



GOVERNMENT OF JAMAICA

**HANDBOOK OF PUBLIC SECTOR
PROCUREMENT PROCEDURES
(MAY, 2001)**

National Contracts Commission
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Acknowledgements

This HANDBOOK OF PUBLIC SECTOR PROCUREMENT PROCEDURES is the definitive document on the subject as of 1 May 2001. It updates and replaces all previous procedural guidelines and memoranda issued on the subject of public sector procurement. The Handbook will have to be updated with time and usage. Contributions toward such updates should be addressed to the Chairman of the National Contracts Commission.

The HANDBOOK was prepared with the assistance of a Working Group consisting of representatives of the following private and public sector organizations:

- The Ministry of Finance and Planning
- The Incorporated Masterbuilders Association of Jamaica
- The Professional Societies Association of Jamaica
- The Joint Consultative Committee for the Building and Construction Industry of Jamaica
- The Ministry of Transport & Works
- The Jamaican Institute of Architects
- The Port Authority of Jamaica
- The Ministry of Education & Culture
- The Airports Authority of Jamaica
- The Jamaica Institution of Engineers
- The Jamaican Institute of Quantity Surveyors
- The Ministry of Health
- The National Water Commission
- The Urban Development Corporation
- The National Contracts Commission

The National Contracts Commission wishes to thank all those persons and organizations who have participated in preparing the HANDBOOK, whether directly in the Working Group or by commenting on it during the drafting stages.

The HANDBOOK is now distributed for USE. It is the guide to all persons responsible for public sector procurement actions. It is the reference document for all procurement by public sector entities.

Any comments should be addressed to the NATIONAL CONTRACTS COMMISSION.

**CHAIRMAN,
NATIONAL CONTRACTS COMMISSION**

SECTION 1- INTRODUCTION

PURPOSE AND AUTHORITY OF ISSUANCE

1.1

The Handbook of Public Sector Procurement Procedures (Handbook) is intended for the guidance of officers and consultants engaged in planning and managing the procurement of goods, works and services on behalf of the procuring entity as defined herein. For the purposes of the Handbook, a procuring entity is any government Ministry, Department, Statutory Organization, Executive Agency, Local Government Authority, Public Company or any other Agency of Government that engages in procurement.

The procedures developed for the procurement of works, goods, and services are intended to ensure that:

- the procurement process is fair and transparent;
- contractors are judged solely on the basis of competence and capability without regard to gender, religion, age, political affiliation, or race; and
- tender and contract documents include specifications or terms of reference in appropriate form and in sufficient detail to make clear the required nature of the works, goods or services being procured, including, where appropriate, drawings and/or other illustrative tools, national and/or international standards and procedures for verifying compliance with specifications and required standards for the remedying of any defects or deficiencies therein.

This Handbook is issued under the authority of the National Contracts Commission in accordance with the Contractor General Act (1999).

Other applicable policy, laws, regulations and standards include:

- Public Sector Procurement Policy ;
- The Financial Administration and Audit Act;
- The Financial Administration and Audit Act (Instructions), 2000;
- [Anti-Corruption Legislation] and any regulations hereunder;
- Natural Resources Conservation Authority Act, 1991;
- [National Solid Waste Management Authority Act] and regulations established there under;
- Natural Resources Conservation (Permits and Licenses) Regulations, 1996;
- [Natural Resources Conservation Authority Regulations] for Air Emissions;
- The Petroleum Quality Control Act, 1990 and any regulations there under;
- Natural Resources (Prescribed Areas) Prohibition of Categories of Enterprise, Construction and Development Order, 1996;
- Jamaica Water Sector Policy, January 1999;
- Jamaica Energy Sector Policy, 1995;
- Jamaica Bureau of Standards – JS178 and JS217, as applicable;
- Environmental Guide to Green Procurement, 2000;

- Weights and Measures Act (1976);
- Weights and Measures Conversion of Unit of Measurement Order (1998);
- Occupational Safety and Health Legislation;
- The Public Health Act (1968);
- The Factories Act (1943) and any regulations there under;
- Trade Prohibition of Importation (Equipment containing Chlorofluorocarbons) Amendment Order, 1998; and
- Trade Restriction on Importation (Chlorofluorocarbons) Order, 1999.

Procuring Entities are advised to obtain a copy of the above documentation in order to familiarize procurement officers with the various legislation, regulations and standards that impact public sector procurement.

SCOPE OF APPLICATION

1.2

The Handbook applies to all procurement carried out by procuring entities as defined in Section 1.4 “Definitions.” Procuring entities shall, in carrying out procurement activities, follow the procedures as set out herein. Exceptions include procurements of a “sensitive” nature for national defense and/or security purposes.

ADMINISTRATION OF THE HANDBOOK OF PUBLIC SECTOR

1.3

PROCUREMENT PROCEDURES

Pursuant to the Contractor General Act (1999), the National Contracts Commission (NCC) holds direct responsibility for the development and maintenance of this Handbook. Contractors and procuring entities are encouraged to communicate implementation experiences to the NCC in order to better inform the continued development of best practice guidelines and procedures.

DEFINITIONS

1.4

Term	Definition
Consultant	A service provider whose services are primarily intellectual in nature.
Consultant Services	Services that are primarily intellectual in nature.
Contract Value Threshold	<p><u>Internal</u>: Internal contract value thresholds are contract values above or below which specific procedures apply.</p> <p><u>International</u>: International contract value thresholds are contract values above which participation in procurement opportunities are open to both domestic and foreign contractors.</p>
Contractor	Any provider of goods, services or works.
Currency	Monetary unit of account
Day	Calendar day, unless otherwise specified
Domestic Contractor	A contractor having his principal place of business in Jamaica
Goods	Objects of every kind and description (except land or interest in land), including raw materials, products and equipment and objects in solid, liquid or gaseous form, and electricity, as well as services incidental to the supply of the goods if the value of those incidental services does not exceed that of the goods themselves.
Life cycle cost over time	The total cost to Government of procuring, operating supporting and (if applicable) disposing of the items being procured.
Offsets	Measures used to encourage local growth and development or improve balance of payments accounts by means of domestic content, licensing of technology, investment requirements, or similar arrangements.

Procurement Contract	A contract between the procuring entity and a contractor resulting from procurement proceedings
Procurement Officer	A person with the authority to conduct procurement activities on behalf of the procuring entity, as delegated by the Accounting Officer.
Procurement Planner	The designated person, persons, or office responsible for developing and maintaining a written procurement plan; or for the planning function in procurement not requiring a written plan.
Procurement Planning	The process by which the efforts of all personnel responsible for a procurement are coordinated and integrated through a comprehensive plan for fulfilling the procuring entity's need in a timely manner and at a reasonable cost.
Procuring Entity	Any government Ministry, Department, Statutory Organization, Executive Agency, Local Government Authority, Public Company or any other Agency of Government that engages in procurement.
Public Sector Procurement	Acquisition of goods, services or construction works, by any method, by or on behalf of procuring entities for their use.
Services	Any object of procurement other than goods or works.
Works	Means all work associated with the construction, reconstruction, demolition, repair or renovation of a building, structure, roadway, or other site, such as site preparation, excavation, erection, building, installation of equipment or materials, decoration and finishing, as well as services incidental to construction such as drilling, mapping, seismic investigations and similar services provided pursuant to the procurement contract, if the value of those services does not exceed that of the construction itself.
NCC Register of Public Sector Contractors	A register of public sector contractors who have satisfied prescribed criteria for placement in specified categories and grades of work.

THE PUBLIC SECTOR PROCUREMENT SYSTEM

1.5

1.5.1 OVERSIGHT RESPONSIBILITIES

1.5.1.1 Ministry of Finance and Planning

The Ministry of Finance and Planning has overall responsibility for the public sector procurement system including direct responsibilities for informing public sector procurement policy, monitoring the implementation of those policies particularly with regard to public expenditure, and facilitating a proper understanding of the governing documentation service-wide. In carrying out these functions and in accordance with the FAA Act, the Ministry of Finance and Planning shall effect routine investigations of the procurement activities/operations of any procuring entity and shall maintain a Public sector procurement Reporting System containing information relative to governing documentation and contract awards. This information is available to any member of the general public from the Ministry's Procurement Policy Implementation Unit. Additionally, market trends and other specialty reports are available upon request and at a cost, to the general public.

1.5.1.2 Office of The Contractor General

In accordance with the Contractor General Act, the Contractor General shall monitor and, as necessary, investigate, at its own discretion, 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.

1.5.2 FUNCTIONAL RESPONSIBILITIES

1.5.2.1 National Contracts Commission

The NCC shall promote efficiency, transparency and equity in the process of award of government contracts. It shall also review procuring entity contract award recommendations for the procurement of goods, services and works with estimated values equal to or above J\$4M. The NCC is responsible for the development of procurement regulations and procedures in accordance with procurement policy, and the maintenance of the Register of Approved Contractors. Additional functions of the NCC are as stated in Section 23 of the Contractor General Act (1999).

Except for procurements of a "sensitive" nature, e.g., weaponry, passports, etc., all procurements above the specified threshold must be referred to the NCC for approval of award recommendation.

1.5.2.2 National Contracts Commission Sector Committees

The NCC's review of procuring entities' contract award recommendations are facilitated through the operation of a number of Sector Committees established in various procuring entities service-wide. Procuring entities must note the location of their assigned Sector Committees in Appendix 3.

1.5.2.3 Procurement Committees

Each procuring entity shall establish a Procurement Committee consisting of not less than four (4) persons appropriate to the needs of the entity. The Procurement Committee shall be comprised as follows:

- Chairman;
- Senior Financial Management Personnel;
- Secretary; and
- Procurement Officer (non-voting member).

Technical personnel should be co-opted as necessary, pursuant to the nature of the procurement.

The Procurement Committee is mandated to:

- ensure compliance with relevant policies, guidelines and procedures;
- effect objective evaluation processes with respect to quotations, tenders and requests for proposals;
- facilitate response to contractor inquiries;
- maintain proper record of Committee meetings, including records of the procurement; and
- ensure compliance with reporting obligations.

Procurement Committee meetings should be convened pursuant to the needs of the entity. Proper minutes must be recorded and maintained for each meeting. The quorum of the meeting should be pre-determined by the Chairman and no meeting shall be properly convened in the absence of this quorum.

1.5.2.4 National Contact Point

The Procurement Policy Implementation Unit in the Ministry of Finance and Planning is the national contact point for information/clarification on public sector procurement policy, legislation, regulation and procedure. It is also the designated feedback and reporting mechanism for the public sector procurement system. Public and private sector users are encouraged to communicate experiences through this facility in an effort to improve the system.

1.5.2.5 Accounting Officers

Pursuant to the Financial Administration and Audit Act, Accounting Officers are accountable to the Minister of Finance and Planning for the propriety of procurement expenditure effected by their portfolio entities. Accounting Officers are advised that unless prior written permission is received from the Ministry of Finance and Planning, strict compliance with the procedures contained in this Handbook shall be enforced. Non-adherence will be addressed in accordance with the Financial Administration and Audit Act and the Public Service Regulations.

CODE OF CONDUCT

1.6 _____

Public sector procurement proceedings shall be afforded the highest practicable degrees of objectivity. In circumstances of conflicting interests, e.g., parties involved in the procurement process and who have connection(s) with participating tenderer(s), the GOJ party must so declare at the on-set of the procurement process or whenever the party becomes aware of the conflict, whichever is sooner, and shall immediately disqualify himself/herself from participation in the particular procurement process.