



GOVERNMENT OF JAMAICA

PUBLIC SECTOR PROCUREMENT POLICY

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Ministry of Finance and the Public Service

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ACRONYMS

CGA	Contractor-General Act
CJV	Commercial Joint Venture
CITO	Central Information Technology Office
CPA	Corruption Prevention Act
CPAR	Country Procurement Assessment Report
CSD	Central Supplies Division
ENACT	Environment Action Programme
e-GP	Electronic Government Procurement
FAA Act	Financial Administration and Audit Act
FCA	Fair Competition Act
FSC	Financial Services Commission
FSCA	Financial Services Commission Act
GoJ	Government of Jamaica
GDP	Gross Domestic Product
Handbook	Government of Jamaica Handbook of Public Sector Procurement Procedures
MIND	Management Institute for National Development
MSMEs	Micro, Small and Medium Sized Enterprises
NCC	National Contracts Commission
NICT	National Information and Communication Technology
PBMA Act	Public Bodies Management and Accountability Act
PAPU	Procurement and Asset Policy Unit
UNDP	United Nations Development Program
VFM	Value For Money

EXECUTIVE SUMMARY

This Procurement Policy presents the Government of Jamaica's (GoJ) strategy to further reform the public procurement system that is aligned to international best practices and promote fair competition for government contracts.

Public sector procurement is defined as the acquisition of goods, services and works, by any of the prescribed methods, using public funds, and executed by the procuring entity or on its behalf, where "procuring entity" means any Ministry, Department, Local Government Authority, Statutory Body, Executive Agency, Public Company or any other agency, in which the Government owns controlling interest, that is at least 51%, and/or in which the Government is in a position to direct the policy of the entity. The procurement process embraces not only the acquisition of goods, services and works, but also the complete process from planning to contract management.

As part of the Government of Jamaica's modernization programme, the public procurement regulatory and institutional frameworks are being strengthened to create a more efficient system. In this regard, the Government has embarked on a comprehensive re-structuring and institutional strengthening exercise marked by the following achievements:

- i. Establishment of the Office of the Contractor-General (1983);
- ii. Establishment of a Procurement Policy Implementation Unit in the Ministry of Finance (September 1999);
- iii. Enactment of enabling legislation for GoJ's Transparency, Competition and Fair Treatment Obligations (October 1999);
- iv. Establishment of a National Contracts Commission (October 1999);
- v. Development of a Handbook of Public Sector Procurement Procedures (April 2001);
- vi. Development of an Environmental Guide to Public Sector Procurement (January 2001);
- vii. Commencement of a sustained procurement training and sensitization programme (started - July 16, 2001);
- viii. Issuing of a national procurement policy statement (2002);
- ix. Promulgation of the Electronic Transaction Act, (2006);
- x. Development of an Electronic Procurement Strategy (2007); and
- xi. Enactment of the Contractor-General Act (Procurement Regulations, 2008).

The procurement policy therefore expounds on the ten fundamental principles that uphold the system. These include (i) economy; (ii) competition; (iii) efficiency; (iv) equity; (v) integrity; (vi) fairness; (vii) transparency; (viii) accountability; (ix) reliability; and (x) value for money.

INTRODUCTION

1. PUBLIC SECTOR PROCUREMENT

- 1.1. Public Sector Procurement is the acquisition of goods, services and works, by any of the prescribed methods, using public funds, and executed by the procuring entity or on its behalf, where “procuring entity” means any Ministry, Department, Local Government Authority, Statutory Body, Executive Agency, Public Company or any other agency, in which the Government owns controlling interest, that is at least 51%, and/or in which the Government is in a position to direct the policy of the entity.
- 1.2. This definition also applies to Government-approved authorities acting on behalf of the procuring entity.
- 1.3. The procurement process embraces not only the acquisition of goods, services and works, but also the complete process from planning to contract management.
- 1.4. Public procurement systems must be transparent and efficient to foster credibility of the democratic political system and efficiency of the market. The new external environment created by regionalization, globalization and the State’s increasing commitment to liberalized trade, has added new challenges to public sector procurement, through integration and interdependence of markets which impose strict discipline on this sector. Additionally, the opening of markets necessitates a general convergence of norms. These dynamics, in combination with diminishing resources, have reinforced the need for greater integration and alignment of procurement and financial management principles. This will allow for greater accountability, transparency and a more efficient use of scarce resources.
- 1.5. Up to 1996 Jamaica operated a centralized procurement system coordinated by the Central Supply Division (CSD) of the Ministry of Finance. Operations were regulated by the Financial Administration (Supplies) Regulations 1963 (under the FAA Act) supplemented by directives from the Ministry of Finance. In 1996 the CSD ceased operations and a transition was made to a decentralized system that saw entities managing their own purchasing and acquisition processes. Procurement continued to be regulated by guidelines from the Ministry¹. The dissolution of the CSD precipitated a reform of the procurement system.

¹ The Ministry of Finance has overall responsibility for procurement policy issues.

1.6. Reform Programme

1.6.1. Beginning in 1983, the Government of Jamaica (GoJ), with the establishment of the Office of the Contractor General (OCG), embarked on a comprehensive re-structuring and institutional strengthening exercise with respect to public sector procurement. Some significant milestones achieved include:

- i. Establishment of the Office of the Contractor-General (1983)
- ii. Establishment of a Procurement Policy Implementation Unit in the Ministry of Finance (September 1999);
- iii. Enactment of enabling legislation for GoJ's Transparency, Competition and Fair Treatment Obligations (October 1999);
- iv. Establishment of a National Contracts Commission (October 1999);
- v. Development of a Handbook of Public Sector Procurement Procedures (April 2001);
- vi. Development of an Environmental Guide to Public Sector Procurement (January 2001);
- vii. Commencement of a sustained procurement training and sensitization programme (started - July 16, 2001);
- viii. Issuing of a national procurement policy statement (2002);
- ix. Promulgation of the Electronic Transaction Act, (2006);
- x. Development of an Electronic Procurement Strategy (2007); and
- xi. Enactment of the Contractor-General Act (Procurement Regulations, 2008)

2. PURPOSE

2.1. This policy sets the framework for the operation and management of the public procurement system and underscores its guiding principles and tenets. The policy will guide public officers and all stakeholders and give direction for the further development of the procurement system.

3. RATIONALE

3.1. Socio-Economic Significance of Public Procurement

3.2. Sound public procurement management has become a benchmark for good governance and national progress. Procurement constitutes between fifteen (15) to twenty (20) percent of Gross Domestic Product (GDP) in all countries. In Jamaica's case public procurement is estimated at approximately thirty (30) percent of GDP in 2002².

² World Bank Country Procurement Assessment Report (CPAR), 2003.

- 3.3. Historically, public procurement has been used as a national economic driver to stimulate growth within specific sectors of an economy and to encourage more equitable economic growth. Several countries have used public procurement to achieve national development objectives through the strategic positioning and utilization of buy-national policies, which are policies that encourage the procurement of domestic goods and services. Other measures include the use of:
- i. set-aside provisions, where a specific percentage value of a contract that is reserved for domestic contractors only;
 - ii. domestic content requirements e.g. a certain percentage of labour or manufacture that must be domestic; and
 - iii. domestic investment requirements.
- 3.4. The Government will also utilize a range of these measures in the interest of national development, taking into consideration the relative small size and vulnerability of Jamaica's economy. The procurement system will facilitate the achievement of socio-economic objectives, allowing for local or community-based procurement and increasing opportunities for small domestic industries.
- 3.5. From a governance perspective, public sector procurement systems that are efficient and transparent will positively impact the credibility of any government. A procurement system that is supported by all levels of government will strengthen commitment to openness, transparency, objectivity, fairness and accountability and improve the relationship between the State and the citizenry.
- 3.6. Public procurement is therefore no longer a routine, clerical function within a Ministry or Department. Today's procurement environment requires professionals to deal with dynamic markets, changing technologies and purchasing methods. In addition to national regulatory requirements, practitioners have to be more aware and ensure compliance with international obligations in trade, labour, the environment and corruption mitigation.
- 3.7. Against this background, the GoJ acknowledges the need for a procurement system that recognizes and balances all these considerations.

4. APPLICATION

- 4.1. Except where the context otherwise requires, GoJ Public Procurement Policy applies to all procurement carried out by public sector entities including Ministries and Departments, Local Government Authorities, Statutory Bodies, Executive Agencies, Public Enterprises and any other entity in which GoJ owns majority share or otherwise exercises control over the operations of the entity, including an entity acting on behalf of any of these entities.
- 4.2. The procurement of goods, services and works under bilateral and other agreements are subject to the terms of those agreements and excluded from the general provisions contained on the GoJ Handbook of Public Procurement Procedures.

4.3. Procurement between Public Entities

4.3.1. In support of the objective of optimizing value-for-money (VFM), the Government will encourage procurement of goods, services and works between and among government entities where such procurement is demonstrated to be more economical when compared with transactions with the private sector. Procurement between government entities will be exempt from the standard procedures of competitive tenders.

4.4. Procurement by Commercial Joint –Venture Entities

4.4.1. From time to time GoJ engages in private-public partnerships or joint-venture companies. These are commercially driven, profit-making enterprises incorporated under the Companies Act in which the government shares ownership with a private entity. These entities by their nature cannot conform with the standard procurement procedures that apply to other public entities.

4.4.2. The Government will establish a legal framework for the treatment of procurement in CJV. The legislation will set the parameters for procurement schemes of management to be developed for each CJV. The scheme of management for each CJV shall adhere to the basic parameters of the legislation and will be further determined by the specific joint venture agreement.

4.5. Harmonisation with International Best Practices

4.5.1. The Government will further endeavour, as far as is practicable, to operate by international best practice standards, thereby ensuring harmonization with our regional and international counterparts. The Government, in its policies and practice, will honour all obligations arising from bilateral/multilateral agreements on procurement.

POLICY FRAMEWORK

5. GENERAL PRINCIPLES

5.1. Ten (10) principles will guide GoJ procurement policies namely:

- i. **Economy:** Procurement is a purchasing activity, the purpose of which is to give the purchaser best value for money. Procurement is a significant area of government spending and its potential to encourage Jamaican business, particularly MSMEs, to increase their formal participation in this market, improve product and service quality, raise business standards, and facilitate entry into international markets, will be fully supported.
- ii. **Competition:** Potential contractors compete in an environment that allows each eligible contractor the opportunity to participate in public procurement contract offerings.
- iii. **Efficiency:** The best procurement is simple and swift, producing positive results without protracted delays. In addition, efficiency implies practicality, especially in terms of compatibility with the GoJ administrative resources and professional capabilities.
- iv. **Equity:** Equal opportunity for all eligible contractors.
- v. **Integrity:** Practitioners must adhere to codes of conduct, values and ethics. The procurement process must always operate in consistency with the standards that have been established.
- vi. **Fairness:** Good procurement is impartial, consistent, and therefore reliable. It offers all interested contractors a level playing field on which to compete and thereby, directly expands GoJ's options and opportunities.
- vii. **Transparency:** The procurement process should be clear and open to public scrutiny.
- viii. **Accountability:** Good procurement holds its practitioners responsible for enforcing and obeying the rules. It makes them subject to challenge and to sanction, if appropriate, for neglecting or breaching those rules. Accountability is at once a key inducement to individual and institutional probity, a key deterrent to collusion and corruption, and a key pre-requisite for procurement credibility.
- ix. **Reliability:** A good procurement system establishes and then consistently applies rules and procedures that are accessible and unambiguous.
- x. **Value for Money:** Value for Money (VFM) is a measure of economy and efficiency with which the financial resources of the Government are converted. Therefore, VFM presents the optimum combination of life-cycle costs and benefits of the item being procured.

6. VISION

- 6.1. A well-functioning and efficient procurement system that engenders the confidence of the Jamaican people and the international community.

7. MISSION

- 7.1. To foster the principles of transparency, fair treatment and value for money by promoting understanding of the procurement system through training and education, instituting mechanisms for dispute resolution and providing procurement opportunities for local contractors in support of national development.

8. GOAL

- 8.1. The fundamental goal of the procurement policy is to ensure that public procurement activities achieve the best value for money in supporting the delivery of government services.

9. OBJECTIVES

- 9.1. The broad objectives of Government of Jamaica's Public Procurement Policy are to:
- i. Ensure that procurement is properly regulated through laws, rules and procedures to govern the various aspects of procurement operations.
 - ii. Ensure that procurement staff are competent, qualified, well trained and equipped.
 - iii. Ensure that contractors understand the procurement system and their responsibilities and obligations in the procurement process.
 - iv. Ensure that public procurement activities are conducted fairly, allowing for equal treatment of eligible contractors.
 - v. Ensure transparency in the procurement system.
 - vi. Ensure the establishment and maintenance of mechanisms for resolving disputes in the procurement process.
 - vii. Facilitate environmentally responsible procurement practices.
 - viii. Continuously improve the efficiency of the procurement system through the use of appropriate technology, inter alia.
 - ix. Ensure ethical conduct among public officials, public officers and contractors in the procurement process.
 - x. Ensure providing procurement opportunities for local contractors in support of national development.

10. STRATEGIES

To achieve the objectives the strategies outlined below will be employed.

- 10.1. Objective i: Ensure that procurement is properly regulated through laws, rules and procedures to govern the various aspects of procurement operations.

Strategy: Development of a Body of Legislation and Procedures

- 10.1.1. A comprehensive procurement law will be enacted to strengthen the procurement system and create enforceable and binding obligations for persons involved in procurement. In this regard, further legislation is to be enacted to provide for, inter alia, criminal sanctions for persons found guilty of benefiting through corrupt means from public procurement. In addition, the Government is committed to the continued strengthening and development of the Handbook of Public Sector Procurement Procedures.

- 10.2. Objectives ii & iii: Ensure that procurement staff are competent, qualified, well trained and equipped. Ensure that contractors understand the procurement system and their responsibilities and obligations in the procurement process

Strategy: Training and Capacity Building

- 10.2.1. Knowledge is critical to the achievement of a well functioning procurement system. On one hand, to ensure compliance practitioners must know and understand regulations, procedures and other provisions that govern the system. This ensures consistency in the practice of procurement thereby making the procurement system more reliable and trustworthy. On the other hand, it is equally important that contractors and other external users of the procurement system also have a full understanding of its workings. This enhances their ability to participate in procurement opportunities and to interface with the system at various levels to meet their needs.

- 10.2.2. To achieve these ends GoJ through the Ministry of Finance, will undertake a structured comprehensive education and training programme. This programme will operate at three levels:

- i. Professional Training and Development of Procurement Staff
- ii. Education for Compliance
- iii. Sensitisation of Oversight Bodies
- iv. Sensitisation of Contractors

10.2.2.1. Professional Training and Development of Procurement Staff

10.2.2.1.1. GoJ will build the capacity of its cadre of practitioners through exposure to core training in the discipline of procurement. A sustained programme covering the various functional aspects of the discipline will be implemented, ultimately leading to certification. This will be achieved through collaboration with the Management Institute for National Development (MIND) and partnership with an international professional certifying institution.

10.2.2.2. Education for Compliance

10.2.2.2.1. A structured and comprehensive education in GoJ procurement laws, rules and practice will be undertaken. The Ministry of Finance in carrying out its mandate to sensitize procuring entities has over the past eight years spearheaded the training of staff involved in procurement at various organizational levels. This undertaking is absolutely necessary to ensure understanding of the governing framework and enable compliance especially given the emphasis on greater accountability for procurement staff and sanctions for non-compliance. The Ministry of Finance will therefore continue in this undertaking and widen its reach through collaboration with MIND.

10.2.2.3. Sensitization of Oversight Bodies

10.2.2.3.1. Oversight bodies play an important role in safeguarding the integrity of the procurement system and ensuring compliance with the legislative regulatory and policy obligations for procurement. It is therefore important that each oversight body understands its specific role in the procurement system as well as the various provisions governing the procurement process. GoJ will conduct periodic sensitization programmes for members of committees and personnel of the several oversight bodies.

10.2.2.4. Sensitization of Contractors

10.2.2.4.1. As external users of the system, contractors represent a key stakeholder in the success of the procurement system. It is important that contractors understand the procurement machinery, the rules and institutions that govern it. This knowledge is key to the contractors' ability to carry out their role in the procurement process and to successfully participate in tender opportunities. The Ministry of Finance will therefore engage in a programme to educate contractors about the procurement system. This will be undertaken through contractor-focussed seminars conducted through MIND and a general public education programme through the Jamaica Information Service (practitioners, regulators and all personnel involved in the procurement process).

10.3. Objective iv: Ensure that public procurement activities are conducted fairly, allowing for equal treatment of eligible contractors.

Strategy: Uniform and Consistent Application of Procurement Provisions

10.3.1. The Government will establish provisions to ensure that in the conduct of the procurement process, contractors will not be discriminated against and that there will be consistency of practice across all its entities. The procurement provisions will be applied evenly to eligible contractors.

10.4. Objective v: Ensure transparency in the procurement system.

Strategy: Communication

10.4.1. The Government of Jamaica will establish effective two-way communication with stakeholders.

10.4.2. The Government will disseminate and make accessible to the public, the provisions governing procurement. This will be done through various modes of publications including electronic and print. Procuring entities will observe strict requirement for publicizing procurement opportunities.

10.4.3. Independent oversight public bodies namely the Auditor General, Contractor General and the National Contracts Commission will provide periodic reports to Parliament.

10.4.4. GoJ will make effective use of both the print and electronic media to build public knowledge and awareness of its procurement policy and the operations of the procurement system.

10.5. Objective vi: Ensure the establishment and maintenance of mechanisms for resolving disputes in the procurement process.

Strategy: Dispute Resolution Mechanism

10.5.1. The Government will establish an appropriate administrative dispute resolution mechanism to deal with complaints arising from the procurement process.

10.6. Objective vii: Facilitate environmentally responsible procurement practices.

Strategy: Environmentally Responsible Procurement

10.6.1. The Government will promote environmentally responsible procurement. In this regard, all goods and services to be supplied to government must comply with environmental regulations and standards. These relate to pollution control and prevention, waste management, recycling and water and energy conservation. This requirement will be reflected as a special condition of contract. Therefore, procuring entities should consider, inter alia, the life-cycle cost and performance over time as contained in the Government of Jamaica Environmental Guide to Green Procurement³.

³ Published by the Environmental Action (ENACT) Programme, a joint Government of Jamaica, Government of Canada Programme.

10.7. Objective viii: Continuously improve the efficiency of the procurement system through the use of appropriate technology, inter alia.

Strategy: Improve Efficiency through the Application of Appropriate Technology

10.7.1. Recent advancements in ICT and developments in public governance have stressed the need for efficient and transparent Electronic Government Systems (e-G). Technological development has created new procurement modalities resulting in improved efficiency and greater value for money. GoJ will take advantage of opportunities to apply appropriate technology including Electronic Procurement to the procurement process in order to maximize efficiency.

10.8. Objective ix: Ensure ethical conduct among public officials, public officers and contractors in the procurement process.

Strategy: Public Procurement Ethical Standards

10.8.1. GoJ will require the highest ethical standards from those in the procurement process. In this regard the Government will establish a code of conduct for public officials and public officers involved in procurement. Also, public officials and public officers shall be required to report any unethical conduct by colleagues, bidders, contractors or any other person to their superiors, oversight agencies or auditors.

10.9. Objective x: Ensure the provision of procurement opportunities for local contractors in support of national development.

Strategy: Procurement as a National Economic Driver

10.9.1. The government will leverage its power as the largest purchaser, using public procurement as a national economic driver to develop specific sectors and stimulate the general economy. GoJ while giving due regard to international and regional obligations will ensure that as far as practicable, opportunities are provided in public procurement for capable local contractors to participate in the provision of goods, services and works on a sustainable and efficient basis as an integral part of the process of national development. In pursuit of this GoJ will employ a range of measures including:

- i. set asides for Micro, Small and Medium Enterprises (MSME);
- ii. the application of domestic margins of preference; and
- iii. domestic content requirements.

KEY STAKEHOLDERS AND THEIR ROLES

The following institutional framework will give effect to and support the principles and objectives of the Policy.

11. CABINET

11.1. The Cabinet is responsible for setting the national policy for public procurement and directives that govern the procurement process. The Cabinet approves the award of contracts with values above the prescribed threshold.

11.2. Infrastructure Subcommittee

11.2.1. The Infrastructure Subcommittee is a sub-committee of Cabinet established to:

- i. recommend contracts for approval by Cabinet;
- ii. ensure compliance of proposed infrastructure related contracts submitted for Cabinet's approval with the existing policy framework; and
- iii. make recommendations to Cabinet for improving the efficiency and effectiveness of the contracts award system.

12. THE MINISTRY OF FINANCE AND THE PUBLIC SERVICE

12.1. The Ministry of Finance has the overall responsibility for the public sector procurement system including direct responsibilities for developing and informing public procurement policy, monitoring the implementation of those policies particularly with regard to public expenditure. In carrying out these functions and in accordance with the FAA Act, the Ministry of Finance has the authority to effect routine investigations of the procurement activities and operations of any public sector.

12.2. The Procurement and Asset Policy Unit, formerly Procurement Policy Implementation Unit, was established in 1999 in the Ministry of Finance (MOF) as the national contact point. The Unit is a core procurement professional Unit that supports the Minister's role in all aspects of public procurement policy, legislation and procedures. It is also the designated point of reference for feedback and reporting for the public procurement system. The primary role and functions of the Unit includes, inter alia:

- i. Developing procurement policies, legislation, procedures and best practice guidelines;
- ii. Promulgating a proper understanding of government procurement policy, legislation and procedures service-wide; and
- iii. Monitoring and evaluation of the effectiveness of the procurement policy and procedures.

13. THE NATIONAL CONTRACTS COMMISSION AND ITS SECTOR COMMITTEES

- 13.1. The National Contracts Commission (NCC) is an independent Commission established under the Contractor-General Act, to promote efficiency in the process of award and implementation of Government contracts and ensure transparency and equity in the awarding of such contracts. The Commission is comprised of eight members drawn from public and private sectors.
- 13.2. The NCC is responsible for approving contract award recommendations for values within the prescribed thresholds and for endorsing recommendations requiring Cabinet approval.
- 13.3. The NCC is also responsible for the registration and classification of public sector contractors as well as recommending public sector procurement procedures.
- 13.4. Sector Committees
 - 13.4.1. In order to ensure timely consideration of contract award recommendations, the NCC operates through Sector Committees located throughout the public sector. The primary function of each Sector Committee is to review and submit contract award recommendations to the NCC for approval within prescribed limits.

14. OFFICE OF THE CONTRACTOR-GENERAL

- 14.1. The Contractor-General (OCG) monitors and investigates the award and implementation of any government contract, in order to ensure that such contract is awarded impartially and on the basis of merit, that the circumstances under which it is awarded or terminated do not involve impropriety or irregularity, and that the contract is implemented in conformity with its terms and conditions.

15. AUDITOR-GENERAL'S DEPARTMENT

- 15.1. As stipulated in the Jamaica (Constitution) Order in Council 1962, the Auditor-General audits the accounts of all public entities inter alia in order to ascertain whether, in his opinion, any payment of public money conforms to the authority which governs it, and has been incurred with due regard to the avoidance of waste and extravagance.

16. FINANCIAL SERVICES COMMISSION (FSC)

- 16.1. The primary role of the Financial Services Commission (FSC) is to supervise and regulate the securities, insurance and private pensions industries. As such, the FSC is an integrated financial services regulator.
- 16.2. In the execution of the insurance placement tender, the Ministry of Finance works in collaboration with the FSC to ensure that there is no breach of the Insurance Act and Regulations.

17. ACCOUNTING OFFICER

17.1. The Accounting Officer is any person designated as such by the Minister Finance pursuant to Section 16 Financial Administration and Audit Act and charged with the duty of accounting for expenditure on any service in respect of which moneys have been appropriated under the FAA Act or under any other enactment.

18. ACCOUNTABLE OFFICER

18.1. The Accountable Officer is any public officer including an accounting officer concerned in or responsible for the collection; receipt; custody; issue; or payment of public moneys or other public property.

19. PROCURING ENTITY

19.1. Procuring entities are responsible for conducting the procurement processes in keeping with the procedures outlined in the Government of Jamaica Handbook of Public Sector Procurement Procedures.

19.2. It is the responsibility of the procuring entity to obtain the required endorsement/approval of the NCC and/or Cabinet.

20. AUDIT COMMITTEE

20.1. The Audit Committees within public entities will be expected to report deviations in the procurement process.

21. PROCUREMENT APPEALS BOARD

21.1. Pursuant to the Contractor-General Act (Procurement Regulations), the Procurement Appeals Board is established to adjudicate complaints about the procurement process.

OTHER STAKEHOLDERS

There are a number of other entities that undertake activities that have direct implication for procurement. These include the following:

22. Management Institute for National Development (MIND)

22.1. MIND is an Executive Agency of the Government of Jamaica and an accredited tertiary level training institution. MIND is Jamaica's main public sector management training organization. MIND will play a key role in facilitating the training and certification of procurement staff in the public sector.

23. The Central Information Technology Office (CITO)

23.1. The Central Information Technology Office (CITO) is an enabler for national development through its charge to formulate, update, coordinate and monitor implementation of the National Information and Communications Technology (ICT) Strategy. Within that context CITO's also has a public sector mandate in defining, implementing, monitoring, sourcing, and continuously improving public sector ICT services which create quality and efficiency in a cost effective manner.

23.2. CITO supports the procurement process by providing guidance in the procurement of ICT related goods and services.

24. Private Sector

24.1. The private sector includes the various umbrella organizations and the entire business community who provide, or are potential providers of goods, services and works to the Government. It is important that the private sector is engaged and participates fully in the development of the procurement system as contractors are the Government's main partners in the procurement process.

25. Public

25.1. Procurement is largely by tax revenues. Goods and services are procured not for the consumption of the government itself but are ultimately delivered or strengthen the delivery of service to the public. Citizens therefore take special interest in the procurement system and are important stakeholders in the procurement process.

LEGISLATIVE FRAMEWORK

- 25.2. A comprehensive public procurement law will further be enacted to strengthen the procurement system and create enforceable and binding obligations for persons involved in public procurement. In this regard, legislation is to be enacted to provide for, inter alia, criminal sanctions for persons found guilty of benefiting through corrupt means from public procurement. In addition, the Government is committed to the continued strengthening and development of the procedural framework. The following laws currently have specific applicability to the procurement process:
- i. The Financial Administration & Audit (FAA) Act: This Act gives the Minister of Finance overall responsibility for public procurement.
 - ii. The Contractor-General's Act (CGA): The Act addresses the responsibilities of the Office of the Contractor-General and the National Contracts Commission (NCC). In December 2008, the Public Sector Procurement Regulations were issued under the Contractor-General Act. This Act and its Regulations are to be appropriately amended with the enactment of a comprehensive procurement law.
 - iii. The Contractors Levy Act: This Act imposes a levy of two percent (2%) deduction from the gross value of construction works, haulage and tillage contracts.

OTHER APPLICABLE LAWS AND PROVISIONS

Other laws applicable to public procurement include the following:

26. Access to Information Act

26.1. This Act reinforces and gives further effect to certain fundamental principles underlying the system of constitutional democracy, namely – government accountability; transparency; and public participation in national decision-making. It grants to the public a general right of access to official documents held by public authorities, subject to exemptions which balance that right against the public interest in exempting from disclosure, governmental, commercial or personal information of a sensitive nature.

27. Companies Act

27.1. This Act directs the establishment and management of all companies in Jamaica.

28. Corruption Prevention (Special Prosecutor) Bill

28.1. The Government intends to enact the Corruption Prevention (Special Prosecutor) Bill which will repeal the Corruption (Prevention) Act and the Parliament (Integrity of Members) Act and provide for the establishment of the Office of the Special Prosecutor for Corruption as a Commission of Parliament.

29. Corruption (Prevention) Act (CPA)

29.1. This Act criminalises acts of corruption and gives the Commission for the Prevention of Corruption the power to investigate allegations of corruption.

30. Fair Competition Act (FCA)

30.1. This Act provides for the maintenance and encouragement of competition in the conduct of trade, business and in the supply of services in Jamaica. Competition lies at the heart of any successful market economy and is crucial to the protection of consumers' interests and the efficient allocation of resources.

31. Financial Services Commission Act (FSCA)

31.1. This Act gives the Financial Services Commission the power to act as an integrated regulator of financial services. It administers the Insurance Act, Securities Act, Unit Trusts Act and Pensions (Superannuation Funds and Retirement Schemes) Act.

32. Insurance Act and Regulations
 - 32.1. The Insurance Act and Regulations give the FSC the power to register, suspend and cancel registration of brokers and insurers. The Commission is also empowered to impose solvency standards on these regulated entities.
33. Parliament (integrity of Members) Act
 - 33.1. This Act gives the Integrity Commission the power, inter alia, to receive and investigate any complaint against a Parliamentarian regarding an act of corruption within the meaning of Section 14 of the Corruption Prevention Act.
34. Public Bodies Management and Accountability Act (PBMA Act)
 - 34.1. The PBMA Act seeks to increase the accountability of all public bodies and provides inter alia for improvements in corporate governance and accountability.
35. Government of Jamaica Handbook of Public Sector Procurement Procedures
 - 35.1. The Handbook is a comprehensive procedures manual which sets out the rules for public procurement. It is issued under the authority of the Ministry of Finance pursuant to Section 19B of the Financial Administration and Audit Act and the National Contracts Commission in accordance with the Contractor-General Act 1983.
 - 35.2. The application of the procedures foster effectiveness and efficiency of the Government's management and administration of procurement, by clarifying institutional roles, responsibilities, and accountabilities, as well as streamlining related procedures and interactions between and among the institutions and officers/staff involved. The Handbook also guides contractors to better understand GoJ procurement policies and assist them to submit better bids and proposals, thus meeting the objectives set by GoJ.

LINKAGES WITH OTHER POLICIES AND STRATEGIES

The Procurement Policy supports a number of national policies. These include:

36. Vision 2030 Jamaica: National Development Plan and its companion document, Medium Term Socio-Economic Policy Framework 2009 – 2012.
 - 36.1. Vision 2030 Jamaica: National Development Plan is Jamaica's current twenty-five year development plan. It is aimed at putting Jamaica in a position to achieve developed country status by 2030.
 - 36.2. Medium Term Socio-Economic Policy Framework 2009 – 2012 is aligned to the overall vision, goals and outcomes of Vision 2030 Jamaica: National Development Plan and allows for a stage by stage operationalization of the long-term Plan. It sets out a prioritized package of policies, strategies and programmes proposed by the Government for implementation over the period 2009-2012.
37. Construction Industry Policy 2004
 - 37.1. The Construction Industry Policy is designed to address a number of concerns in the industry, particularly those related to the safety and security of the construction environment; qualitative and environmental factors; the registration of professional enterprises involved in the industry; and, the development of skill levels through training and certification.
38. ePowering Jamaica 2012 - National Information and Communication Technology (NICT) Strategy:
 - 38.1. The NICT Strategy outlines the vision for Jamaica to become "an inclusive, development-oriented, knowledge-based society that achieves economic and social growth through the integration of ICT into all aspects of [national] life".⁴ The Strategy is piloted by the Central information Technology Office which is responsible for setting standards and policies for ICT in the public sector. Key elements of the strategy are the advancement of e-Government which is the availability and accessibility of government services and operations online and open access to ICT which will facilitate citizen access to the internet and online services. Both elements are critical components for the implementation of e-procurement.

⁴ E-Powering Jamaica 2012

MONITORING AND EVALUATION

39. It is essential that this policy be monitored and evaluated periodically. In order to ensure that the desired objectives of the Public Procurement Policy are being achieved, the effectiveness of the policy and the procurement procedures will be assessed. This process will help to determine whether a complete review or adjustment is necessary.
40. Biennial evaluations will be conducted. In this respect, policy reviews will take place based, inter alia, on the results of on-going monitoring as outlined below:
- i. National Contracts Commission: The NCC will make annual reports to Parliament on the undertaking of its roles and responsibilities.
 - ii. Auditor General's Report: As stipulated in the Jamaica (Constitution) Order in Council 1962, the Auditor-General audits the accounts of all public entities in order to, inter alia, ascertain whether any payment of public money conforms to the authority which governs it and has been incurred with due regard to the avoidance of waste and extravagance. The Auditor-General makes annual reports to Parliament which includes information on the management of procurement by the various procuring entities.
 - iii. Office of the Contractor-General: This Commission undertakes the monitoring of the award and termination of Government contracts and investigates and audit public body's procurement practices in accordance with the Contractor-General Act. The results of the referenced statutory mandates being discharged by the Office of the Contractor-General are to be embodied in its reports to Parliament.
 - iv. Ministry of Finance: The Ministry will monitor and evaluate the effectiveness of the procurement policy and procedures and make periodic reports to Cabinet.

GLOSSARY

Accountability: Responsibility for enforcing and obeying the rules. It makes them subject to challenge and to sanction, if appropriate, for neglecting or breaching those rules. Accountability is at once a key inducement to individual and institutional probity, a key deterrent to collusion and corruption, and a key pre-requisite for procurement credibility.

Accountable Officer is any public officer including an accounting officer concerned in or responsible for the collection; receipt; custody; issue; or payment of public moneys or other public property.

Accounting Officer is any person designated as such by the Minister Finance pursuant to Section 16 Financial Administration and Audit Act and charged with the duty of accounting for expenditure on any service in respect of which moneys have been appropriated under the FAA Act or under any other enactment.

Competition: Potential contractors compete in an environment that allows each eligible contractor the opportunity to participate in public procurement contract offerings.

Contract Variation is a change to the deliverable (s) under a contract (e.g., an increase or decrease in the scope of works to be performed, amount/type of goods to be supplied, etc.), and must be specific to the relevant contract.

Direct Contracting means only one contractor is invited to participate.

Due process is the conduct of legal proceedings according to established rules and principles for the protection and enforcement of private rights.

Economy is the careful management of government resources to ensure best value for money.

Efficiency: The best procurement is simple and swift, producing positive results without protracted delays. In addition, efficiency implies practicality, especially in terms of compatibility with the GoJ administrative resources and professional capabilities.

Electronic Government Procurement (e-GP) is the application of an efficient high quality management framework to public sector procurement, facilitated through online information and processes. E-GP has the potential to strengthen the accountability, transparency, efficiency and effectiveness of this sensitive high value government function.

Eligible Contractor is any supplier of goods, services or works, who is appropriately qualified to participate in Government of Jamaica (GoJ) procurement opportunities.

Equality means having the same in quantity, measure, value or status.

Equity means the body of principles constituting what is fair, right and impartial; even-handed dealing.

Equity means fairness and equal opportunity for all.

Fairness is the impartiality, consistency, and therefore reliability of a good procurement system. It offers all interested suppliers, contractors and consultants a level playing field on which to compete and thereby, directly expands GoJ's options and opportunities.

Green Procurement is purchasing goods and services that pose minimal or no threat to the natural environment or to health and purchasing goods from environmentally responsible sources.

Integrity is adherence to good ethics, codes of conduct, values.

Limited Tender means a specific number of contractors/suppliers are invited to bid. Procuring entities may contact appropriately qualified contractors/suppliers on the NCC register and invite them to participate.

Open Tender means the procurement opportunity is open to any interested local or foreign contractor.

Practitioner is someone who practices a learned profession.

Procuring Entity is the entity responsible for conducting the procurement processes in keeping with the procedures outlined in the Government of Jamaica Handbook of Public Sector Procurement Procedures.

Public Officer is any person holding, or appointed to act in, an office of emolument in the service of the Crown in a civil capacity in respect of the Government of Jamaica.

Reliability: consistent application of rules and procedures that are accessible and unambiguous.

Selective Tender means procurement opportunities are opened to all National Contract Commission appropriately registered and qualified contractors.

Sole Source means there is only one provider of the particular good, service or work.

Transparency means the procurement process is clear and open to public scrutiny.

Value for Money (VFM) is a measure of economy and efficiency with which the financial resources of the Government are converted. VFM presents the optimum combination of life-cycle costs and benefits of the item being procured.