector representative with industry experience.
- iii. **Works** - Ministry of Finance and Planning, Ministry of Transport, Works and Housing, National Works Agency, National Water Commission, Urban Development Corporation, Ministry of Education, Jamaica Social Investment Fund (JSIF) Petrojam, Port Authority of Jamaica and private sector representative with industry experience.

iv. **Goods**- Ministry of Finance and Planning, Ministry of Health, Ministry of Education, Cabinet Office, Port Authority of Jamaica, Petrojam and private sector representative with industry experience.

v. **ICT (Procurement of Software and Hardware-related Services)**-Ministry of Finance and Planning, eGov Jamaica Limited, Cabinet Office, Ministry of Science, Technology, Energy and Mining, Office of the Prime Minister, Jamaica Social Investment Fund and private sector representative with industry experience.

All Committees shall have a:

- a) Legal Representative;
- b) Non-voting Recording Secretary;
- c) Representative of the Commission's Secretariat
- d) Chairperson and Deputy Chairperson; and a
- e) Minimum of five members, excluding the Recording Secretary

AUTHORITY

The Commission authorizes the Sector Committees, within the scope of their responsibilities, to seek and obtain any information it requires from:

- i. The Procuring Entities, including any procurement practitioner or technical officer employed;
- ii. External parties, *inter alia*, the Ministry of Finance and Planning and the Office of the Contractor-General; and
- iii. Other professional advice as appropriate.

SPECIFIC KNOWLEDGE & COMPETENCIES

The Sector Committee needs to have technical expertise related to the specific type of procurement. In this regard, the qualification and experience of members is recommended as follows:

General

- Minimum qualification-5 years' experience with a Bachelor's Degree or equivalent or 7 years' experience without a Bachelor's Degree
- Knowledge of the public and other procurement procedures and regulations; and
- Excellent oral and written communication skills

At least one other member with:

- Industry experience;
- Exposure to professional procurement training

The Chair must have qualification and experience in the area of specialty for the particular Committee.

APPOINTMENT OF MEMBERS

The Commission will be responsible for the appointment of members to Sector Committees.

The Commission will appoint the Chairmen and Deputy Chairmen of the Sector Committees.

The Recording Secretary of the Sector Committee will be such person provided by the Commission.

A representative of the Commission's Secretariat shall serve as an ex-officio representative.

The Chairman shall serve for a period of four (4) years and an additional year not in the capacity of Chairman.

With the exception of the Chairman, all members will be required to serve for four (4) years. Members may be reappointed for another term by the Commission. However, there must be at least a one-year break between any further tenure of such members.

Any member wishing to resign should give one (1) months' notice in writing to the Commission.

A Sector Committee member may be dismissed by the Commission due to:

- Failure to attend four(4) consecutive meetings without a valid reason;
- Failure to declare interest; and
- Any other reason stipulated in the law governing public procurement.

MEETINGS

Meetings shall be held once per week subject to the receipt of submissions.

A quorum for any meeting will be two-thirds (2/3) voting members.

In the absence of the Chairman and the Deputy Chairman the remaining committee members shall appoint a Chairperson for the meeting.

The duration of the meetings should allow adequate discussion of the issues.

Tender Evaluation Reports and any other submissions should be circulated to the Sector Committee members and invitees must also be notified at least three (3) working days before the proposed meeting date.

The proceedings of all meetings will be documented and should be circulated to the Commission's Secretariat within one (1) week after the sitting of the meeting along with recommendations for contract awards.

The Sector Committee may invite other technical persons, as it deems necessary, to attend its meetings and provide pertinent information.

PROFESSIONAL STANDARDS

CONFLICT OF INTEREST

A conflict of interest will arise when the individual has a direct or indirect relationship with a contractor, which may affect or might reasonably be deemed by others, to affect impartiality on any matter related to his/her duties.

All personnel involved in the procurement process are expected to observe the GoJ Code of Conduct outlined in legislation. They are expected to be free from interests or relationships that are actually or potentially detrimental to the best interests of the Government, and shall not engage or participate in any transaction involving a company, its affiliates, divisions or subsidiaries, in which they have even minor interests.

Declaration - Any Sector Committee member, who has entered into, or is about to enter into a financial or other business relationship that might involve a conflict of interest, must immediately inform the Chairman in writing of the circumstances involved. This information is to be reviewed at an appropriate level and a decision taken as to whether there is a conflict of interest, and if so, what course of action is to be adopted.

Having made the disclosure, the Sector Committee member shall not sit in the meeting while deliberations on the issue are being conducted.

UNETHICAL CONDUCT

No Sector Committee member shall use his/her authority or office for personal gain. Personal gain includes accepting or requesting anything of material value from Staff of Procuring Entities, Bidders, prospective Bidders or contractors for the individual, his or her spouse, parents, children or other relatives, or for other persons from whom the individual might derive direct or indirect benefit.

Sector Committee members shall seek to maintain and enhance the reputation of the GoJ by:

- a) Adhering to the highest standards of honesty and integrity in all relationships;
- b) Developing the highest possible standards of professional competence; and
- c) Complying both with the letter and the spirit of the Laws of the Jamaica, accepting professional ethics and contractual obligations.

Confidentiality and accuracy of information - Sector Committee members shall respect the confidentiality of information gained in the course of their duty and shall not use such information for personal gain or for the unfair benefit of any Bidder, contract or consultant. Information given in the course of their duty shall be true, fair and not designed to mislead.

Competition - All contractors and procuring entities shall be treated with fairness and impartiality, and Sector Committee members shall avoid any business arrangements with them which might prevent the effective operation of fair competition.

Gifts - Sector Committee members shall not accept gifts from current or potential GOJ contractors or procuring entities.

Hospitality - Sector Committee members shall avoid any business hospitality that could be viewed by others as potentially influencing a Government business decision, as a result of accepting that hospitality.

Reporting - All Sector Committee members have a moral responsibility to report any unethical conduct by a colleague, a Bidder or a contractor to the Chairman of the Commission and the Financial Secretary or the Contractor General.

FRAUD AND CORRUPTION

All Sector Committee members must observe the highest standard of ethics during the execution of their functions and responsibilities.

SANCTIONS/REJECTION

All persons involved in proven fraudulent and/or corrupt practices will be subject to sanctions in accordance with the Laws of Jamaica.