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# **REPUBLIC OF NAMIBIA**

# **MINISTRY OF FINANCE**

# **Public Procurement Code of Ethics and Conduct**

Name of public entity: ------------------------------------------------------------------------------

**Public Procurement Act, 2015 (Act No. 15 OF 2015)**

**Public Procurement Regulations: Public Procurement Act, 2015**

**Issued by the Procurement Policy Unit**

**22 January 2021**

# **PUBLIC PROCUREMENT CODE OF ETHICS AND CONDUCT**

**INTRODUCTION**

“Procurement” means the acquisition of goods, works, consultancy services or non-consultancy services by any means, including purchase, rental, lease or hire-purchase.

The Government of the Republic of Namibia through Parliament passed the Public Procurement Act, 2015 (Act 15 of 2015). This Act aims at regulating the procurement of goods, works and services, the letting or hiring of anything or the acquisition or granting of rights for or on behalf of, and the disposal of assets of, public entities; to establish the Procurement Policy Unit and the Central Procurement Board of Namibia and provide for their powers and functions; to provide for the procurement committees and procurement management units and their powers and functions; to provide for procurement methods; to provide for bidding process, bidding challenge and review; to provide for preferences to categories of persons, goods manufactured, mined, extracted, produced or grown in Namibia, to Namibian registered small and medium enterprises, joint venture businesses, local suppliers, contractors and service providers; and to provide for incidental matters.

The code of ethics and conduct articulates the values the organization wishes to foster in leaders and employees and, in doing so, defines desired behavior. The words ethics, conduct, and code are defined in the code. The ethical concepts and principles of the Public Procurement Act that relate to the procurement processes are also highlighted.

**This Code of Ethics and Conduct should be read in conjunction with the:**

Public Procurement Act, 2015 (Act No. 15 of 2015) and Regulations.

Public Procurement Guidelines (Issued in terms of section 7 (h) of the Public Procurement Act, 2015).

Directive in terms of the Public Procurement Code of Ethics and Conduct.

# **DEFINITIONS**

## **Ethics:**

Refers to principles by which to evaluate behavior as right or wrong, good or bad.

## **Conduct:**

Refers to a body of rules and regulations that explain the acceptable behavior in a specific situation.

## **Code:**

A collection of laws, rules or regulations that are systematically arranged that people with common interests, aspirations, objectives, goals, duties, activities and responsibilities must adhere to at all times.

# **ETHICAL CONCEPTS AND PRINCIPLES OF THE PUBLIC PROCUREMENT ACT**

The ethical concepts and principles that is promoted by the Public Procurement Act are;

* Integrity
* Accountability
* Transparency
* Competitive supply
* Effectiveness
* Efficiency
* Fair-dealing
* Responsiveness
* Informed decision-making
* Consistency
* Legality
* Integration in the procurement of assets, works and services

# **To whom does it apply?**

The Code of Ethics shall apply to and be signed by all staff members of the procuring entity who participate at any stage of public procurement proceedings. Specifically, the Procurement Committee members, Procurement Management Unit Head and Support Staff, Bid Evaluation Committee members and the Accounting Officer.

# **CONDUCT OF STAFF MEMEBERS OF THE INTERNAL STRUCTURES**

# **The staff members of the internal structures (staff members of the Procurement Committee, Bid Evaluation Committee and the Procurement Management Unit) in all public entities should adhere to the following code of conduct:**

* Act in the public interest and in accordance with the Act.
* Keep confidential any information that comes to her/his possession relating to procurement proceedings and bids, including proprietary information of bidders;
* Act with fidelity, honesty, integrity and in the best interest of the procurement system;
* Exercise a reasonable degree of care and diligence in the performance of his or her functions;
* Strive to achieve the highest standard of transparency, accountability and the need to obtain best value for money;
* Attend to any aspect of general application relating to procurement of goods, works and services as directed by the Minister of Finance under section 73 of the Act.
* Avoid any conflict of interest to arise in the carrying out of his or her functions and in conducting himself or herself;
* Discharge his or her functions fairly and impartially and without fear, favour or prejudice to anyone so as to ensure fair competitive access to procurement by suppliers;
* Disclose her/his interest or the interest of his or her close relative, if any, in terms of section 76, and in this paragraph, “close relative” means parent, sibling, spouse, child, grandchild, cousin and in-laws having substantial financial interest in the bidding entity; and
* Withdraw from the procurement process if there is a potential conflict of interests, unless the Board or public entity decides that the conflict is trivial to affect the impartiality of the staff member.

**Staff members of the internal structures may not:**

* Make improper use of information acquired by virtue of his or her position as a member to gain, directly or indirectly, an advantage for herself/himself or for any other person, to cause detriment to the internal structure/committee;
* Make use of her or his position as member to gain, directly or indirectly, an advantage for herself/himself or for any other person to cause detriment to the internal structure/committee;
* Divulge confidential information entrusted to the member or obtained by the member during he /his exercise or performing of powers or functions under or in terms of this Act or any other law.
* Deal or negotiate on behalf of the bidder or supplier for a contract he or she has specifically dealt with while in the service of the Board or public entity.
* Artificially divide the modalities of procurement in such a way as to avoid any monetary threshold laid down by or under this Act.

***Note:***

* *In the performance of its functions the Policy Unit may, if it finds that there has been a non-compliance with any provision of this Act, directives, code of procedures or guidelines made under this Act, the Minister may refer any matter of non-compliance to the Namibia Police, Anti-Corruption Commission or any other competent authority for investigation, when it thinks appropriate, and must inform the public entity concerned.*
* *All staff members who acts or abets corruptly or fraudulently to gain favor or benefit including soliciting or accepting improper inducement or contravenes, or refuses or fails to comply with subsections (1) or (2) commits an offence and is liable to a fine not exceeding N$ 1 000 000 or to imprisonment for a period not exceeding 10 years*

## **To be signed by each person involved with procurement and retained by the**

## **procuring entity**

My signature indicates that I have read and fully understood the contents of the Public Procurement Code of Ethics and conduct and my responsibilities under the Code.

**Full Name and Surname: ---------------------------------------------------------------------------------------------**

**Role in Internal Procurement Structure: -------------------------------------------------------------------------**

**Signature: ------------------------------------------ Date: ---------------------**