



GOVERNMENT OF JAMAICA

POLICY GUIDELINES FOR THE NOMINATION, SELECTION AND APPOINTMENT OF THE BOARDS OF PUBLIC BODIES

**Ministry of Finance and the Public Service
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List of Abbreviations

CARICOM	Caribbean Community
CEO	Chief Executive Officer
CGF	Corporate Governance Framework 2012
CIDA	Canadian International Development Agency
CSO	Civil Society Organisation
CV	Curriculum Vitae
EU	European Union
FAA	Financial Administration and Audit Act 2011
FID	Financial Investigations Division
GoJ	Government of Jamaica
IOC	Implementing Oversight Committee
JLP	The Jamaica Labour Party
JSE	Jamaica Stock Exchange
MIND	Management Institute for National Development
MoFPS	Ministry of Finance & the Public Service (also Ministry of Finance)
MP	Member of Parliament
NGO	Non- Governmental Organization
NSA	Nomination, Selection and Appointment
OECD	Organisation for Economic Cooperation and Development
OoC	Office of the Cabinet
OPM	Office of the Prime Minister
PARU	Policy Analysis and Review Unit
PBMA	Public Bodies Management and Accountability Act 2001
PED	Public Enterprises Division
PM	Prime Minister

PNP	The People's National Party
PR	Public Relations
PS	Permanent Secretary
PSOJ	Private Sector Organization of Jamaica
UK	United Kingdom
UN	United Nations
UNDP	United Nations Development Programme
USAID	United States Agency for International Development
UTECH	The University of Technology, Jamaica
UWI	University of the West Indies

1. Introduction

The Government of Jamaica (GoJ), in its commitment to public sector reform, good governance and gender equity¹, has developed these Policy Guidelines for the Nomination, Selection and Appointment of Board Members of Public Bodies² in Jamaica (the Guidelines/Policy Guidelines).

The Policy Guidelines are in keeping with the national developmental goals and strategies as outlined in Vision 2030: Jamaica National Development Plan. They also adhere to the principles articulated in the Corporate Governance Framework (CGF) for Public Bodies (2012). The CGF clarifies the governance framework within which Public Bodies (PBs) must operate and addresses chiefly the roles and responsibilities of the Board of Directors, Chairman and the Chief Executive Officer (CEO). The CGF, as well as Appendices 3D and 3E indicate the roles and responsibilities of the Board and the Chairman. However, it is imperative for the Board to acknowledge that it is the primary decision making authority of the PB and is collectively responsible for governance, strategic management and oversight. The Board should also recognise that the CEO is primarily responsible for the day to day operation of the PB.

Given the significant role of the Board of Directors, that of providing leadership and direction to Public Bodies it is envisaged that the Policy Guidelines, which are benchmarked against international best practices, will provide a framework that will strengthen the governance and accountability system of public bodies. They are expected to facilitate greater probity, efficiency and transparency in the nomination, selection and appointment of Board members to Public Bodies. The Guidelines also address the perennial issue of lack of continuity, with respect to the Boards of PBs, by outlining mechanisms and bases for reappointment (Overview as well as paragraphs 5.2.3., 5.2.4 and 6.2).

The Guidelines were developed through the engagement of a wide cross section of stakeholders with the requisite knowledge and experience, who were able to contribute to the process from a variety of perspectives. They herein outline an eleven (11) step process in relation to the nomination, selection and appointment of Boards. Diagram 1 provides additional details on each step in the processes provided in subsequent chapters. Importantly these guidelines are to be utilised in conjunction with the CGF, the Competency Profile for the Boards of Public

¹ As outlined in the National Policy for Gender Equality (2011)

² As defined in the Public Bodies Management and Accountability Act

Bodies, the Code of Conduct for Directors and the Database of Current and Prospective Directors.

1.1. Purpose of the Guidelines

The purpose of these Policy Guidelines is to articulate a comprehensive and transparent process based on best practices and approaches for the nomination, selection and appointment of Board members. The Guidelines also refer to support mechanisms needed to give greater accountability to board members. Adherence to and reporting on this process is expected to lead to greater confidence in corporate governance for public bodies.

1.2. The Users of the Policy Guidelines

These Guidelines are for the appointing authorities including the Governor General (GG) and Ministers who are responsible for the appointment of persons to serve on the Boards of public bodies and for key stakeholders who may be involved or interested in the process. The Guidelines apply to Board appointments for public bodies (as defined by the Public Bodies and Management and Accountability Act.

Exclusions

The Guidelines do not apply in the appointment of school Boards (where the institutions are not public bodies) or in the appointment of advisory Boards of Executive Agencies. Individuals appointed *ex-officio* by virtue of the office they hold under certain legislation, will also not be subject to the Guidelines.

1.3. Guiding Principles

The process for the nomination, selection and appointment of persons to serve on Boards of public bodies is guided by five (5) principles as outlined in Table 1.

Table 1: Guiding Principles for Nomination, Selection and Appointment of Board Members

Principle	Definition
Merit/Competence	Ministers will select Board members based on their ability to contribute meaningfully to the public bodies. Appointments will be based on a candidate's competence pertinent to the technical needs of the Boards as well as their ability to work well on a team, as outlined in the Competency Profile Instrument
Accountability and Integrity	Persons in public office will submit themselves for scrutiny as appropriate to their office and will be responsible for their decisions and actions, free from undue influence.

Principle	Definition
Transparency	Information on both the appointment process and ultimate appointments will be available to the public. Accordingly, the process will follow a clear set of rules and regulations.
Effectiveness and Efficiency	The process allows for timely actions and makes the best use of both financial and human resources.
Commitment and Capacity to Serve	Persons will have sufficient time to devote to the Boards for which they are nominated, and will be willing to devote the time and energy to prepare for meetings; participate in meetings and make a positive contribution to the benefit of the organization.

1.4.Stakeholders in the Process

Portfolio Ministers, as well as the Prime Minister) – are primarily responsible for the appointment of Board members for public bodies within their portfolio responsibility. However, there are Boards that are appointed by the GG in consultation with the Prime Minister and the Leader of the Opposition. In addition, there are ex officio board members who are appointed by virtue of the office that they hold. Other stakeholders however, play a critical role. For the nomination, selection and appointment process to progress smoothly, all stakeholders need to understand their respective roles that may be prescribed by law, or by practice. These stakeholders and their role in the nomination, selection and appointment process are outlined in the table below:

Table 2: Stakeholder Roles in the Nomination, Selection and Appointment Process for Board Members

Stakeholder	Description
Cabinet	Cabinet is the final approving authority in the appointment process as their approval is required before Board members can be appointed. This excludes the case where Boards are appointed by the GG in consultation with the Prime Minister and the Leader of the Opposition as defined by the statute (e.g. Early Childhood Commission & Broadcasting Commission).
Permanent Secretary	As a key advisor to the Minister on the portfolio, the Permanent Secretary's role is to advise the Minister on: <ul style="list-style-type: none"> the skills/competencies required for each Board as outlined in the Competency Profile Instrument and persons with the required skills/competencies who are in the database and who may be considered for appointments; and to advise the MoFPS/Technical Secretariat of any update to the Competency Profile for Boards which may be required.
Prospective Chairman of the Board	The Minister may consult with prospective Chairman for input on the composition of the Board. This input is non-binding.

Stakeholder	Description
Technical Secretariat of the Cabinet Office	A Unit expected to reside within the Cabinet Office to be tasked with supporting the process, including: developing and maintaining a database of current directors and of persons with the required competencies to serve on Boards of public bodies; conducting due diligence of prospective Board members; facilitating the conduct of Fit and Proper tests for some Board Members; facilitating Board Performance Evaluations.

1.5. Support for the Process

While the Minister or other appointing authority bears ultimate responsibility to appoint Board members who can govern the organizations, a strong institutional mechanism to support him/her in the identification, selection and appointment of board members is required. The Technical Secretariat to be established within the Cabinet Office is expected to provide such support.

2. Overview

The process for the Nomination, Selection and Appointment to Boards of Public Sector Bodies is necessitated by:

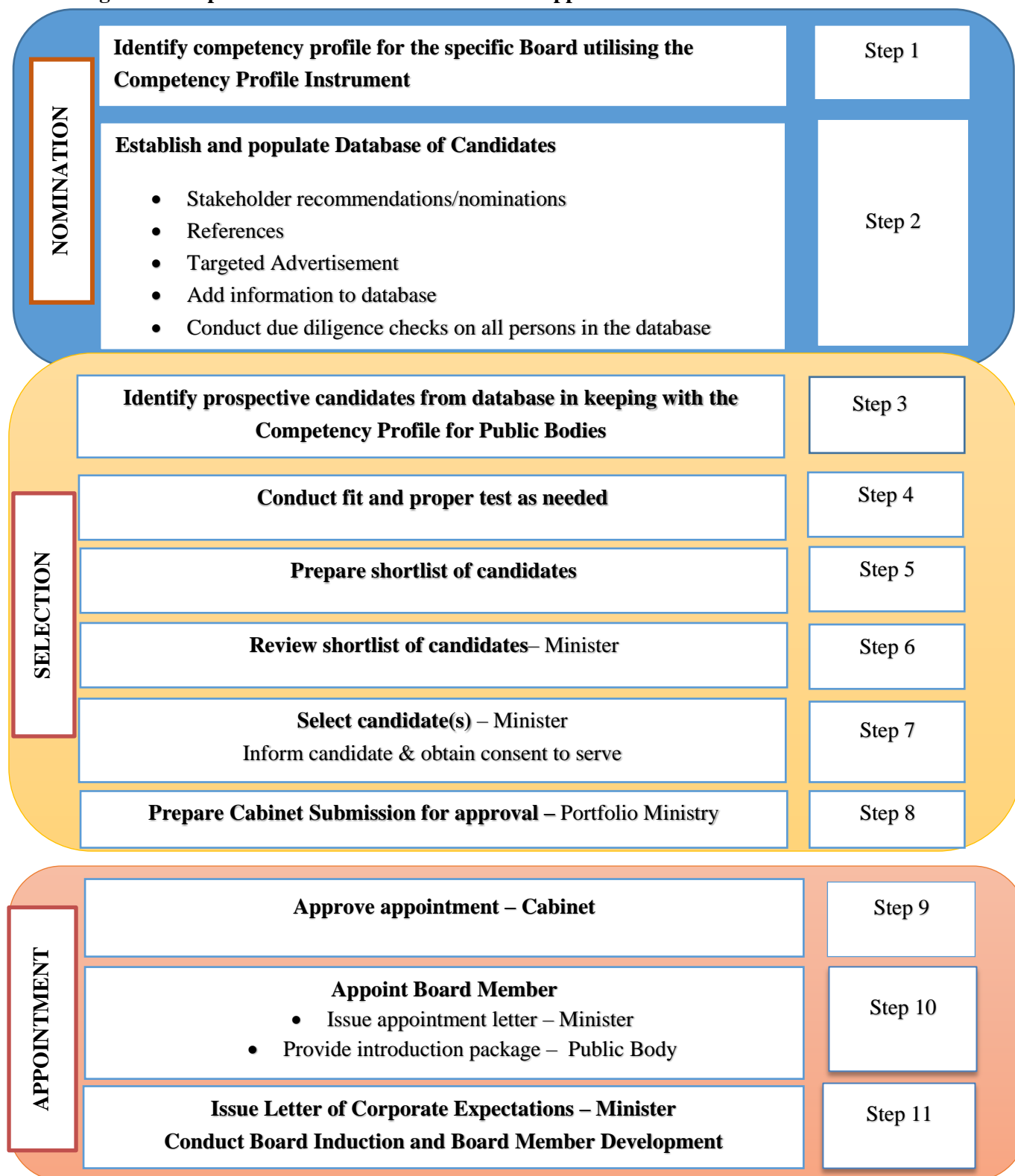
- Change of administration;
- Change of portfolio minister;
- Resignation or removal of an individual director; and
- Cessation of term of appointment for the entire Board.

Except where legislation stipulates tenure for the Board, upon the change of administration the existing Board should offer its resignation. This would not take effect until a new Board is duly appointed within a timeframe of **sixty (60) days**. However, without prejudice to existing legislation the Minister should retain at least one-third of the outgoing Board of Directors. The roles and responsibilities of the Board during the transition period are outlined in the Code of Conduct for Directors, as well as the Guidelines at Appendix 2 and would address issues such as the disposal of assets and matters related to the management of human resources. The current Board should prepare a status report for the new Board (**Outline of Board Transition Period** is attached). At the behest of the incoming Minister, the current Board should continue to meet,

and are empowered to take decisions necessary for the smooth operations of the entity in keeping with these Guidelines (**Standard letter of Acceptance of Resignation** is attached)

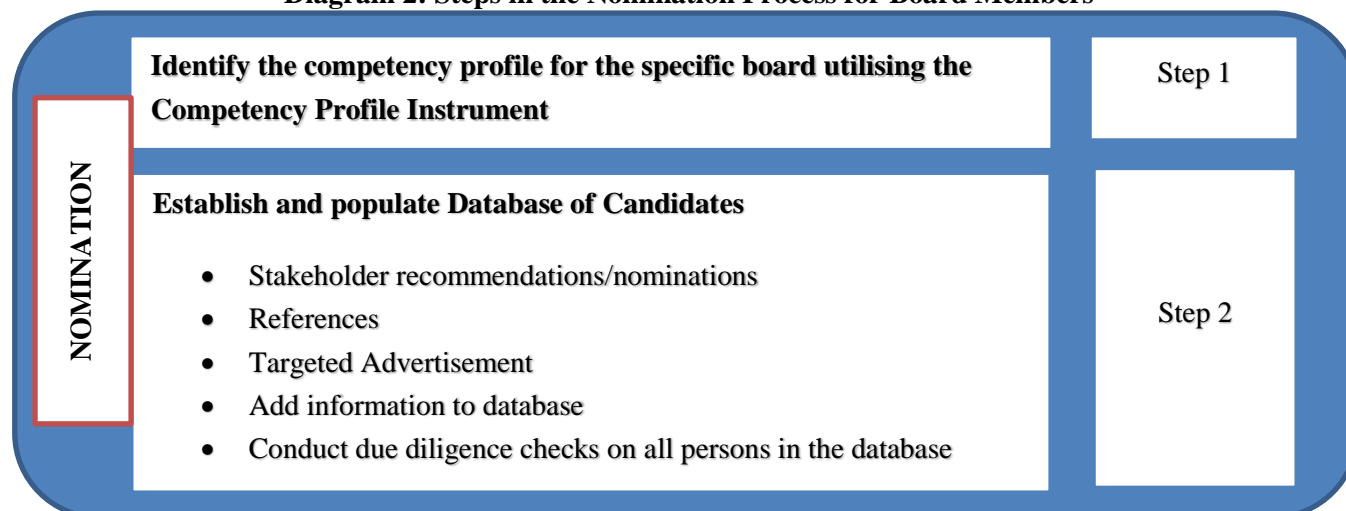
Although the eleven step process outlined in Diagram 1 is sequential, where the circumstances require, some steps may be merged for greater efficiencies. It is important to note however that all serving and prospective chairmen and directors should be a part of the database of current and prospective directors.

Diagram 1: Steps in the Nomination Selection and Appointment Process for Board Members



3. Phase 1 – Nomination

Diagram 2: Steps in the Nomination Process for Board Members



3.1. Step 1– Identify the Competency Profile for the Specific Board Utilising the Competency Profile Instrument

For public sector Boards to be high performing, their membership needs to be diverse, having a mix of experience and qualification as well as technical and interpersonal skills. The Competency Profile instrument was approved by Cabinet in January 2017. The Competency Profile allows for the selection and appointment of members who collectively possess the skills and experience deemed necessary for the effective functioning of the public body. The use of this instrument is therefore a critical first step in the process to nominate, select and appoint board members.

3.2. Step 2 – Establish and Populate Database of Candidates

The Technical Secretariat should create and maintain the database of current and prospective directors. The database is to be confidential and used only for the purposes of identifying, screening (standard due diligence check for prospective Board members and a fit and proper test, in the case of financial institutions) and short listing prospective directors. The Secretariat will populate the database using various mechanisms including:

- Stakeholder recommendations/nominations;
- References; and
- Applications to serve in response to targeted advertisement/other forms of invitation.

Prospective directors are required to complete an application form and submit it along with a copy of identification (e.g. Driver's Licence, Passport, National Identification), which will be the

basis of the due diligence check. The information to be provided in the application form must be accurate, current and complete. Appendix 3C outlines the information required. Candidates need to supply – through the application process – the information directly, and not through a proxy. The information required will allow advisors and Ministers to confidently select the best possible mix of persons to serve on the Boards of public bodies.

With respect to the due diligence check, the following include some of the items which are to be verified by the Secretariat by way of reference and/or probity checks:

- Educational qualifications – ensure certification as stated;
- Accuracy of information provided, including dates, duties and experiences, and give insights into attitudes and working styles;
- Current and previous directorships, including evaluation of previous service on the Boards of public bodies;
- Tax compliance status; and
- Criminal records.

Once the due diligence check has been conducted and the results are satisfactory, the applicant will be added to the database as a prospective candidate. A more comprehensive fit and proper exercise will be conducted by the Financial Investigation Division (FID) of the Ministry of Finance and the Public Service (MoFPS). Paragraph 4.2 provides further details on the fit and proper exercise.

With respect to existing directors, the database will be updated using data forms to be completed by these directors. The database will also contain information concerning board evaluations, director reviews and director development.

Stakeholders in the Nomination Process

Principle 10 (10) of the Corporate Governance Framework (CGF) indicates that where stakeholder representatives to the Board are required by statute, there should be multiple nominations to the relevant authority by the stakeholder organizations from which the most suitable candidate may be selected based on the needs of the public body at the particular time.

The priority in the appointment process is to have the best mix of skills, qualification and experience for boards of PBs. Where possible, consideration should be given to

representativeness from client groups, service providers, age, gender and geographical cohorts. These factors however should not present a barrier in selecting the best mix of persons and skills for the Board.

Various stakeholder groups may be consulted to assist in the nomination, selection and appointment process. Each group should be encouraged to submit names to be included in the database on an ongoing basis for due diligence processing. The nominees should be assured that the data contained in the database are for the use of Ministers and their representatives in the nomination, selection and appointment to Boards, and will be protected against misuse and inappropriate disclosure.

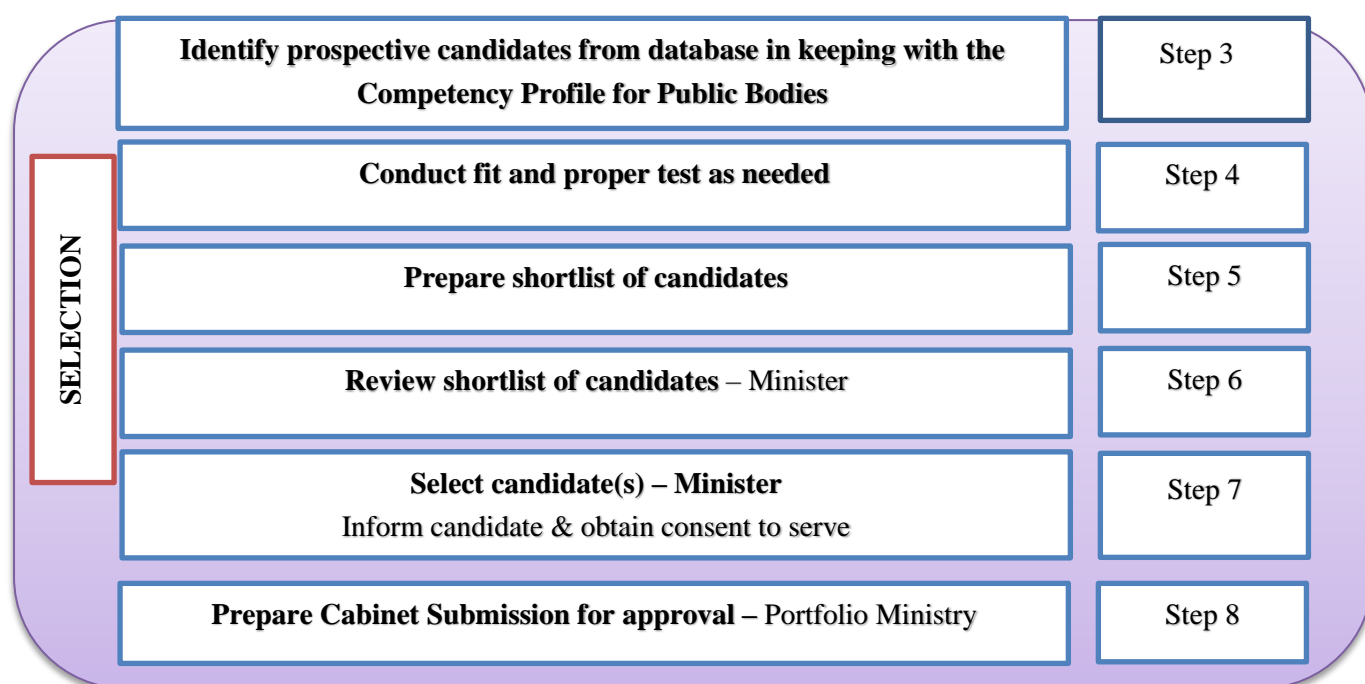
All stakeholders should be given adequate time to make their recommendations and should be encouraged to consider issues of diversity when making their nominations. Any such recommendation is not binding on the Government of Jamaica/Portfolio Minister. The groups may include those listed in Table 3:

Table 3: Stakeholders Representatives in the Nomination Process

Stakeholder	Description
Professional Bodies	Some professional bodies are entitled to nominate a member given the nature of the PB's operations and the expertise which may be garnered from representatives of these bodies.
Civil Society Special Interest Groups	Civil society groups with special interest which may be asked to submit names for the database include: <ul style="list-style-type: none"> - Human rights groups - Environmental action groups - Child and Youth Advocates
Public Sector Agencies representing special interests	Public Sector organisations representing special interests which may be invited to nominate persons to serve on Boards include: <ul style="list-style-type: none"> - Gender Affairs - Children and Youth - Consumer Affairs - Disability Groups

4. Phase 2 – Selection

Diagram 3: Steps in the Selection Process for Board Members



4.1. Step 3 – Identify Prospective Candidates from Database in keeping with the Competency Profile

When a Board is to be appointed, prospective candidates should be identified for the consideration of the Minister. These prospective candidates can be identified in a number of ways, including from:

- i. The database of current and prospective directors – maintained by the Secretariat;
- ii. Nomination by various interest groups;
- iii. Persons suggested by colleagues, the current chairman, or Board members;
- iv. Persons known to the portfolio Minister, Permanent Secretary or advisors; and
- v. Persons who have expressed an interest in serving.

Persons who are not in the database will be required to submit an application to the Secretariat to be included in the database prior to selection.

Certain statutes prescribe the membership for the Boards that may include representation from national organizations, various civil society interest groups and Ministries. In these cases, the groups are usually asked to submit a list of possible candidates for the consideration of the

Minister. Accordingly, in addition to the Competency Profile, other critical considerations in the selection process include a review of the:

- Role and function of the public body; and
- Legislative requirements for the public body

Persons not eligible for Selection to the Boards of Public Bodies

Some persons are ineligible to serve on the Boards of public bodies. In a number of the instances, the persons who are ineligible, are stipulated by various legislation and include:

- Members of the Houses of Parliament and Parish Councillors³;
- Persons disqualified from serving as a Director pursuant to the Companies Act;
- Persons with conflict of interest issues material to the core business of the entity subject to paragraph 4.2.1;
- Persons of unsound mind;
- Persons with an existing legal claim or who have connected parties with an existing legal claim against a public body for which board membership is being considered. However, such persons are eligible to be selected for the boards of other PBs; and
- Persons declared bankrupt (for entities where the enabling legislation so stipulates).

In addition to the aforementioned, no individual should serve on more than three (3) public body boards and simultaneously chair more than two (2) of those Public Bodies – the limit does not include the subsidiaries of those Public Bodies. However, subsequent to consulting with the portfolio Minister, the Cabinet Secretary may grant approval for the Secretariat to allow membership on more boards. Consideration should be given to the individual, the capacity to serve and the unique skill sets or attributes that he would bring to a Board.

4.2. Step 4 – Conduct Fit and Proper Tests as Needed

Once the due diligence check is completed and found to be satisfactory, and corresponds with the pre-established Competency Profile, a candidate may be shortlisted for consideration. However, persons being considered as directors of PBs having the characteristics outlined below should be subject to fit and proper tests prior to being shortlisted.

- Financial institutions (eg. PBs whose core mandate is to lend or invest monies);
- Financial safety net PBs and regulators of the financial and gaming sectors;

³ The longstanding practice regarding the appointment of Senators and Councillors is not unusual – however the concern is with the potential conflict of interest. A few statutes have stipulated such individuals should not be Board Members, e.g. Financial Services Commission Act and the Jamaica Deposit Insurance Corporation Act.

- Security-related entities; and
- PBs requested by Portfolio Ministers (in consultation with the Permanent Secretary) or the Technical Secretariat. These entities must be of strategic importance and pose significant risk to the Government. In addition, their assets or capital base must exceed \$10 billion.

The undertaking of the fit and proper tests may involve the provision of additional information by the candidate. The Secretariat may exercise its discretion and forego the undertaking of a fit and proper test for candidates who were subjected to such by the FID within the previous three (3) years.

4.2.1. Conflict of Interest

Other issues relating to conflicts of interest that may be Board specific may also be considered during the undertaking of the fit and proper test. The interest of an individual in a matter is defined as something financial, familial or personal that could give rise to bias or the appearance of bias in his decision-making and by consequence, negatively impact the operations of the public body. The presence of an interest does not automatically disqualify a prospective board member from service, if the Minister, the Cabinet Secretary and the individual are of the view that:

- i. The interest can be managed;
- ii. The interest will not compromise the quality of the Board's decision making, or have an adverse effect on the operations of the entity; and
- iii. The value of their expected overall contribution will justify their being appointed to the board provided that they do not participate in areas related to their interest.

4.3. Step 5 – Prepare Shortlist of Candidates

Once the vetting process is completed by the Secretariat, the shortlist of candidates is shared with the Minister for his final selection. The shortlisting process should include a review of the enabling statutes so that those being shortlisted meet the requirements.

In the case of persons who have previously served on Boards of public bodies, the decision regarding reappointment should be predicated on the results of the board evaluation for the

director in question. The evaluation should also be used to guide consideration for appointment to the Boards of other public bodies.

4.4. Step 6 – Review Shortlist of Candidates

In selecting prospective Board members, consideration is to be given to three areas: competence, capacity and diversity.

Table 4: Selection Criteria

Element	Description
Competence	Refers to a mix of qualifications, experience, and relationship skills. The Competency Profile Instrument refers to core skills needed for good governance in all public sector bodies and also indicates the specific skills needed for each public body, to facilitate quality operations and policy directions. The use of this Tool lays the foundation to define specific skill sets for individual board members who, when combined, will make a well constituted board. Accordingly, its adoption and use in selecting and appointing persons to public body boards is a critical element in the process.
Capacity	<p>Refers to time availability and commitment. A Board member needs to have sufficient time to prepare for meetings and to attend Board and sub-committee meetings as required. Prospective candidates should declare the number of Boards – both public and private sectors – on which they are currently serving. It is highly recommended that no individual should serve on more than three (3) public body Boards, and simultaneously, no more than two (2) of those public body Boards as Chairman. These limits would not include the subsidiaries of those public bodies.</p> <p>During the selection process, the Technical Secretariat should conduct a check on the number of Boards, both public and private sector, on which a candidate is serving. This is especially relevant if the candidate is being considered for the post of Chairman. In addition, the prospective board members should indicate that they have sufficient time to devote to the business of the Board.</p>

Element	Description
Diversity	<p>Refers to the composition of the board in relation to skills, experience, gender and youth. Consideration of gender in the appointment process is enshrined in the National Policy for Gender Equality (2011) stating a target goal of minimum of 30% females on public sector boards. Ministers should strive towards having no less than 30% of either male or female representation on each Board. Consideration to include youth⁴ is also good for continuity and planning. Young people may also be co-opted onto sub-committees.</p> <p>Regional representation could also be considered where the operations of an entity extend beyond a single locale or where shares are held by international shareholders.</p>
Independence	<p>An Independent Director is a member of a Board who is not:</p> <ol style="list-style-type: none"> 1. A party to a significant economic or other relationship with the Public Body; 2. An owner of five per centum or more of the shares in the Public Body; 3. A connected party in relation to the Public Body; and 4. An employee of the Public Body or portfolio Ministry. <p>Except where legislation so stipulates, the recommendation is that each board should be comprised of at least 25% of Independent Directors.</p>

4.5. Step 7 – Select Candidate(s)

Persons short listed should be contacted by the Minister to ensure their willingness and availability to serve, prior to their names being submitted for Cabinet approval. The final list of candidates will be determined upon completion of a review by the Minister, of the short listed candidates. The Minister may seek to interview some candidates and to do further checks with stakeholders. However, the review gives Ministers an opportunity to:

⁴ Youth; not older than 29 years old. Based on the National Youth Policy which was tabled on 14/11/17, Jamaica has adopted the Commonwealth definition for ‘youth’; persons between the ages of 15 and 29 years old.

1. Retain some persons from previous Board, thereby contributing to continuity; and
2. Seek bi-partisan and civil society feedback on the preferred list of candidates, as may be required by Legislation.

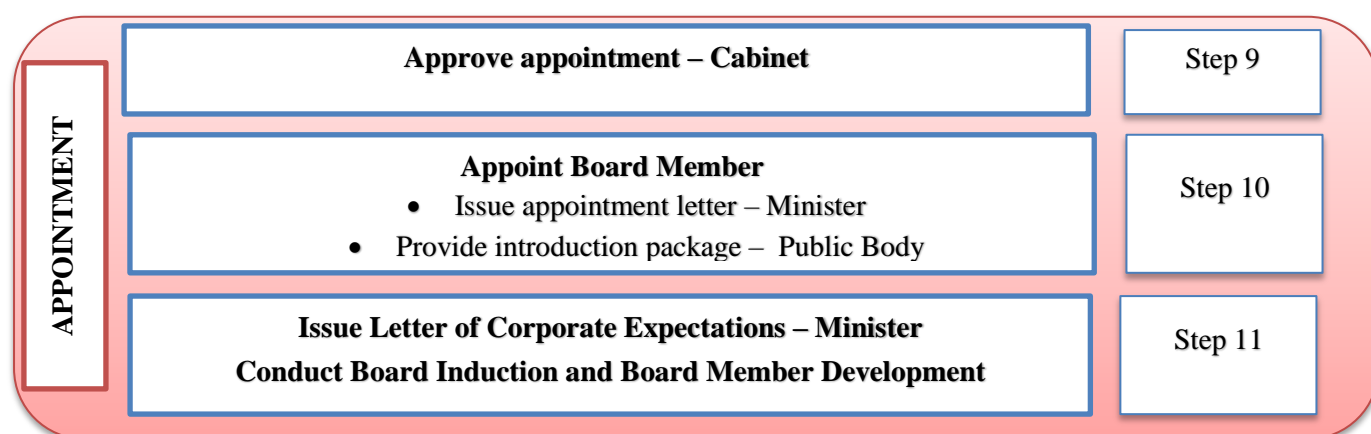
4.6. Step 8 – Prepare Cabinet Submission for Approval

The information on the nominees is then shared by way of a Cabinet Submission, with the Prime Minister and Cabinet for approval to appoint. The Submission should outline the following:

- Background information including the legal requirements as stipulated by the statutes governing the public body;
- Competency Profile;
- A brief outline which justifies the nominees' suitability for the position, highlighting the terms of qualifications, personal attributes, previous experience on Boards (presented in a format determined by the Secretariat);
- An overview of the process followed; and
- Confirmation that full consideration has been given to an appropriate balance on the Board with respect to gender, age, ability and geographical distribution.

5. Phase 3 – Appointment

Diagram 4: Steps in the Selection Process for Board Members



5.1. Step 9 – Cabinet Approves Appointment

The Cabinet Submission should be submitted to the OoC no later than eleven (11) days prior to the sitting of Cabinet where it is expected to be taken.

The Submission will go through a review process by the Policy Analysis and Review Unit of Cabinet that will advise the Cabinet on:

- The completeness of submission;
- Adherence to the process for nomination, selection and appointment; and
- Adherence to the requirements of the relevant statutes.

The Cabinet will review the submission and either:

- Approve the nomination(s);
- Recommend changes and agree at the Cabinet meeting; or
- Request a new submission with alternative candidates.

Once the Cabinet has approved the selections, the Cabinet Secretariat will advise the portfolio Ministries by way of a Cabinet Decision.

5.2. Step 10 – Appoint Board Member

Once the portfolio Minister has received Cabinet Minutes or a copy of the Cabinet Decision, he should begin the process of appointing the Board member. The candidate will be issued with the appropriate instruments of appointment. This is a two stage process which involves the:

- a. Minister issuing appointment letters to approved nominees within ten (10) days of Cabinet's Approval; and
- b. Public Body providing Board introduction package to approved nominees.

5.2.1 Letter of Appointment

Where the statute requires that Board members be appointed by the Governor General, subject to consultation with the Prime Minister and the Leader of the Opposition, the directors to be appointed should be notified by instrument in writing subsequent to this process. Otherwise, the Minister will issue an appointment letter. The letter should provide sufficient information to allow approved candidates to understand the expectations of them and to be able to meaningfully participate in the business of the Board in short order. Letter at Appendix 3D may be used as a guide.

Letters sent to the new chairman would be expected to contain additional details (please see Terms of Reference at Appendix 3E). Once the appointees have been notified, the appointment should be made public.

5.2.2 Introduction Package

Once the Letter of Appointment has been issued, the Corporate Secretary of the Public Body will provide the appointed Board Members with an introduction package. The introduction package should include:

- The proper name of the entity;
- List of Board Members, their positions and contact information;
- A description of the duties and responsibilities of Board members;
- agreement in writing that the person will accept the appointment, if not already obtained;
- The authority under which the appointment is made;
- Relevant legislation including the PBMA Act and its Regulations, enabling statute or articles of incorporation that govern the entity or sector;
- The Corporate Governance Framework for Public Bodies;
- The term of appointment;
- The frequency and location of meetings;
- The fees and allowances relating to the appointment;
- The expectations of each Board member, including but not limited to time commitments, training obligations, participation in Board reviews, etc;
- Code of Conduct for directors;
- Statement of expectation;
- Termination reasons and procedures; and
- The name of a contact person for further information.

The Code of Conduct is required to be signed by the Director and a copy returned to the Corporate Secretary.

5.2.3 Other -Term Limits

The term of office for each Board is prescribed in the enabling legislation, the articles of incorporation or decided by the Minister. It is usually three (3) years, but may range from two (2) to five (5) years for certain public bodies. The enabling legislation will detail whether a member may be reappointed, the procedure to reappoint and how many terms an individual can serve. Where this is not covered by legislation, reappointment may be considered up to a maximum of ten (10) consecutive years for members, inclusive of a maximum of two (2) consecutive terms for the Chairman.

There is no guarantee that a Board member will be reappointed once their term of service has expired. However, in order to ensure that there is continuity, the Minister should, without prejudice to existing legislation, reappoint at least one-third of the outgoing Board. The Minister's decision to reappoint should be based *inter alia* on the performance evaluation results of each Board member. The Minister may choose to reappoint depending on such evaluations of performance and his perception of value to the organization, balanced against the desire to bring in new persons and ideas.

Subject to the stipulations of enabling and other governing legislation, a Board Member may be asked by the Minister to continue to serve past the term of appointment until reappointed, or a successor is appointed. Members should be asked to serve without prejudice until replacements are in place.

5.2.4 Other - Removal from Office

Directors of Public Bodies serve at the pleasure of the Minister or GG by whom they were appointed. The person with authority to appoint also has the power to remove a person from office. Without prejudice to existing legislation, the criteria for removal may include:

- Absence from duty for three (3) consecutive meetings without just cause, or according to the duration detailed in the statute
- Incapacitation in a way that affects performance of duty
- Display of behaviour, such as misconduct or a breach of duty, that is deemed to be just cause for removal
- Breach of the collective duty of the entire Board
- Change in Minister or change of administration

Where the Minister has removed an entire Board due to a breach of fiduciary duty, he is not obligated to retain any member of the outgoing Board and may decide to appoint an entirely new Board.

5.3. Step 11 – (a) Letter of Corporate Expectations

(b) Conduct Board Induction and Board Member Development

Once Board Directors have been appointed, the Minister will issue a Letter of Corporate Expectations to the Board (Appendix 3F); board induction and board member development are then expected to commence. The Letter of Corporate Expectations will:

- Provide a statement of the government's mandate and policy direction specific to each public body
- Be reviewed and approved annually by the Minister and/or Cabinet, prior to the preparation of a public body's corporate or operational plan
- Set out key actions required and high-level performance expectations of a public body
- Be a key accountability and governance instrument between the Minister (or other government shareholder) and a public body
- Be developed by the relevant portfolio ministry in consultation with the OoC and the Ministry with responsibility for finance.

Board Inductions for Directors may include:

- Sensitization to the mandate and policies of the Public Body, such as the relevant statutes, the existing strategic and operational plans, introduction to departments, senior staff and sites of operations as well as any international treaties or obligations that are relevant;
- Introduction to other Board members and their skills and competencies;
- Overview of procedures for Board and committee meetings; and
- Issuance of Introduction Package (Appendix 3G).

Board induction is usually organized by the Corporate Secretary. However, consultations may be undertaken with the Ministry with responsibility for finance.

Activities relating to board member development may not be Board specific and may cover:

- Roles of chairman and members, as well as their relationship to the organization;
- Responsibilities of Boards and accountability instruments;
- Introduction to public sector accounts, management and policy development;
- Issues related to conflict of interest, voluntary declarations, etc.;

- Roles of sub committees – especially the audit committee and procurement committee
- Board Evaluations; and
- Strategies to address the issues of the business of the Public Body, as well as those of the industry and subsector.

The development sessions may be organized for the entire Board by the Corporate Secretary or persons may attend sessions organized by the portfolio ministry or the Ministry with responsibility for finance on a periodic basis. The initial induction is mandatory. However, it is recommended that ongoing training be conducted at least once each year during the tenure of the director. Once a director has participated in induction and board member development activities, the Secretariat is to be notified by the Corporate Secretary of the public body within 15 days so that these may be noted in the database for Board directors.

6. Other Instances when Boards are to be Appointed

The above process is expected to be adhered to when there is a change in administration. There may be a few variations in other instances when Boards are to be nominated, selected and appointed. These instances include:

- Change of portfolio Minister;
- End of term of appointment for the entire Board; and
- Resignation or removal of an individual director.

6.1. Change of Portfolio Minister

In the case of a change in the Portfolio Minister, the existing Board should offer its resignation, which would not take effect until a new Board is duly appointed, within the recommended timeframe of sixty (60) days. The outgoing Board is expected to observe the roles and responsibilities of the Board during the transition period as outlined in the Transition Guidelines (Appendix 2) and which should be stated in the Code of Conduct. The Minister should reappoint at least one-third of the outgoing Board. Otherwise, the steps in the main process should be followed as outlined in Diagram 1.

6.2. End of Term of Appointment for the Entire Board

When the term of a Board has expired, the Minister may:

- Reappoint all the members; or
- Reappoint some and change others.

Where the Minister has decided to reappoint some of the directors, at least one-third of the Board should be retained; without prejudice to existing legislation. He should consider the changing needs of the entity and the performance of the directors based on Board Evaluations. In addition, the Board may form a nominating committee as part of the governance sub-committee that would make recommendations to the Minister for possible candidates for consideration. The Minister may or may not accept their recommendation. All the other steps would be followed as in main process as outlined in Diagram 1.

6.3. Resignation or Removal of an Individual Director

As recommended in Section 6.2, the Board may form a nominating committee – as part of the governance sub-committee that would make recommendations to the Minister for possible candidates for consideration. The Minister may or may not accept their recommendation. All the other steps would be followed as in the main process as outlined in Diagram 1, with the exception of initial board member development activities, which will only be conducted for the incoming director.

7. Review of Guidelines

These Guidelines will be subject to review every five (5) years.

Appendices

Appendix 1 Definition of Terms

Term	Definition
Accountability	The duty of a body to explain and justify its conduct to a relevant authority which includes the Minister and other stakeholders. In the systems which are based on the Westminster Model of Parliamentary Democracy (and this is an element which has been retained by the Jamaican Constitution), ministerial responsibility is the cornerstone of accountability. It is based on departmental hierarchy and lines of responsibility culminating in the Ministers. Ministers are traditionally accountable for the policy direction of their Ministries and Agencies – they are accountable for the policy that underlies their budgets, whereas Accounting Officers account for expending the budget. Therefore, accountability is a responsibility of individuals.
Audit	An examination of a firm's financial statements or processes to determine compliance in all material respects to applicable financial reporting frameworks or/and required procedures.
Best Practice	Examples of procedures, policies and operational activities that are considered to be the attainable standard to which entities should strive.
Board	The Board of Directors of the Public Body as prescribed in law or constitution of the Public Body.
Board Processes	Denotes all the activities and practices that enhance effective Boardroom deliberations and successful outcomes. They include the preparation for, attendance of and participation in Board meetings, the agenda items, frequency and duration of meetings and Board leadership.
Board Committee	A group of individuals who receive and consider reports and examine subject matter based on TOR and present the findings to a superior body. Examples of Committees of the Board include the Audit and Procurement Committees.
Board Composition	Number of Directors and their diversity—skills, qualifications, experience, age and gender balancing considerations.
Board Performance/Evaluation	The periodic review to assess the performance of the Board (and individual directors) either by itself (self-assessment) or by a third party, and indicate where improvements can be made. Best practice dictates that the results are communicated as necessary
Chairman	The person charged with presiding over a Board meeting, ensuring its orderly conduct and that procedures are followed and providing leadership to the Board/committee.

Term	Definition
Chief Executive Officer (CEO)	The senior executive officer responsible to the organization's Board for ensuring that decisions of the Board are implemented and that the organization functions effectively and efficiently.
Conflict of Interest	<ol style="list-style-type: none"> 1. A situation in which: <ol style="list-style-type: none"> a. the concerns or aims of two different parties are incompatible; or b. a person is in a position to derive personal benefit from actions or decisions made in their official capacity. 2. Something financial, familial or personal that could give rise to conflict/bias or the appearance of conflict/bias in their decision-making and by consequence, the work of the body.
Connected Party	An immediate or close relative of an individual (including but not limited to a spouse, child, parent, or sibling) who is a Board Director, Manager or a person in control of that public body, or any business partner of such Board Director, Manager or person in control of that public body.
Corporate Governance	Refers to the laws, codes, principles, guidelines, management practices and leadership styles that independently or collectively serve to advance shareholders' wealth and stakeholders' welfare. It represents both the long-term survival and the effective and efficient performance of the Public Body.
Diversity	Refers to the composition of the board in relation to skills, experience, gender and youth. This may also include regional representation.
Due diligence	The process by which vital information is gathered about an individual to establish financial position, past performance, assets, legal liabilities and fitness to be appointed as a director of a public body.
Ex-Officio Officer	Ex-officio means "by virtue of office or position." Ex-officio members of Boards and committees, therefore, are persons who are members by virtue of some other office or position that they hold. For example, if the by-laws of an organization provide for a committee on finance consisting of the treasurer and three other members appointed by the president, the treasurer is said to be an ex-officio member of the finance committee, since he is automatically a member of that committee by virtue of the fact that he holds the office of treasurer. Without exception, ex-officio members of Boards and committees have exactly the same rights and privileges as all other members, including the right to vote.

Term	Definition
Fit and Proper	A standardized assessment of a candidate's suitability to serve as a Board member of public bodies referred to at Section 4.2. It is an assessment of honesty, integrity and reputation; competence and capability; and financial soundness of an individual who has been nominated to serve.
Government	Government of Jamaica.
Independent Director	An Independent Director is a member of a Board who is not: <ul style="list-style-type: none"> (1) party to a significant economic or other relationship with the Public Body; (2) an owner of five per centum or more of the shares in the Public Body; (3) a connected party in relation to the Public Body; (4) an employee of the Public Body, its subsidiary or portfolio Ministry.
Nominations Committee of Board	A Board committee – or part of the work of the governance committee – charged with leading a formal, rigorous and transparent procedure for the appointment of new directors to the Board and making recommendations to the Board
Public Body	A statutory body or authority or any government company, but does not include an executive agency designated under the Executive Agencies Act. A statutory body and an authority are both defined by the PBMAA.
Portfolio Minister or Minister	Denotes the Minister in charge of the ministry under whose portfolio responsibility the Public Body falls.
Stakeholder	A person who can affect, is affected or has an interest in the operations of the public body. A stakeholder can also be considered as a person or group with an interest, not necessarily financial, in an organization, and would include employees, customers, suppliers, beneficiaries, clients, creditors and the local community who may to a greater or lesser extent depend upon the continuing success of the organization.
Transition Period	The transition period is defined as: <ul style="list-style-type: none"> i. from the date a general election of members of the House of Representatives is announced until a Minister or the Governor General appoints a Board; ii. from the date the Prime Minister announces a new Minister until that new Minister appoints a Board.

Appendix 2 Board Transition Guidelines

During the transition period, the Board should observe the following guidelines:

- i. Make no new appointment to executive positions. Where an appointment is deemed necessary, an acting assignment should be considered until a new Board is appointed.

The foregoing excludes appointments negotiated by contract before the transition period and which are to take effect during and after the transition period.

- ii. Undertake current Performance Appraisal for the CEOs.
- iii. Avoid entering any new major contracts, undertakings or significant long term commitments, including sale of land and investment properties. Any commitment made during the period should involve routine matters of administration, outside of which reference should be made to the relevant Permanent Secretary.
- iv. Prepare a status report for the incoming Board and submit to the relevant Permanent Secretary or Financial Secretary (as the case may be), detailing significant matters that are under consideration. The Report should include information on the following:
 - legal issues;
 - unresolved matters including contracts referred to the Board, investment and procurement issues;
 - various accounts and their signatories;
 - financial highlights;
 - current projects;
 - strategic objectives and policy direction; and
 - any other pertinent matter of which the new board should be aware.
- v. Submit resignation to the new Minister which will not take effect until the new Minister duly appoints a new Board within the recommended timeframe of sixty days.

Appendix 3 – Board Nomination Section and Appointment Administrative Templates

Appendix 3A. Letter Acknowledging Receipt of Resignation

Date

Dear _____

Re: Acknowledgment of Receipt of Resignation

I hereby acknowledge receipt of your letter of resignation as a Director of the Board of _____. I note your indication that your resignation will take effect when a new board is appointed. During this period, you are asked to observe the transitional requirements as outlined in the Public Bodies Regulations.

Yours sincerely,

Minister

Appendix 3B. Letter Advising Acceptance of Resignation/Selection for Re-appointment to Board

Date

Dear _____

Re: Effective Date of Resignation/Selection for Re-Appointment to New Board

Reference is made to your letter dated _____ where your resignation from the Board of _____ was tendered.

I hereby advise that I accept your resignation, and that a new Board has been duly appointed, with effect from _____. **OR** Notwithstanding the aforementioned, I hereby advise that you have been selected for reappointment to the Board of _____.

I would like to take this opportunity to thank you for your contribution and service to the Board and by extension the people of Jamaica, and wish for you success in your future endeavours. **OR** (for re-appointments) all matters as outlined in Appendix 3D beginning from 'Term of Appointment'.

Yours sincerely,

Minister

Appendix 3C: Board of Directors Application Form

The Application form should require the following information:

1. Biographical (name, age, gender, address (home/business), marital status, nationality)
2. Employment record
3. Areas of expertise – specialist knowledge (including body of work/research)
4. Educational background – qualifications, including training or professional development courses or programmes
5. Community involvement
6. No. of Directorships held currently
7. Previous Board experiences including dates over the past 10 years
8. Disability
9. Disqualification criteria – (conviction, bankruptcy etc)
10. Conflicts of Interest
11. References
12. Declaration
13. Identification

Appendix 3D: Letter of Appointment of Board Member

[Insert date]

[Insert name and address of board member]

Dear [insert]

Re: Your appointment as a board member of [insert organisation's name]

I am pleased to confirm your appointment to the board of [insert organisation's name] as a board member.

The Government of Jamaica and the [Insert name of organisation] are committed to high standards of corporate governance. The purpose of this letter is to outline the terms of your appointment and provide you with information regarding your role.

Term of appointment

Your initial term of appointment will be [insert].

You may resign from your office as board member by written notice at any time. However, I ask that you give the board reasonable notice of your resignation so that there will be proper board succession.

Role and duties

The board is responsible for the governance and control of the business of [insert organisation name]. The specific functions of the board in this context are set out in the board's charter. The board has delegated responsibility for the management of the organisation to the CEO.

You will be expected to understand and diligently discharge the duties and responsibilities placed on you by law, as well as this organisation's charters and policies which will be provided to you as part of the induction process.

You are required to declare any matter which might pose a conflict of interest between your personal duty and your duty to the organisation. It is also expected that any interest that limits your independence as a board member is disclosed to the board. As part of your induction, you will be asked to make a declaration of any interests that you have which might conflict with your role as a board member of [insert organisation name]. Disclosure of such interests is a continuing obligation.

Board and Committee Fees

Board and Committee fees will be in accordance with relevant Circular/s issued and amended from time to time by the Ministry with responsibility for the public service.

Time Commitment

Acceptance of board membership with [insert organisation name] requires a minimum level of commitment in order for your contribution to add value to the organisation, and to ensure you fulfil your legal obligations as a board member.

You are expected to regularly attend and participate in board and sub-committee meetings, as well as organisational events. You will also be expected to prepare adequately for all board meetings and events.

Board Committees

It is envisaged that you will also hold a position on at least one board committee as well as on the board. This will require participation in regular board committee meetings in addition to usual board meetings.

Indemnity, Insurance and Access

Indemnity for Directors may be provided in keeping with Section 19a-c of the Public Bodies Management and Accountability Act.

Independent Advice

Throughout your appointment and with the board's approval, you may have access to independent professional advice as required to fulfil your duties as a board member. Copies of any such advice must be made available to all board members.

Board Member Development and Performance Evaluation

The board conducts annual performance reviews of the board, board committees and board members and you will be required to actively and constructively participate in these review processes. Such processes may result in positive or negative recommendations in relation to your appointment to the board.

Development activities for the board and individual board members are available as agreed to by the board.

You are expected to undergo continual board member development either individually or as part of the board in accordance with the development policy for the board.

Communication and Confidentiality

All information obtained during your appointment is confidential to the [insert name of organisation] and should not be released to third parties, either during or after your appointment, without the board's approval or as required by law.

You are welcome to visit [insert organisation name] offices during business hours to complete your duties, obtain access to corporate information, and familiarise yourself with business operations where appropriate. However, such visits and requests for access to information are directed through the CEO to ensure maintenance of lines of authority and communication.

Grounds for Removal/Termination or Disqualification

Please be guided by the relevant governing and enabling legislation as to what constitutes grounds for removal from the Board of Directors. These may include: absence from duty for three (3) consecutive meetings without just cause; incapacitation in a way that affects performance of duty; display of behaviour such as misconduct or a breach of duty; breach of the collective duty of the entire Board; and change in Minister or of administration.

Acceptance

Kindly acknowledge the terms of your appointment by signing the attached copy of this letter, and return to my office.

I look forward to working with you as part of the governance team of [insert organisation name] and the valuable contribution that you will make to the organisation.

The corporate secretary of [insert organisation name] will be in touch with you shortly to arrange an induction. In the interim, please feel free to contact me on [insert] if you have any queries.

Yours sincerely

[Insert name]
Minister for XYZ

Acknowledgment

I [insert name] hereby accept the terms of appointment as set out in this letter.

Signature
Date

Appendix 3E: Terms of Reference for the Chairman

Except otherwise provided for in the relevant enabling legislation the Board Chairman is appointed by the Minister. The Chairman should provide strategic leadership to facilitate the public body successfully achieving its mandate.

The Board Chairman's primary roles are to:

1. Chair Board meetings, ensuring that order is maintained and judiciously balancing the need for fairness and full information in addressing issues and the need to respect the time of Directors and management;
2. Establish the frequency of Board meetings and review such frequency from time to time, as considered appropriate or as requested by the Board;
3. Set appropriate standards for Directors regarding attendance, preparation and involvement at Board meetings;
4. Manage the affairs of the Board of Directors which includes ensuring the Board is organized properly, functions effectively and meets its obligations and responsibilities;
5. Ensure that the appropriate committees are established and that they are functioning and reporting to the Board;
6. Recommend the committee members and committee Chairman appointments to the Board for approval;
7. Seek to build consensus among Board members;
8. Guide the Board in establishing and or reviewing as appropriate or necessary the vision, mission, values and strategies to include the corporate plan and budget for the Public Body;
9. Act as the conduit between management and the remaining members of the Board;
10. Avoid undertaking the duties and responsibilities of the Chief Executive Officer or other members of the executive management team, except where otherwise provided by relevant legislation;
11. Ensure that management is reporting properly to the Board;
12. Ensure the co-ordination of the agenda, information packages and related events for Board meetings in conjunction with the Corporate Secretary ;
13. Ensure that Board members receive all information necessary to perform their duties and allow sufficient time for consultation and decision making;
14. Ensure that all Directors are contributing effectively to the deliberations of the Board;
15. Review and assess director attendance and performance annually, and the size and composition of the Board and make recommendations to the Minister or relevant authority responsible for appointing directors as required;
16. Lead the Board in monitoring and evaluating the performance of the CEO;

17. Maintain communication protocols with the portfolio Minister, relevant Permanent Secretary and other key stakeholders;
18. Ensure that a formal process of orientation, sensitisation and ongoing board member development is effected to improve the competency and level of performance of Board members;
19. Ensure compliance with the governance policies of the Board;
20. Ensure compliance with all statutory requirements;
21. Advise the Minister of issues that may require a ministerial response; and
22. Inform the Minister in advance of any major strategic initiatives or significant changes to operations.

Yours sincerely,

[Insert name]
Minister for XYZ

Appendix 3F: Letter of Corporate Expectations

Chairman of XYZ

Dear (name of chairman)

I am writing to you to outline the Government's expectations of XYZ for the year FY2017/2018

Key Actions Required

In keeping with the Government's overall policies and priorities and the requirements of the enabling legislation of XYZ, I would expect that during the current financial year, the following key actions will be achieved:

- [Outline the key policy, program and service initiatives required to be undertaken by the public body in the current financial year. These could include a mixture of whole of government policy or program initiatives or initiatives specifically related to the role and functions of the public body]

Engagement with XYZ

I look forward to regular engagement with you and specifically require that XYZ meets the statutory requirements outlined in the PBMA Act, Companies Act/the entity's enabling legislation and any other relevant legislation, policies, guidelines and frameworks. You will be required to:

- Advise me, as well as consult with the portfolio Ministry on any proposal relating to new/amendments to policies, services or programs.
- Provide me with information relating to the impact on the entity's operations, of any policy, service or program change
- Advise me as soon as possible of any significant changes to the financial position of XYZ as outlined in the 20XX budget; and
- Advise on any significant media or reputational issue.

Corporate Planning

XYZ is required to undertake a rigorous corporate planning process which aligns with the investment the Government has made in the company/organisation and the national importance of its operations. Corporate planning should be carried out in accordance with XYZ's statutory obligations as a public body, applicable regulatory obligations, and the objectives, directions and guidance given to XYZ by me. Any information necessary for consideration of these plans should be available to me and the Ministry.

XYZ should promptly disclose to me any material variance from its Corporate Plan assumptions or forecasts, along with other material events. Should XYZ become aware that there is a substantial risk to it meeting its targets it should advise me immediately.

Governance

It is expected that XYZ will ensure that its governance meets the requirements of the *Public Bodies Management and Accountability Act* and the *Corporate Governance Framework for Public Bodies in Jamaica (2012)*. XYZ should report annually on its governance framework and processes and on the outcomes of its annual board performance evaluation.

The Government expects that XYZ will actively manage risk, including developing a suitable risk appetite statement for the public body. It should communicate its risks, risk management strategies and risk appetite to Shareholder/Portfolio Ministers and Departments, and engage closely with them, including by providing quarterly progress reports.

Reporting and work plans

XYZ will continue to manage its financial affairs and reporting in accordance with its legislative requirements under the *Public Bodies Management and Accountability Act, Companies Act* and any other relevant legislation. I require XYZ to:

- provide progress reports against this Letter of Expectation twice a year; and
- inform me of any significant changes to budgets, corporate or operational plans and/or timelines in a timely manner.

Working with the Minister for [insert Minister's title]

XYZ should seek the prior agreement of the Minister for ZZZ before undertaking any significant new work during the period of time covered by the Letter of Expectation.

The Ministry of ZZZ has the responsibility for providing me with advice on all portfolio matters relating to XYZ. I expect that XYZ will develop a constructive relationship with the Permanent Secretary and facilitate its engagement on major policy, program and service issues for which XYZ is responsible, including any new initiative arising from election commitments.

Stakeholder Engagement

The engagement of stakeholders is vital in ensuring that the work of XYZ is understood. I expect XYZ to build networks with all stakeholders and work collaboratively to achieve its objectives. XYZ must ensure appropriate engagement with all relevant stakeholders, including:

- ABC
- DEF
- HIJ
- KLM

Stakeholder views must be considered extensively during development, testing and implementation of any new or changed policies, services or programs. This engagement should be appropriate, regular and may use a wide variety of modes.

Funding or Financial Returns to Government

[This section of the letter would detail the Minister's/Government's expectations in relation to the financial performance of the public body.

[For budget funded bodies this could include requirements to:

- Operate within its budget envelope
- Achieve agreed budget savings
- Implement agreed new policy proposals
- Achieve specific financial performance targets]

[For non-budget funded organisations/government business enterprises the letter could require some or all of the following:

- The level of financial distributions to be made to the shareholder/s consistent with the Public Bodies Regulations (2015)
- Return on equity
- Earnings growth
- Return on Capital Employed (ROCE)
- Gearing Ratio
- EBITDA Interest Cover (Adjusted EBITDA / Net Interest Payable)
- Interest Cover (EBIT/Net Interest Payable)
- FFO (Funds from Operations) / Debt / Gross Debt

I look forward to working constructively with XYZ to achieve the Government's objectives in relation to [insert the sector or portfolio area or key functions of the public body].

Yours Sincerely,

[Minister's Name]
Ministry for ZZZ

Appendix 3G: Directors' Introduction Package

The package should contain the following:

1. Relevant legislation including PBMAA, FAA, Companies Act, Corporate Governance Framework for Public Bodies, entity enabling statute and any other legislation, Policy Document or Guidelines that affects the operations of the Public Body.
2. Recent Corporate and Operational Plans
3. Recent Annual Reports
4. Portfolio Ministry's strategic plans and policies
5. Contact details for key portfolio ministry's personnel
6. Organisation structure of the related Public Body
7. Status Report from outgoing Board
8. Code of Conduct