

ADMINISTRATIVE REPORT

2013/2014



SEVICES FINILLED
COMMUNITY IMPROVEMENT

Building our nation one community at a time!



National Enrichment and Empowerment Center



Hardial Park Pavilion



San Juan Market Complex



Toco Senior Citizens Home



La Chance Street



Mayfield Road Bridge

www.cisl.gov.tt



A State Enterprise of



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APPENDICES

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Appendix V – Proposed Revised Procurement Policy

BACKGROUND

The Government of The Republic of Trinidad and Tobago by Cabinet Minute No. 862 of May 02nd 2002, established Special Purpose State Enterprises to deliver improved Infrastructural Works in various communities. Community Improvement Services Limited (CISL) was established in August 2004.

Community Improvement Services Limited (CISL) is a Special Purpose State Company owned by the Government of Trinidad and Tobago and dedicated to the upliftment of the quality of life of the citizenry of Trinidad & Tobago, by strengthening community life and institutions, one community at a time.

The key activities of CISL are:

- To improve the infrastructure in communities in particular, "the improvement of secondary road networks and drainage"
- The development of cultural centers, community centers and sporting facilities
- Services to maintain communities
- Training and development of community personnel in project management and civil works in order to, "provide personnel to implement the Company's programmes and simultaneously equip members of the community with marketable skills to enable them to more effectively face the demands of our changing society".

Further to the letter dated 29th November, 2012 and in accordance with the provisions of section 66D of the constitution of the Republic of Trinidad and Tobago, it is mandated that each State Enterprise is required to submit to the President a report-
"... on the exercise of its function and powers in the previous year, describing the procedures followed and any criteria adopted by its connection therewith ..."

Thus, in light of this, and in adhering to the guidelines outlined in the letter dated 11th October, 2013 and in conformance with the guidelines of Appendix G of the State Enterprises Performance Monitoring Manual, presented herein is CISL's Administrative Report for 2013/2014.

1.0 OUR ORGANISATION

1.1 OUR MISSION

To enhance and improve the quality of life within communities by responding to the needs of communities through partnering with various interest groups and the expeditious development of infrastructure and services.

1.2 OUR VISION

To be the preferred provider of diversified community development works and improvement services working in synergy with stakeholders to transform lives in a spirit of caring.

1.3 OUR CULTURE

CISL'S culture is a powerful combination of intelligence, miscellany and ingenuousness that facilitates our best attempts in everything we do, while we have fun and learn at the same time.

Here are our guiding principles:

- Mutual respect
- Have fun at work
- Respect diversity – no “cloning”
- Laughter stimulates creativity
- Minimal hierarchy
- Learn to listen
- Collective contribution is far stronger than individual contribution

1.4 OUR VALUES

- Establish an amazing working environment that stimulates creativity and innovation
- Attract and retain good people
- Continuously raise the bar in everything we do
- Help where we can

1.5 OUR GREEN POLICY

CISL is committed to achieving world class performance in Environmental practice and the development of Environmental solutions to improve the built environment. The company has a responsibility for the effect its operations have on local environments and is committed to minimizing impacts on its own and in partnership with others.

CISL's management is based on the principle of achieving and reporting continuous improvement in environmental performance.

To achieve this objective, we will:

- Comply with all legal requirements, regulations and standards
- Adopt monitoring systems to ensure compliance
- Keep under review the environmental developments in its business area to identify best practice and local expectations and introduce improvements to operating practices where appropriate
- Liaise with local community acceptable solutions wherever possible
- Plan and execute works to minimize the effects of noise, dust disturbance and inconvenience to those affected by its operations where practicable
- Where there is the opportunity, influence the customer to adopt cost effective environmentally positive solutions
- Think imaginatively and practically about creating advantage from operations

Our Environmental Objectives are:

- Regularly monitor the Company performance on an on-going basis
- Set clear and precise standards of our own, to ensure environmental concerns are controlled as far as is reasonably practicable
- Take responsible action to report and correct environmental incidents when they occur
- Use construction methods and processes which have minimum impact on the environmental and those affected by our operations where practical
- Recycle materials and use recycled sustainable materials when possible
- Use energy responsibly and efficiently
- Whenever possible to influence the customer to adopt cost effective environmental positive solutions.

1.6 STRATEGIC PLAN

CISL's Executive Management is currently in the process of redefining its Strategic Plan. The plan will be aligned with the objectives of the **National Performance Framework**.

2.0 ORGANISATIONAL STRUCTURE

CISL duly recognizes our human resources as our greatest asset and as such the Company's Organisational Structure was developed with the aim of ensuring the adequate availability of suitable personnel to aid in the efficiency and effectiveness of CISL's operations. The current original approved organizational chart is illustrated in **Appendix I**.

However as we endeavor to undertake a greater quantity of projects and increasing magnitudes, a hybrid version of the approved organisational chart is currently in operation which is demonstrated in **Appendix IB**. CISL is currently in the process of submitting a proposal to the Office of the Chief Personnel Officer in order to seek approval for a revision to the organizational structure which is in line with the magnitude of projects/programmes now being undertaken by the Company.

2.1 SERVICES /PRODUCTS PROVIDED

CISL is charged with a twofold mandate which entails socio-economic development and infrastructural development to uplift and improve the lives of the citizens of Trinidad and Tobago. Our core line of business is the provision of Project Management services primarily for our line ministry, The Ministry of Works and Infrastructure and various other Client Ministries for which formal agreements have been established for the engagement of our professional services.

3.0 PERFORMANCE ACCOMPLISHMENTS

3.1 PROJECTS DEPARTMENT

Projects Department Policies

The process of revising the Projects Departmental Policies was initiated to ensure optimum compliance with legislative requirements. These policies will be in alignment with the State Enterprise Performance Monitoring Manual and other applicable laws and standards which are applicable to the departmental operations. The newly developed policies have been forwarded to the Projects & Tenders Committee for the Attention of the Board of Directors.

Implementation of a new pre-qualification database

A new database was developed and implemented for the management of prequalified service providers. This database is more efficiently equipped to promote accountability and transparency as well as effectively aids internal processes within the department.

New Projects

As the company endeavours to increase its earning potential and expand its portfolio, new projects of more diverse complexities and of greater magnitude were undertaken.

New Project Clients

Within the year 2013-2014 CISL moved from being under the purview of The Ministry of Local Government to the Ministry of Works and Infrastructure. The Company has also proactively sought to market CISL in seeking new Client Ministries

Project Methodology

The project execution methodology was revamped to increase communication and the promotion of a much more collaborative approach with project stakeholders.

Equipment

The Project Management Department was equipped with new tools and equipment to more efficiently communicate with stakeholders, plan and manage projects.

3.2 FINANCE DEPARTMENT

Accounting Polices

The accounting policies and procedures for the company have been reviewed in line with best practices and the proposed revisions have been forwarded to the Finance and Audit Committee for the attention of the Board of Directors. These policies will enhance the transparency and efficiency of accounting/financial transactions.

Micropay Payroll System

A new software was introduced which facilitated a more timely production of payroll reports. This software allowed for easier processing of payroll transactions as well as the

generation of approved statutory documents required by both the Board of Inland Revenue and the National Insurance Board.

Sage 50 Accounting 2014

The prior Peachtree software was upgrade to the Sage 50 accounting software which is currently being used in the company. It allowed greater storage of financial data, detailed records of vendor information and effective generation of financial reports.

Expansion of the finance team

The recent introduction of two staff member to the finance department has allowed greater flexibility and performance of timely reports. Although a member of the finance staff left within the year, this has not diminished the preparation of financial information within the required timeframe.

Audit of CISL's financial statements

The Finance and Audit Committee continue discussions with Deloitte & Touche regarding the preparation and completion of the audit of CISL's financial statements. Preliminary information have been exchanged and Deloitte & Touché are scheduled to confirm the timeframe for the completion of this Audit.

Internal Audit

The Board of Directors have deliberated on the establishment of an Internal Audit Department versus the outsourcing of this service to a reputable company with a competence and proven record in the field. Upon the conclusion of such deliberations, Management will take the necessary steps as directed. The existing Internal Audit procedures can be seen in **Appendix II**.

3.3 HUMAN RESOURCE AND ADMINISTRATIVE DEPARTMENT

With a focus on drivers and the achievement of CISL's organizational goals, performance objectives must be met.

As such, CISL concentrates on several of its Human Resource functions which directly impact on employee performance thus facilitating overall performance objectives. For example, in ensuring that CISL is equipped with an effective team, proper procedures must be followed for recruitment and selection. This is followed by a strong orientation process and an active scope for training and development which seeks to promote

knowledge, experience and aid in professional enhancement. In determining the requirements for improvement, assessments must be conducted on a periodic basis.

Consequently, performance appraisals are usually utilized as an assessment method and include a grading system in which all employees are rated according to their competence and accomplishments over the previous year. By utilizing a series of key performance indicators, employees are scored and a final grade is allotted to them.

Performance appraisals conducted during the period between 2013 and 2014 has revealed remarkable employee performance. All employees at that time achieved a score between 3 and 5, where 1 was the lowest. The results reflected the following:

- Grade 3- Performance is competent and dependable and meets performance standards of the position.
- Grade 4- Performance clearly exceeds most position requirements and consistently meets established standards.
- Grade 5- Performance is exceptional in all areas and exceeds established standards and desired results.

At a glance, these results assume that employees have been generally performing well. However, CISL recognizes that employee performance can be further improved through training and development in the weaker areas.

Presently, CISL uses a Standard Format in conducting Performance Appraisals for all employees. However, a review of the Job Descriptions and the unique duties and responsibilities of each post indicates that there is need to review and further improve on the methods presently being utilized for performance evaluation.

As such, the development of key performance indicators which are tailored to suit each individual post will facilitate a more in-depth evaluation and aid in the recognition of gaps in employee performance.

Additionally, as a method of risk avoidance, CISL focuses on the following remedial plans for motivating staff to perform within their best capacity:

Non-financial methods:

- Encourage members to attend educational sessions, pursue professional designations, and network with peers as a way to enhance professional development and keep up-to-date on the latest developments.
- Public appreciation of the effort in a team meeting, in an organizational newsletter or at a special dinner.

- The manager writing formally to record thanks.
- Membership of recreation clubs, perks, use of company facilities, suggestion awards, tie-pins, brooches, diaries, promotion, say in management, etc.
- Involving them in making important decisions, makes them feel responsible and important in the place they work.
- Ask employees what they want. As a leader and manager you should try to understand what makes every staff member behave the way they do. Knowing what makes them tick will give you an understanding of how to keep them motivated.
- Focus on job enrichment. When you make employees' jobs more challenging and interesting they may find it more enjoyable. Provide them with challenges that match their skills provide opportunities for them to excel, and you are likely to see long-term improvements in their attitude and performance.
- Provide opportunities for advancement. Many employees are motivated by opportunities for individual growth through additional responsibilities or new jobs.
- If you can't give your staff promotions, think about horizontal moves. Often people like to do a different job to build their skills and knowledge; this will renew interest in their work.
- Respect your employees and get to know them well.
- Take the time to learn what interests them and what is important in their lives.
- Encourage social gatherings to boost employee morale and comfort amongst peers in the workplace
- Develop health and safety policies to ensure the well-being of staff both on the company's compound and on job sites.
- Implement methods to develop proper working relationships with staff to ensure staff members are part of a social network that is CISL.
- Development of strategies to motivate all the lower levels of employees will allow CISL employees to realize their goals and potential.
- Increased armed security presence especially at high risk job sites and on CISL's compound.

Financial Methods

Targets for each department should be rewarded through small gestures such as:-

- Dinners, Movie Towne Cinema Tickets, Rock Climbing, Plays, Comedy Festival Tickets, Carnival Tickets, Christmas Hampers,
- Salary increases based on performance, years of service and additional qualifications.

Methods for improving performance of other staff

- Knowledge Transfer– Following training which Staff may participate in, they would be expected to formulate training sessions internally to share this knowledge with other co-workers.
- Encourage coaching when attention needs to be focused on any specific aspect of the employee's performance.
- Observe the employee's work and solicit feedback from others.
- When performance is successful, take the time to understand why.
- Advise the employee ahead of time on issues to be discussed.
- Allow team discussions and involvement in finding alternative solutions for issues.
- Ensure agreement on action to be taken.
- Schedule follow-up meeting(s) to measure results.
- Recognize successes and improvements.
- Document key elements of coaching session.

4.0 FINANCIAL OPERATIONS

4.1 BUDGET FORMULATION

As a special purpose state enterprise CISL currently has two forms of financing, income generation from our operations and injections by way of Subvention funding from the GORTT.

In the development of our annual Budget careful consideration is given to past and existing expenditure as this establishes a benchmark for current expenditure and impacts the base line with respect to forthcoming expenditure. Variable expenses are reviewed and projected expenditure is prorated in light of approved and pending works during the relevant fiscal year.

Approved and pending works also impact our income generation ability in line with established fees structures for project management services admist all other services which we provide.

Outside of our operating expenditure, CISL also has to factor in Capital Expenditure in the formulation of a complete budget. In the existing period, some allowance has been factored in for procurement of a Vehicle, and for some computer hardware and software. We also note that CISL has been granted leasehold land for the construction of its Head Office and preliminary figures for said development have been estimated, but no such requirement has yet been made. Plans are afoot to include such Capital Expenditure request in the coming year.

Information presented in the budget shows both the proposed Subvention funding requirement requested from our Line Ministry as well as the income that we intend to earn from our Operations. CISL has proven our ability to complete jobs within the assigned timeline, within budget and exceeding quality standards for the industry. With this in mind, CISL is poised to earn greater levels of income once the projects and funding are available.

The CISL Administrative Budget for the Fiscal Year 2013-2014 is attached in **Appendix III**. This provides a more in-depth view of the financing requirement and operations of the company. Please note that the company is in discussions with our Auditors to complete the Audited accounts for 2013-2014 so information reflected is in line with current management accounts.

4.1.1 Approved Budget for CISL for the Period 2013-2014

For this period, the organization forecasted a surplus, which is due to the projected implementation of additional projects .The major item of expenditure is wages and salaries which accounts for about 68% of recurrent expenditure. This is not unusual for an organization in the state, quasi-state sector. The expenses are monitored rigorously and kept at a minimum. Indeed the real challenge to the organization is its dependence on our various client Ministries and the Ministry of Finance to support a healthy cash flow by timely and adequate disbursements.

4.1.2 Projections for the fiscal year 2013-2014

In order to complete its programme in the current year 2013/2014 and the projected year, 2014/2015, CISL would need funding of approximately \$290 million. This represents the funding of the projects identified by the organization for development, some of which have been implemented in the year 2013/2014.

The actual amounts received by the organization are usually somewhat below what was requested. It should be noted that the revised estimates for 2013/2014 was substantially increased from \$30 million to \$214 million due to the increased number of projects forecasted to be undertaken and related scope of works. The actual sum received for the year 2013/2014 was \$97.4 million whereas \$51.2 million requested relates to in the year 2012/2013 and \$46.8 million in the year 2013/2014.

4.2 EXPENDITURE V BUDGET (2013-2014)

Project Expenditure Budgeted

CISL's Project Management Fees Projected	\$ 13,027,891
Budgeted Project Expenditure	\$ 173,705,212

Actual Project Expenditure (MOLG)

Actual

CISL's Project Management Fees Received	\$ 7,753,680.03
Total Disbursements by MOLG	\$90,014,221.80

Actual Project Expenditure (MOPSD)

Actual

CISL's Project Management Fees Received	\$ 341,860.05
Total Disbursements by MOPSD	\$ 4,899,994.07

Actual Project Expenditure (MNDSI)

Actual

CISL's Project Management Fees Received	\$ 57,257.06
Total Disbursements by MNDSI	\$ 1,965,825.80

Actual Project Expenditure (TPRC)

Actual

CISL's Project Management Fees Received	\$ 76,508.66
Total Disbursements by TPRC	\$ 1,096,624.14

Budgeted Administrative Expenses

Wages,Salaries, Empl exp	\$ 6,588,921
Vehicle Expenses	\$ 877,350
Telephone, Fax,Int., Cell	\$ 160,140
Office Repairs & M'tenance	\$ 61,000
Computer Expenses	\$ 125,600
Capital Expenditure	\$ 764,878
Other	\$ 1,201,007
Total	\$ 9,778,896

Actual Administrative Expenses

Wages,Salaries, Empl exp	\$ 6,740,180
Vehicle Expenses	\$ 667,359
Telephone, Fax,Int., Cell	\$ 181,610
Office Repairs & M'tenance	\$ 99,777
Computer Expenses	\$ 90,852
Capital Expenditure	\$ 127,712
Other	\$ 989,948
Total	\$ 8,897,439

Expenditure v Budget (2013-2014)

4.3 DEBT POLICY

CISL is guided by the Company Bye-Laws & Code of Best Practice.

Bye-Law 1

20.1

Unless the company has shares listed on a stock exchange recognized by the Securities Exchange Commission of Trinidad & Tobago, the Company has a lien on shares registered in the name of a shareholder or his legal representative for a debt of that shareholder to the Company. The Directors of the Company may authorize the company to apply any dividends or other distributions paid or payable on or in respect of the share or shares in respect of which the Company has such a lien in repayment of the debt of that shareholder to the company.

20.2

First Lien – The Company shall have a first and paramount lien on every share for any debt or other liability due to the company by the holder thereof or his estate and the Company shall also have a lien on all shares standing registered in the name of a single person for all the moneys presently payable by him or his estate to the Company but the Directors may at any time declare any share to be wholly or in part exempt from the provisions of this sub-section 20.2. The Company's lien (if any) on a share shall extend to all dividends payable thereon.

20.3

Power to sell – The Company may sell in such manner as the Directors think fit any shares on which the Company has a lien but no sale shall be made unless some sum in respect of which the lien exists is presently payable nor until the expiration of fourteen days after a notice in writing stating and demanding payment of such part of the amount in respect of which the lien exists as is presently payable and advising of the intention to sell in default has been given to the registered holder for the time being of the share or the person entitled thereto by reason of his death or bankruptcy.

20.4

Effecting Transfers – In order to give effect to any such sale the Directors may authorize some person to transfer the shares sold to the purchaser thereof and the purchaser shall be registered as the holder of the shares comprised in any such transfer and he shall not be bound to see to the application of the purchase money nor shall his title to the shares be affected by any irregularity or invalidity in the proceedings in reference to the sale.

20.5

Disposal of Proceeds – The net proceeds of the sale shall be received by the Company and after payment of the costs of such sale shall be applied in payment of such part of the amount in respect of which the lien exists as is presently payable and the residue shall (subject to a like lien for sums not presently payable as existed upon the shares prior to the sale) be paid to the person entitled to the shares at the date of the sale.

20.6

Title to Shares – A statutory declaration in writing that the declarant is a Director or secretary of the Company and that a share in the Company has been duly forfeited or sold to satisfy a lien of, the Company on a date stated in the declaration shall be conclusive evidence of the facts therein stated as against all persons claiming to be entitled to the share and the Company may receive the consideration (if any) given for the share on any sale or disposition thereof and may execute a transfer of the share in favour of the person to whom the share is sold or disposed of and he shall thereupon be registered as the holder of the share and shall not be bound to see to the application of the purchase money (if any) nor shall his title to the share be affected by any irregularity or invalidity in the proceedings in reference to the forfeited sale or disposal of the share.

Bye-Law 2

1. Without limiting the borrowing powers of the Company as set forth in the Act, the Board may from time to time on behalf of the Company, but subject to the prior written approval of the Government where it holds a Controlling Interest:

a. borrow money on the credit of the Company;

b. issue, re-issue, sell or pledge debt obligations (including bonds, debentures, notes or any other evidence of indebtedness or guarantee, whether secured or unsecured) of the Company;

c. subject to Section 56 of the Act, give a guarantee on behalf of the company to secure performance of any obligation of any person; and

d. mortgage, hypothecate, pledge or otherwise create a security interest in all or any owned or subsequently acquired real or personal, movable or immovable property of the Company, including, without limitation, book debts, rights, powers, franchises and undertakings to secure any present or future indebtedness, liability or obligation of the Company, or subject to Section 56 of the Act, any other person.

Subject to prior written approval by the Government being obtained as aforesaid nothing in this bye-law limits or restricts the borrowing of money by the Company on bills of exchange or promissory notes made, drawn, accepted or endorsed by or on behalf of the Company.

4.4 INVESTMENT POLICY

CISL doesn't engage in investment activities and as such no formal investment policy exists.

5.0 HUMAN RESOURCE DEVELOPMENT PLAN

5.1 CAREER PATH SYSTEMS



Employees who display competence and experience in the applicable post can progress his or her career laterally, or through access to promotions and / or departmental transfers.

Similarly, employees who seek career enhancement through training and development are also given the opportunity to apply for vacancies as they arise due to resignations or the creation of additional posts based on need. Furthermore, CISL provides a scope

for growth through the expansion of duties and succession planning in which employees are exposed to a variety of tasks and an increase in knowledge and experience.

Overall, these systems do not only promote workforce flexibility but also aids in professional growth and employee retention

5.2 PERFORMANCE MEASUREMENT TOOLS

In our endeavor to differentiate from others in the fields of Engineering and Construction, the Executive at CISL (Community Improvement Services Limited) strive to maintain staff efficiency and effectiveness, by the utilization of key performance measurement tools.

As such, Performance Appraisals are conducted on a periodic basis (semi-annually), which seek to evaluate employees' performance, and implement methods of improvement for future developments.

The following factors are presently being utilized for evaluating the performance of all members of staff:

- Quality
- Productivity
- Knowledge
- Reliability
- Analytical ability & judgment
- Interpersonal Relationships
- Problem Solving/ Creativity
- Initiative
- Effectiveness of Customer Relations

Supervisors and Managers are evaluated based on the following:

- Leadership
- Utilization of Manpower
- Employee Development
- Entrepreneurial Performance

Specific Key Performance Indicators will also be used as a base for these appraisals and are categorized as follows:

ORGANISATIONAL KEY PERFORMANCE INDICATORS

ORGANISATIONAL KPIs FOR MANAGERS	
CATEGORY	KEY PERFORMANCE INDICATOR
Team metrics	Number of team meetings
	Number of ideas generated
	Number of ideas implemented
Competency	Capacity utilisation rate (CUR) - Are you meeting your potential in terms of amount of work you can carry out, with the resources available? = $\frac{\text{Actual Output} - \text{Potential Output}}{\text{Potential Output}} \times 100$
	Project schedule variance (PSV)- Are your projects/ tasks reaching completion on time? PSV % = $\frac{\text{Project Schedule Variance (SV)}}{\text{Planned Value (PV)}}$
	Error rates- Time spent on managing under-performing staff
Staff commitment	Employee engagement level- Staff contribution to the business' overall goals
	Absenteeism Bradford factor- how much is unauthorised staff absence affecting your Department of the Organisation?
Staff Management	Demonstrated ability to positively motivate staff
	Increased levels of staff morale and commitment to CISL

ORGANISATIONAL KPIs FOR STAFF	
CATEGORY	KEY PERFORMANCE INDICATOR
Productivity	Rate in which tasks are completed in specified time frames
	Process downtime level- Amount of idle time or downtime due to staff sickness
Quality	Ability to provide quality work with little or no errors
	No. of times employee is required to redo task
Reliability/ accountability	Ability to provide prompt feedback regarding tasks/ duties

DEPARTMENTAL KEY PERFORMANCE INDICATORS

DEPARTMENTAL KPIS	
CATEGORY	KEY PERFORMANCE INDICATOR
Innovation and initiative	Number of ideas generated to aid in Departmental and Organisational development
	% Initiatives for process improvement successfully implemented
	The extent to which an employee seeks out new assignments and assumes additional duties as necessary.
Performance and utilisation of manpower	Ability to utilise skills and abilities to the maximum advantage, delegating where appropriate.
	% of employees above competence as per Job Description
	% of employees below competence as per Job Description
	% of low performing employees
	% of high performing employees
	% of employee with their performance decreased compared to last month
Prudence	\$ Losses due to administrative errors
	% Administrative tasks completed accurately and efficiently
	% Compliance with administrative standards
Teamwork	Ability to cohesively work with other members of the department
	Minimal instances requiring conflict resolution
	Adequacy of communication extended to departmental colleagues

5.3 PROMOTION CRITERIA

Promotion within CISL is dependent on the following factors -:

- Employees displaying high competency, knowledge and interest in the success of the Organization further to Performance appraisals conducted over a period of time and according to management reviews.
- In catering for succession planning, senior members of staff are considered to undertake positions within the organization upon the retirement or resignation of key employees.
- Based on an employee's level of experience and competency through training and development while employed at CISL.
- If there is a position established within the Organisational Structure, an employee may be considered for the vacancy based on the results of work and the ability to meet set targets over a period of time.

5.4 RECRUITMENT AND SELECTION PROCEDURES

Vacancies may arise as a result of a new position being created in the company's organisational structure; or in the case of an already existing position becoming vacant when an employee is promoted or resigns.

Employees of CISL are given the same opportunity as external candidates to apply for vacancies within CISL and must follow the same procedure as any other applicant in the recruitment process. Depending on the nature and requirements of the post, employees may be given precedence over external candidates. If successful, the employee's present contract must be terminated and a new contract will be prepared providing details of the applicable post.

Once a vacancy arises, the use of the media for the advertisement of the vacancy will be at the discretion of management.

5.5 PROCUREMENT PROCESS

Once a decision is taken to hire for a post, recruitment advertisements can take place in several ways:

1. Through various tertiary education schools in Trinidad.
2. Through the print media.
3. Through online recruitment websites.
4. CaribbeanJobs.com
5. Through CISL's Website

5.5.1 TERTIARY EDUCATION SCHOOLS

A vacancy ad will be submitted to tertiary education schools for assistance with the sourcing of suitable candidates. This service is free of charge.

For recruitment purposes, CISL currently liaises with the schools stated in the following table:

SCHOOL
Sital College of Tertiary Education Ltd.
Cipriani College of Labour & Cooperative Studies
School of Business & Computer Science
SAM Caribbean Ltd.

5.5.2 NEWSPAPER ADVERTISEMENT

If this option is selected, advertisements will be placed in the daily newspapers to advertise for the vacant post.

5.5.3 ONLINE ADVERTISEMENT

a. CARIBBEAN JOBS.COM

Advertisements can also be placed on CaribbeanJobs.com at a weekly rate.

b. WEBSITE

Another option would be to advertise on CISL's website which would incur no costs, and would be fully accessible for public viewing. This will be available at: <http://www.cisl.gov.tt/careers>.

5.6 SHORT LISTING AND INTERVIEWS

Applications received are matched against the qualifications listed in the relevant job description. Candidates meeting the majority of the criteria outlines are shortlisted and invited to interview.

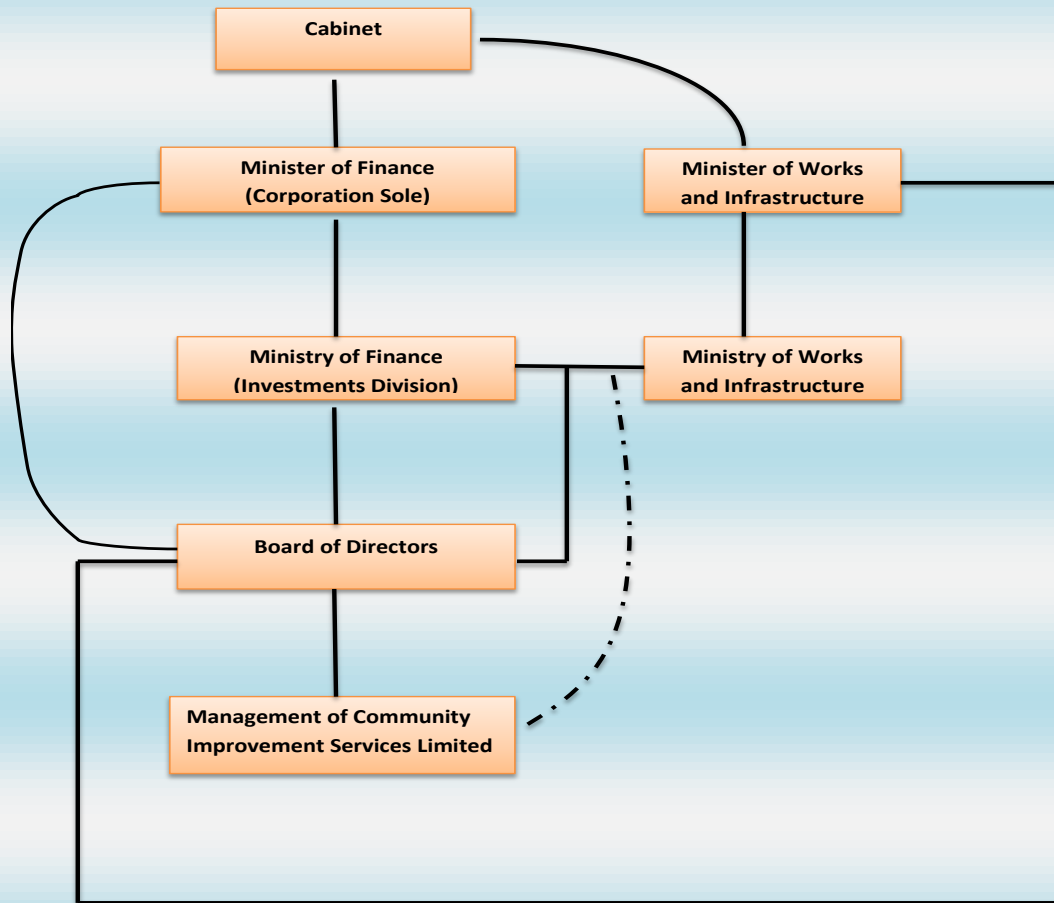
5.7 SELECTION OF CANDIDATES

Successful job candidates will be contacted by the MANAGER, HUMAN RESOURCE & ADMINISTRATION/HUMAN RESOURCE REPRESENTATIVE via telephone. In addition, an official Offer of Employment will be presented to the candidate at the office of CISL.

The candidate shall be given one (1) week to confirm acceptance of the offer. If the offer is accepted, the start date for work will be determined upon mutual agreement of Management and the candidate. If the offer is not accepted, Management reserves the right to contact other high performing candidates, or to restart the recruitment process.

6.0 REPORTING FUNCTIONS

As outlined in the State Enterprise Performance Monitoring Manual, CISL as a fully owned state enterprise is responsible for reporting on the affairs of the company to our line ministry The Ministry of Works and Infrastructure, The Ministry of Finance (as Corporation Sole) and other Client Ministries. The diagram below outlines the reporting relationships of the various components of the state sector.



The Board of Directors, under the Companies Act 1995, directs the management of the business and affairs of the Company. The Board is appointed by the shareholders to control the overall direction of the company.

The Management of the company is headed by The Chief Executive Officer and comprises of other departmental managers i.e. The Manager of Projects Department, The Manager of Finance and The Manager of Human Resources and Administration. Each department of the company is responsible for various reports to be submitted to the Board of Directors and other stakeholders.

The table below outlines the reports required for the monitoring process.

MONITORING PERFORMANCE

DOCUMENT	SUBMISSION DATE	RECEIVING AGENCY	RESPONSE DATE
Strategic Plan	Six (6) months prior to start of period of the Plan (for companies receiving Subventions) One (1) month for others	Investments Division and Line Ministry	Six (6) weeks after submission
Annual Budget	Six (6) months prior to start of Financial Year (for companies receiving Subventions) One (1) month for others	Investments Division and Line Ministry	One (1) month prior to start of Financial Year (Approved Allocation)
Annual Financial Statements/ Annual Reports	Four (4) months after end of Financial Year	Investments Division and Line Ministry	
Annual Performance Appraisal Report	Four (4) months after end of Financial Year	Line Ministry	
Administrative Reports	End of June	Line Ministry	
Board Minutes	One (1) week following confirmation	Investments Division and Line Ministry	
Monthly Cash Statement of Operations	Within three (3) weeks after month end	Investments Division and Line Ministry	
Quarterly Returns Report	End of first month after Quarter	Investments Division	
Quarterly Status of Loan/ Overdraft / Investments in Securities Portfolios and Litigation Proceedings	End of first month after Quarter	Investments Division	
Return of Award of Contracts	14 days after month end	Investments Division	
Internal Audit Reports	14 days after end of the Quarter	Investments Division	

7.0 PROCUREMENT PROCESS

Procurement does not only entail accessing goods and services at the lowest cost from inputs to outputs. CISL'S procurement policy promotes value for money by mandating that the following be exerted in all procurement exercises undertaken by CISL's Projects Department:

- Promote innovation and sustainability
- Ascertain optimum solutions for addressing issues
- Are executed in tandem with national objectives
- Establish confirmation of funding
- Seek relevant approvals prior to initiating procurement exercises
- Conduct assessments for the best value for money to be expended

7.1 OPEN TENDER

One of the methods of procurement utilised by CISL is Open Tendering. Through publications in the daily newspapers and online via our website, CISL invites tenders for projects to the general public locally, regionally and internationally depending on the magnitude and complexity of the project and services required.

7.1.1 INVITATION TO TENDER

When services and projects are required to be undertaken by CISL, selective tendering is the typical method undertaken whereby ten (10) contractors/consultants are selected from a prequalified list of service providers and are invited to tender via a formal Letter Of Invitation signed by the Chief Executive Officer which includes:

- A summary description of the services required and the scope of works to be undertaken
- Location and time for a mandatory site visit. Location maps are included where possible.
- Contact person at CISL
- Deadline date, time and location for submission
- Instructions and non-refundable cost for purchasing bid packages where applicable. Based on the estimated cost and magnitude of works, bid packages for some projects are not sold but are instead issued at the mandatory site visits.
- Clearance certificates from the Board of Inland Revenue may also be requested to certify the satisfaction of obligations regarding taxes and VAT.

7.1.2 APPLICATIONS FOR TENDERS

Tendering forms and documents are initially prepared and printed by CISL and then distributed to the interested contractors in hard copy or alternatively depending on the nature and scale of the project, electronic copies of tender documents inclusive of drawings etc are provided via CDs. Firms are given a minimum period of two (2) weeks for submission but this is increased depending on the nature of the project.

Offers are then made on the forms, signed and stamped by the company making the Bid and enclosed in a sealed envelope addressed to the Secretary of the Tenders Committee. A Register is provided for the recording of the date, time and name of the person delivering the package. The deliverer is then requested to place the package in a locked box labeled 'Tender Box' which is situated at CISL. This contains two independent locks; the key to one of the locks is kept by the Tenders Committee Secretary while the key to the other is kept by the Manager, Finance Department. In the event that a tender cannot be accommodated in the tender boxes, it is lodged for safekeeping with the Secretary of the Committee.

7.1.3 OPENING OF TENDER BOXES

At the closing time, the tender box is sealed. Thereafter, the box is opened, the tenders are opened and the tender sum is read out in the presence of firms invited to bid.

Submissions typically include:

- Form of Tender
- Bill of quantities
- Technical Specifications regarding material, workmanship and quality
- Drawing details or blueprints
- Any other project specific information

7.1.4 TENDER EVALUATION AND AWARD

For each project, the tender submissions are evaluated by the assigned evaluation team. The tenders are evaluated on the following criteria:

- Arithmetical accuracy
- Responsiveness to bidding requirements
- Adequacy of unit rates to execute items of work comparable to market rates
- Overall price, compared to Engineer's Estimate

The Evaluation Report is reviewed by the Manager of the Projects Department prior to being submitted for approval to the Chief Executive Officer.

Recommendations for award are submitted to the Tenders Committee for all projects and to the Board of Directors for projects in excess of TT\$2M. All contracts awarded must relate to projects for which advice for the Confirmation of Funds has been obtained from the Client Ministry and for which prior approval by Cabinet has been obtained. Upon approval, letters of award are issued by the CEO.

7.2 SELECTED TENDER

7.2.1 ACCEPTANCE OF TENDER

Upon acceptance of a tender by the Tenders Committee/ Board of Directors, the company is notified by the CEO. Unsuccessful bidders are duly informed.

7.2.2 CONTRACTUAL PROCEDURES

Contractual Agreements detail the terms, conditions and provisions including but not limited to:

- Detailed description of the works to be undertaken
- The price to be paid for the work to be undertaken
- The period within which the project should be completed
- The amount of damages payable for delay or non-completion within the period stipulated
- Provisions for termination or breach of contract.

At least once a month, the Board of Directors is informed of all contracts which are awarded within the respective limits.

7.3 SOLE TENDER

Sole Tendering occurs when only one firm is invited to submit a bid. There must be proper and

plausible justification. This may justifiably occur under the following circumstances:

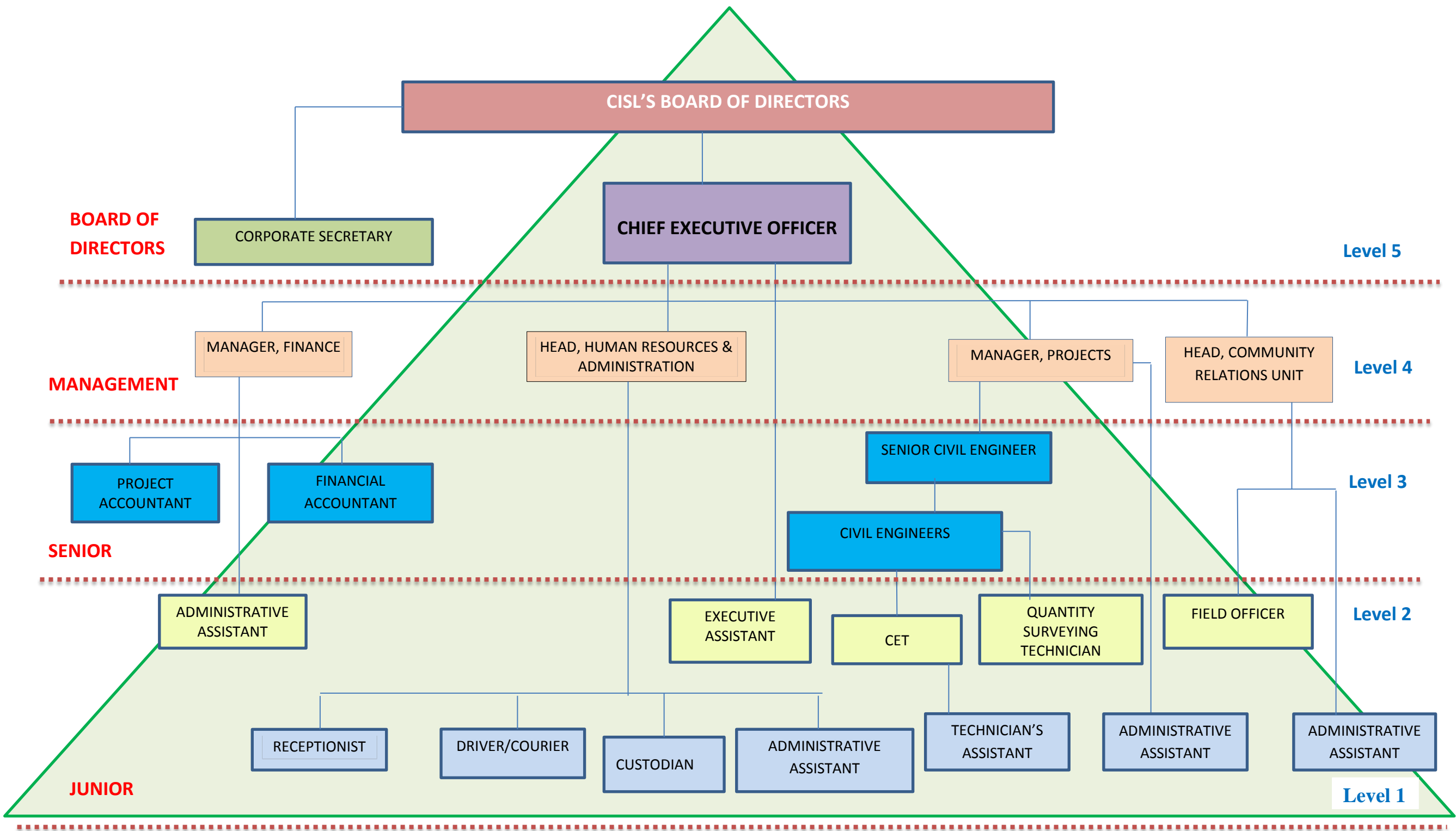
- I. During an emergency/disaster when immediate services are required.
- II. As a result of a Technical Agreement and other established co-operation between the Government of Trinidad and Tobago and a foreign country.

- III. When continuity for further work is required by an existing technical contractor and the inside knowledge gained by this contractor's performance is satisfactory to deliver the additional services. The said contractor shall prepare Technical and Price proposals on the basis of the Terms of Reference and this would be negotiated by CISL

7.4 THE NEW LEGISLATION

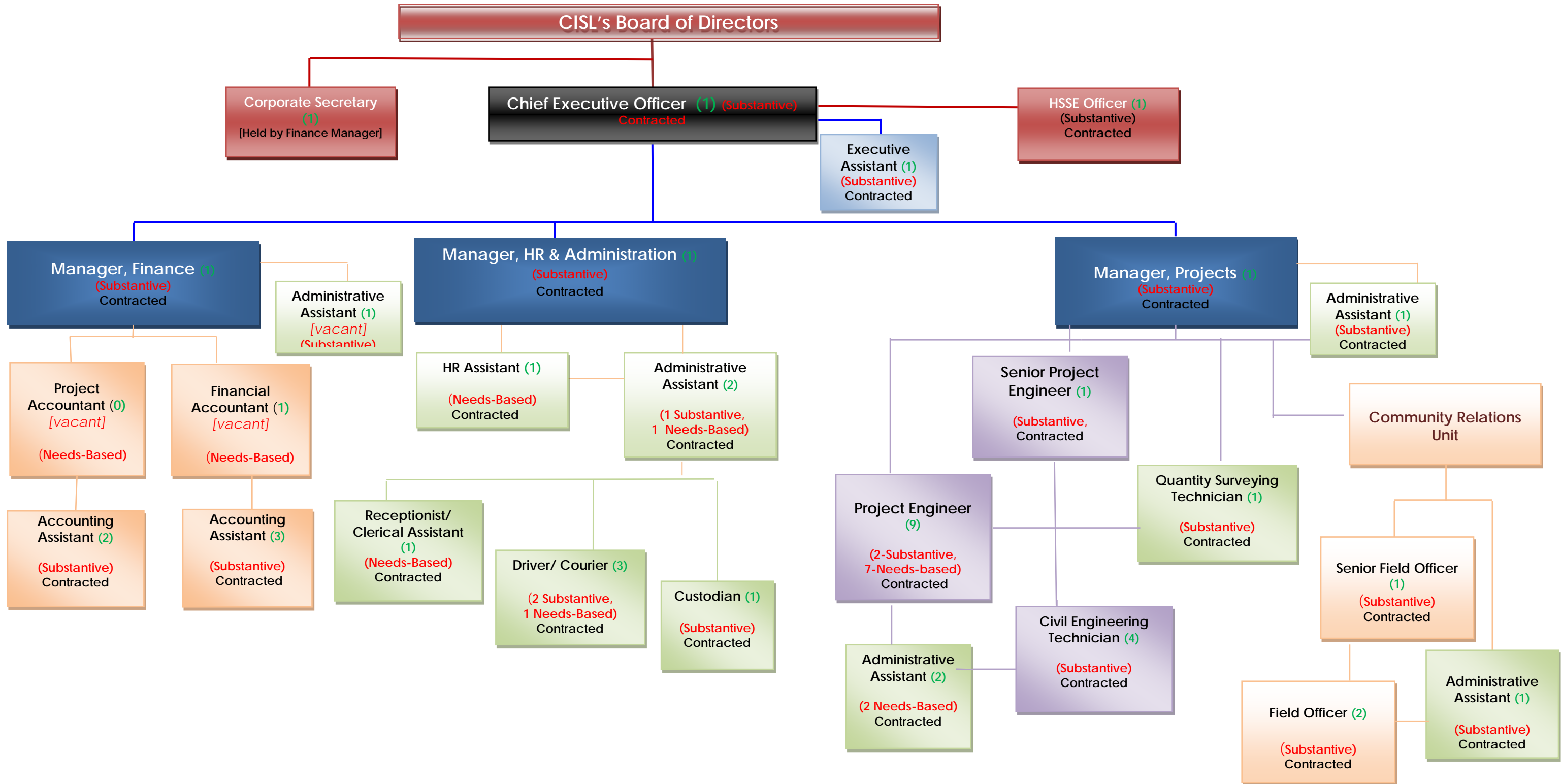
The Public Procurement and Disposal of Public Property Act, 2015 was assented to and became law on January 14, 2015. The Act seeks to reform the procurement laws of Trinidad and Tobago in keeping with principles of good governance, such as accountability, integrity, transparency, and value for money. It establishes the Office of Procurement Regulation to act as the governing body for matters relating to public procurement and the retention and disposal of public property. Therefor CISL revised its procurement policy to reflect all aspects of this legislation. The New Procurement Legislation and the proposed revised procurement policy for the company is appended for ease of reference (**Appendices IV & V**).

APPENDICES



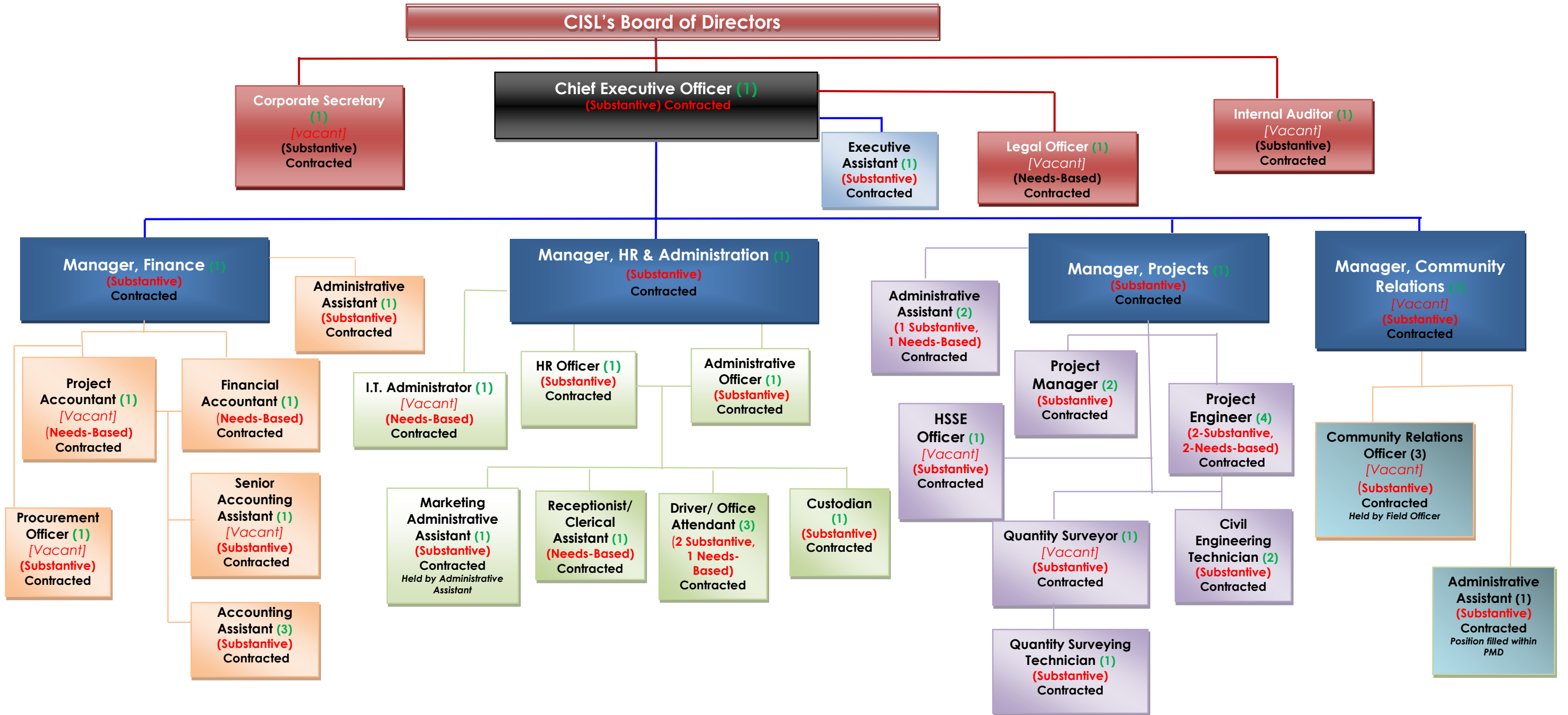


Organizational Chart





Organisational Chart



INTERNAL AUDIT PROCEDURES

AUDIT COMMITTEES

The Audit Committee at CISL is appointed by the Board to assist in the monitoring of:

- The financial reports and other financial information provided by the Company to any governmental body or the public
- CISL's systems of internal controls regarding finance, accounting, legal compliance and ethics that management and the Board have established
- CISL's auditing, accounting and financial reporting processes generally.

The committee is expected to encourage the continuous improvement of, and foster adherence to, the Company's policies, procedures and practices at all levels. As such, their primary responsibilities and duties entail:

- Serving as an independent and objective party to monitor the Company's financial reporting process and internal control system
- Reviewing and appraising the audit efforts of the Company's Statutory Auditors and Internal Audit
- Providing an open avenue of communication among the Statutory Auditors, financial and senior management, the internal auditing department, and the Board of Directors.

INTERNAL AUDIT PROCEDURES

Management audits are conducted on a regular basis at CISL to ensure that value for money is achieved in the use of all resources.

The Audit procedures at CISL underpin the project execution process. The types of audit would include:

- Project evaluation audits- checks the validity of the design
- Internal audits- reviews the policies, procedures and processes applied by the CISL and the Contractor.
- Post-completion audits- reviews the lessons learnt at the completion of each phase until closeout. The Audit procedures would cover the following areas-
 - Introduction- concept design and approval

- Evaluate project development options
- Preparation of a statement of purpose, scope and objectives
- Establishing of key performance criteria
- Development of an appropriate organizational structure
- Definition of design/ engineering specifications and tasks
- Definition of management processes, procedures, patterns and policies
- Development of a milestone plan with logic diagram and Gantt Chart
- Establishment of quality assurance procedures in line with quality standards
- Development of a project implementation schedule
- Development of project budgets and the establishment of work package
- Development of cash flows including earn value estimation
- A review of project financing approaches including changes in interest rate and other economic indicators
- Identification of major risks with solution options
- Review of contingency plan and budgets
- The selection of project management system
- Establishment of a project administration
- Staffing of a project support office
- Identification of licensing/regulatory/statutory requirements

STAGES IN CONDUCTING A PROJECT MANAGEMENT AUDIT

- Staffing the Audit Team with the appropriate skills
- Selecting a Team Leader and having the initial meetings
- Creating an Audit Project Plan establishing the tasks to be performed and the critical path for delivery
- Make arrangements for the area to be audited and ensure executive support
- Determine the order for the completion of each task and the resources needed
- Develop the protocol or checklist with questionnaires which will support the interviews and the observations.

DETAILS OF THE AUDIT PROCESS AS PART OF THE INTERNAL CONTROLS FOR PROJECT EXECUTION:

- Determine Client expectations and the terms of reference
- Ensure Adequate staffing and if necessary the use of external expertise
- Plan the assignment with milestones, a work program, a documented systems and performance management indicators.
- Define the objectives to the team.
- Agree of tasks and time table.
- Agree on monitoring arrangements and timing of the audits within the project execution cycle.
- Establish the reporting relationship and process with the Project Manager/ Client
- Gather data from research using external sources both primary and secondary using project specific and industry specific benchmarks.
- Establish a Data Analysis process based on the terms of reference establishing the gaps based on the performance measurement, technical and quality standards present the data in a report after discussion and validation of the conclusions
- Report the results to the Project Manager in a language and style that is audience specific with recommendations that are practical and value adding.
- Issue Final Report

COMMUNITY IMPROVEMENT SERVICES

LIMITED

ADMINISTRATION BUDGET

FOR THE FISCAL YEAR 2013-2014

COMMUNITY IMPROVEMENT SERVICES LIMITED

FINANCIAL PLAN/BUDGET FOR 2013-2014

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ADMINISTRATION BUDGET FOR FISCAL YEAR 2013-2014

1.0 KEY ASSUMPTIONS UNDERLYING THE FISCAL BUDGET

- a) Confirmation/Approval of projects and funding of \$30M is estimated for the fiscal year by the line Ministry by 2014.
- b) A Management fee of 7.5% will be earned on all projects implemented.
- c) Project Management Consulting Firms will be used to increase the execution capacity.

2.0 CRITICAL SUCCESS FACTORS

- 2.1 The successful achievement of the planned schedule of projects is dependant, amongst other things on:
 - The Ministry's ability to release payment within one (1) month of the payment request to avoid the risk of contractors and consultants withholding service.
 - Utilizing contractors that possess the capacity and commitment to execute projects within set targets.
 - Efficient Project Management services from the consulting firms and by the project Management department.
 - Effective Tendering processes for selection of contractors to award.

1.0 THE FISCAL BUDGET 2013 – 2014

1.1 Revenue Generation

2.1.1 Revenue of \$13,059,891 is projected for the fiscal year. This is comprised of Management Fee \$13,027,891 and “Other Revenue of \$32,000 from tender fees.

2.1.2 The Management Fee is based on project cost of \$173,705,212 (VAT inclusive)

2.1.3 Tender fee is based on sale of tender packages.

2.1.4 Projects were selected for execution after consultation with the Ministry of Local Government, Regional Corporations and Members of Parliament.

2.1.5 Figure 1 below shows revenue projection and project cost by region.

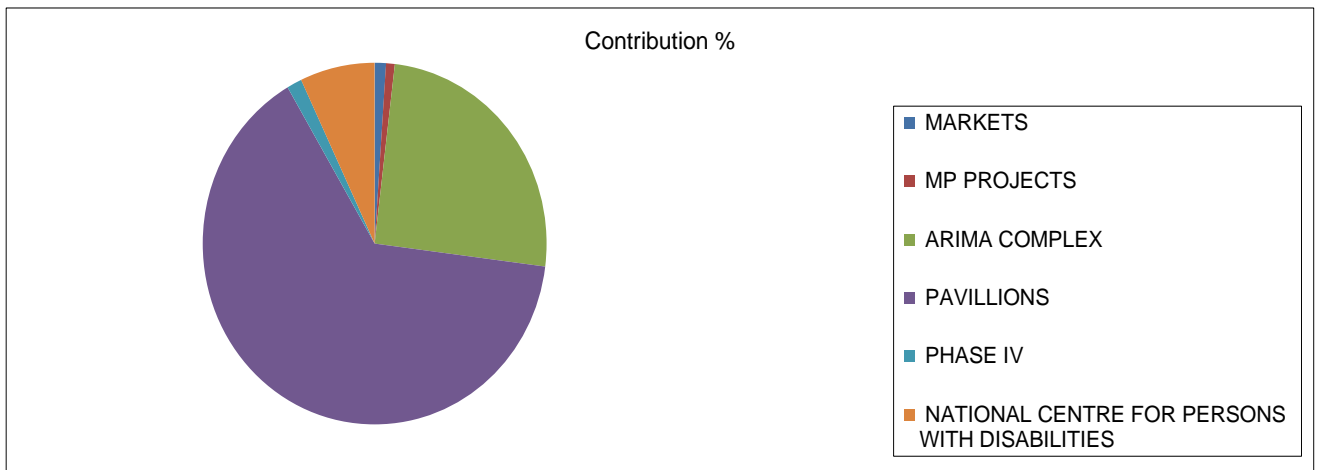


Figure 1

REGION	Contribution %	Revenue (VE)	Project Cost(VI)
MARKETS	1%	147,228	2,257,500
MP PROJECTS	1%	114,697	1,758,694
ARIMA COMPLEX	25%	3,505,435	53,750,000
PAVILLIONS	65%	8,991,555	137,841,875
PHASE IV	1%	198,172	3,010,000
NATIONAL CENTRE FOR PERSONS WITH DISABILITIES	7%	978,261	15,000,000
Totals	100%	13,935,349	213,618,069

VI= VAT Inclusive and VE = VAT Exclusive

2.2 Operating Expenses

The following explains the two largest costs:

2.2.1 Staff Cost: This amount (\$6,862,457) accounts for 66% of the operating cost. The value is based on a staff complement of thirty six (38).

2.2.2 Directors' Fees and Allowances: This amount (\$816,000) contributes 8% of the budget cost. The cost is based on thirteen directors.

The remaining 26% (2,797,247) of the operating expenses are various administrative items for which no major increases were forecasted. Operating expenses totaled \$10,475,704.

2.3 Capital Expenses

2.3.1 Capital expenses are projected at \$707,378 for the year for the purchase of equipment, software and motor vehicles.

Note: One vehicle is anticipated to be sourced through the year, for the use of the engineering department at a budgeted cost of \$200,000. The accounting software used by the accounts department will be changed to a more updated version of Sage Accounting and the project management software used by the engineering department at a budgeted cost of \$115,878. \$120,000 is also projected for leasehold improvements to accommodate new staff and updates to the reception and meeting areas. A further \$304,439 is projected to be spent on the office in the form of appliances, furniture and security systems.

2.4 Performance Analysis

The company is forecasting an increase in project execution of over three times the maximum value of work done in previous periods. During the fiscal year 2010/2011. CISL faced extenuating circumstance and did not achieve project approval from the line Ministry for most of the year. In fiscal year 2011/2012 \$30M was expended on projects, two of these projects relating to the Marabella Market have been completed during the financial year and one project is to be completed in the 2012/2013 financial year. The phase two of the National Development Centre for Persons with Disabilities (NDCPD) is also carded to be completed in 2013/2014 financial year.

The projected revenue of \$13M to be generated on construction cost of \$173.7M. The company's operating expenses are rigorously monitored and kept at its lowest; therefore, they are not expected to decrease. As can be seen in Figure 2, profits are projected for three months of the year. Cost equates to revenue at the close of December 2013 after which it increases and stays above revenue for the next five months.

The cumulative graph in Figure 3 shows that total revenue will be above cost for the financial year. This is due to the implementation of some new projects, example Pavillions, Arima Complex and the completion of phase two of the Ntional Development Centre for Persons with Disabilities (NDCPD).

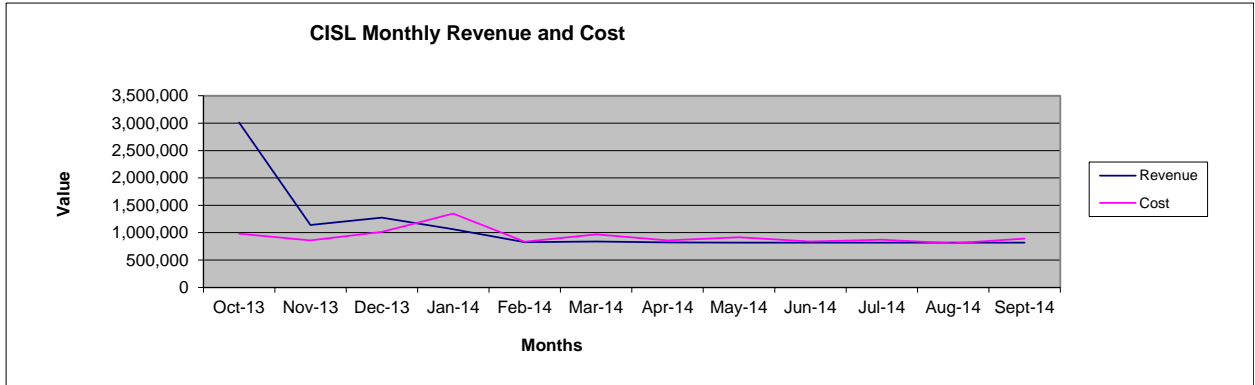


Figure 2

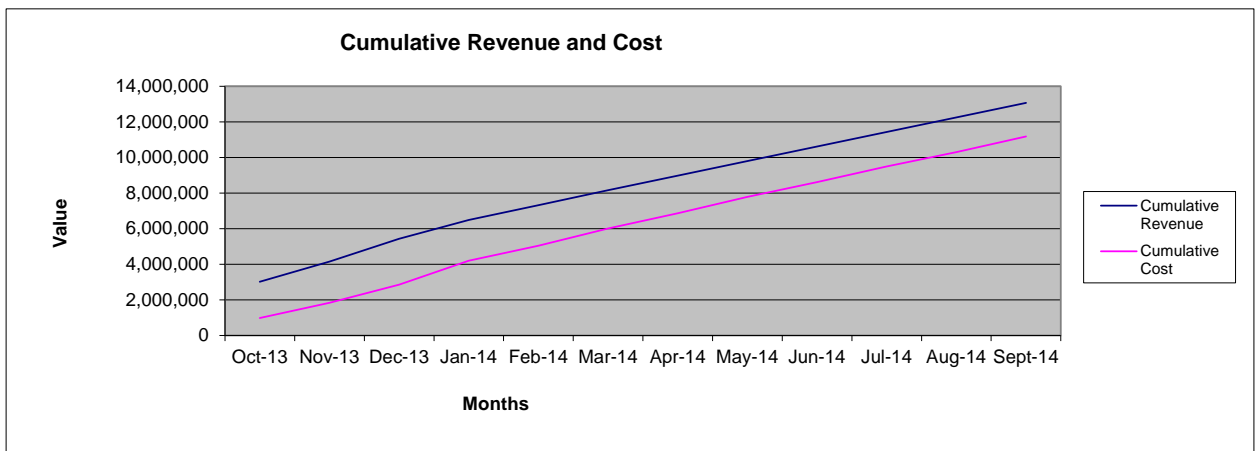


Figure 3

			Quarter 1			Quarter 2	Quarter 3		Quarter 3	Quarter 4	Quarter 1	Quarter 4
	Oct-13	Nov-13	Dec-13	Jan-14	Feb-14	Mar-14	Apr-14	May-14	Jun-14	Jul-14	Aug-14	Sep-14
Revenue	3,014,280	4,152,506	5,427,435	6,488,218	7,315,993	8,155,602	8,978,804	9,795,021	10,611,239	11,427,456	12,243,674	13,059,891
Cost	980,575	1,838,508	2,852,929	4,202,255	5,037,717	6,006,574	6,866,994	7,780,832	8,618,288	9,487,226	10,291,337	11,183,082
Difference	2,033,705	2,313,998	2,574,507	2,285,962	2,278,275	2,149,028	2,111,810	2,014,189	1,992,951	1,940,230	1,952,336	1,876,809

The company's cost stands below revenue for the entire financial year. The above table shows cumulative revenue to be \$13,059,891 and cumulative cost to be \$11,183,082 as at September 2014. This is due to the implementation of new projects by the company in the financial year.

As illustrated in the above table there is a surplus in revenue of \$1,876,809 as at the end of September 2014.

Community Improvement Services Limited				
Budgeted Statement of Financial Position				
as at September 30 2014				
		Budgeted	Budgeted	Audited
		Year Ended	Year Ended	Year Ended
	<i>Notes</i>	30-Sep-2014	30-Sep-2013	30-Sep-2012
ASSETS				
Current Assets				
Cash and cash equivalents	1	4,502,708	1,497,136	13,483,767
Trade and Other Receivables	2	11,709,347	1,837,849	10,770,249
		16,212,055	3,334,986	24,254,016
Non Current Assets				
Property Plant and Equipment	3	1,862,092	1,847,629	816,824
Total Assets		18,074,147	5,182,614	25,070,840
EQUITY AND LIABILITIES				
Capital and Reserves				
Stated Capital		20,340,010	16,340,010	20,340,010
Accumulated Losses		-19,159,319	(22,138,771)	-16,697,304
Equity		1,180,691	-5,799,156	3,642,706
Current Liabilities				
Trade and Other Payables	4	16,668,056	10,756,370	21,428,134
		16,668,056	10,756,370	21,428,134
Non Current Liabilities				
Other Payables		225,400	225,400	-
Total current Liabilities		225,400	225,400	-
Total Equity and Liabilities		18,074,147	5,182,614	25,070,840

NOTES TO BALANCE SHEET			
#1	PROPERTY PLANT AND EQUIPMENT	2014	2013
	Furniture and Fittings	477,352	390,751
	Office Equipment	302,382	264,467
	Computer Hardware	531,237	387,650
	Computer - Software	386,217	265,698
	Leasehold Improvements	1,903,936	1,833,206
	Motor Vehicle	1,371,079	1,286,761
	Acc Dep - FF	-363,803	-336,629
	Acc Dep -EQ	-237,629	-197,512
	Acc Dep - CH	-405,442	-382,607
	Acc Dep - CS	-265,698	-269,688
	Acc Dep - LI	-1,560,834	-1,394,467
	Acc Dep - MV	-276,703	-149,264
		<u>1,862,092</u>	<u>1,847,629</u>
#2	CASH AND CASH EQUIVALENTS		
	Bank Accounts	4,191,038	1,190,081
	Investment	311,670	307,055
		<u>4,502,708</u>	<u>1,497,136</u>
#3	RECEIVABLES AND PREPAYMENTS		
	MOLG Receivables - Management fees	815,217	232,946
	Security advances (Gas station dep.)	3,500	3,500
	Receivable staff and other	0	0
	Receivables Projects	10,869,565	1,580,339
	VAT	12,864	12,864
	Prepaid Expenses	8,200	8,200
		<u>11,709,347</u>	<u>1,837,849</u>
#4	CURRENT LIABILITIES		
	Trade payables	13,809,407	120,000
	Advances payable (to project fund)	0	4,386,435
	VAT payable	236,899	236,899
	Gratuity	655,200	655,200
	NIS	15,500	0
	Health Surcharge	880	0
	PAYE	46,215	0
	Accruals	1,439,628	1,439,628
	Grants	464,327	3,532,577
	Unearned Income	0	385,631
	Deferred Income - W/Capital	0	0
		<u>16,668,056</u>	<u>10,756,370</u>

Community Improvement Services Limited

Budgeted Income Statement

For the years ended September 30

	Budgeted	Draft	Audited
	Year Ended Sept. 14	Year Ended Sep.13	Year Ended Sep 12
Revenue			
Projected Income: Management Fees	13,027,891	937,923	1,852,062
Other Revenue	32,000	49,615	121,659
Total Income	13,059,891	987,538	1,973,721
Expenditure			
Directors Expense	816,000	524,250	502,200
Professional Services	132,000	35,000	16,858
Staff Cost	6,862,457	3,696,000	3,492,150
Other Operating Expenses	1,828,477	1,082,208	1,121,070
Depreciation	420,000	226,106	225,735
Total Expenditure	10,058,934	5,563,564	5,358,013
Interest Income - Regular account	4,615	12,960	10,227
Operating (Loss)	3,005,572	(4,563,066)	(3,374,065)
Non Operating Income - Net	0	3,200,000	5,932,000
Surplus/ (Deficit) before Tax	3,005,572	(1,363,066)	2,557,935
Taxation/Business Levy	(26,120)	(1,975)	(3,479)
Surplus/(Deficit)	2,979,452	(1,365,041)	2,554,456

Capital Expenses								
Description of Items	Oct-13	Nov-13	Dec-13	Jan-14	Feb-14	Mar-14	Apr-14	Total
Peachtree Accounting software				50,000				50,000
1 Vehicles - Engineering Departments.				200,000				200,000
Auto CAD(Project Management) (US\$5000)					32,939			32,939
Leasehold Improvement						100,000	20,000	120,000
Projects Server version (US\$5,000)				32,939				32,939
Furniture				17,000			10,000	27,000
Doors	30,000							30,000
Paving			40,000					40,000
Security Cameras	25,000							25,000
Guard Booth			27,000					27,000
Appliances				16,000				16,000
Pressure Washer	5,500							5,500
GPS			12,000					12,000
Cell Phones (12 Black Berry Z10)			58,000					58,000
Workstations	18000							18,000
Printer (Projects)	13000							13,000
Total	91,500	0	137,000	315,939	32,939	100,000	30,000	707,378

Fifth Session Tenth Parliament Republic of
Trinidad and Tobago



REPUBLIC OF TRINIDAD AND TOBAGO

Act No. 1 of 2015

[L.S.]

AN ACT to provide for public procurement, and for the retention and disposal of public property, in accordance with the principles of good governance, namely accountability, transparency, integrity and value for money, the establishment of the Office of Procurement Regulation, the repeal of the Central Tenders Board Act, Chap. 71:91 and related matters

[Assented to 14th January, 2015]

WHEREAS it is enacted by section 13(1) of the ^{Preamble} Constitution that an Act of Parliament to which that section applies may expressly declare that it shall have

effect even though inconsistent with sections 4 and 5 of the Constitution and, if any Act does so declare, it shall have effect accordingly:

And whereas it is provided in section 13(2) of the Constitution that an Act of Parliament to which that section applies is one the Bill for which has been passed by both Houses of Parliament and at the final vote thereon in each House has been supported by the votes of not less than three-fifths of all the members of that House:

And whereas it is necessary and expedient that the provisions of this Act shall have effect even though inconsistent with sections 4 and 5 of the Constitution:

Enactment ENACTED by the Parliament of Trinidad and Tobago as follows:

PART I

PRELIMINARY

Short title **1.** This Act may be cited as the Public Procurement and Disposal of Public Property Act, 2015.

Commencement **2.** This Act comes into operation on such date as is fixed by the President by Proclamation.

Act inconsistent with Constitution **3.** This Act shall have effect even though inconsistent with sections 4 and 5 of the Constitution.

Interpretation **4.** In this Act—
“bid rigging” means collusion between persons for the purpose of manipulating the proceedings;
“Board” means the Board established under section 10;
“classified information” means information that is exempted from disclosure under this Act, the Freedom of Information Act or any other written law;

“committee” means a committee appointed under section 16;

“disposal of public property” includes the transfer without value, sale, lease, concession, or other alienation of property that is owned by a public body;

“document” includes an electronic document;

“electronic means” means the use of electronic equipment for the processing, including digital compression, and storage of data which is transmitted, conveyed and received by wire or radio or by optical, electromagnetic or any other means;

“electronic reverse auction” means an online real time purchasing technique utilized by a procuring entity to select the successful submission, which involves the presentation by suppliers or contractors of successively lowered bids during a scheduled period of time and the automatic evaluation of tenders;

“framework agreement” means an agreement or other arrangement between one or more procuring entities and one or more contractors or suppliers which establishes the terms, in particular the terms as to price and, where appropriate, quantity, under which the contractor or supplier will enter into one or more contracts with the procuring entity during the period in which the framework agreement or arrangement applies;

“local content” means the local value added to goods, works or services measured as the amount of money or percentage of each dollar of expenditure remaining in Trinidad and Tobago after the production of the good or the performance of the work or service;

“local industry development” includes those activities that serve to enhance local capacity and competitiveness by involvement and participation of local persons, firms and capital market and knowledge transfer during the conduct of the programme of goods, works or services that are being procured;

“member” means a member of the Board;

“Minister” means the Minister with responsibility for finance;

“pre-qualification” means the procedure to identify, prior to solicitation, suppliers or contractors who are qualified;

“pre-selection” means the procedure to identify, prior to solicitation, a limited number of suppliers or contractors who best meet the qualification criteria for the procurement concerned;

“private party” means an individual, a body corporate or an unincorporated entity, other than a public body;

“procurement” or “public procurement” means the acquisition of goods, works or services involving the use of public money;

“procurement contract” means a contract concluded between a procuring entity and a supplier or a contractor;

“procurement involving classified information” means procurement in which a procuring entity may be authorized under this Act or any other written law to take measures and impose requirements for the protection of classified information;

“procuring entity” means a public body engaged in procurement proceedings;

“procurement proceedings”, in relation to public procurement, includes the process of procurement from the planning stage, soliciting of tenders, awarding of contracts, and contract management to the formal acknowledgement of completion of the contract;

“public body” means—

(a) the Office of the President;

(b) the Parliament;

(c) the Judiciary;

(d) a Ministry or a department or division of a Ministry;

(e) the Tobago House of Assembly, or a division of the Tobago House of Assembly;

(f) a Municipal Corporation established under the Municipal Corporations Act;

Chap. 25:04

(g) a Regional Health Authority established under the Regional Health Authorities Act;

Chap. 29:05

(h) a statutory body, responsibility for which is assigned to a Minister of Government;

(i) a State-controlled enterprise;

(j) a Service Commission established under the Constitution or other written law; or

(k) a body corporate or unincorporated entity—

(i) in relation to any function which it exercises on behalf of the State; or

(ii) which is established by virtue of the President's prerogative, by a Minister of Government in his capacity as such or by another public authority; or

(l) a body corporate or unincorporated entity in relation to any function, project, scheme or arrangement which involves the use by it, of public money;

“public money” means money that is—

(a) received or receivable by a public body;

(b) raised by an instrument from which it can be reasonably inferred that the State accepts ultimate liability in the case of default;

(c) spent or committed for future expenditure, by a public body;

(d) distributed by a public body to a person;

(e) raised in accordance with a written law, for a public purpose; or

(f) appropriated by Parliament;

“public-private partnership arrangement” includes an arrangement between a public body and a private party under which—

(a) the private party undertakes to perform a public function or provide a service on behalf of the public body;

(b) the private party receives a benefit for performing the function or providing the service, either by way of—

- (i) compensation from a public fund;
- (ii) charges or fees collected by the private party from the users of a service provided to them; or
- (iii) a combination of such compensation and such charges or fees; and

(c) the private party is generally liable for the risks arising from the performance of the function or the provision of the service depending on the terms of the arrangement;

“public property” means real or personal property owned by a public body;

“Regulations” means regulations made under section 63;

“Regulator” means the person referred to in section 10(1)(a);

“services” means any objects of procurement or disposal other than goods and works and includes professional, non-professional and commercial services as well as goods and works which are incidental to, but not exceeding, the value of those services;

“socio-economic policies” means environmental, social, economic and other policies of Trinidad and Tobago authorized or required by the Regulations or other provisions of the laws of Trinidad and Tobago to be taken into account by a procuring entity in procurement proceedings;

“solicitation” means an invitation to tender, present submissions or participate in request-for-proposals proceedings or an electronic reverse auction;

“solicitation document” means a document issued by, or on behalf of a procuring entity, including any amendments thereto, that sets out the terms and conditions of the procurement;

“standstill period” means the period from the dispatch of a notice as required by section 35(2), during which a procuring entity cannot accept the successful submission and suppliers or contractors can challenge the decision so notified;

“State-controlled enterprise” means—

- (a) a company incorporated under the laws of Trinidad and Tobago which is owned or controlled by the State;
- (b) a company incorporated under the laws of Trinidad and Tobago which is owned or controlled by a company referred to in paragraph (a); or
- (c) a body corporate or unincorporated entity which is supported, directly or indirectly, by public money and over which the State, a statutory body or a company referred to in paragraph (a) or (b) is in a position to exercise control directly or indirectly;

“submission” means a tender, a proposal, an offer, a quotation or a bid referred to collectively or generically, including, where the context so requires, an initial or indicative submission;

“supplier” or “contractor” means, according to the context, any party or potential party to procurement proceedings with a procuring entity;

“sustainable procurement” means a process whereby public bodies meet their needs for goods, works or services in a way that achieves value for money on a long-term basis in terms of generating benefits not only to the public body, but also to the economy and the wider society, whilst minimising damage to the environment;

“tender security” means a security required from suppliers or contractors by a procuring entity and provided to a procuring entity to secure the fulfilment of an obligation and includes such arrangements as bank guarantees, indemnities, surety bonds, standby letters of credit, cheques for which a bank is primarily liable, cash deposits, promissory notes, bills of exchange and other like instruments;

“Tobago House of Assembly” means the Tobago House of Assembly established by section 141A of the Constitution;

“unfulfilled contract” includes a contract that is incomplete, terminated or delayed;

“value for money” includes the value derived from the optimal balance of outcomes and input costs on the basis of the total cost of supply, maintenance and sustainable use;

“works” includes construction and engineering works of all kinds.

Objects

5. (1) The objects of this Act are to promote—

- (a) the principles of accountability, integrity, transparency and value for money;
- (b) efficiency, fairness, equity and public confidence; and
- (c) local industry development, sustainable procurement and sustainable development, in public procurement and the disposal of public property.

(2) A public body shall carry out public procurement and the disposal of public property in a manner that is consistent with the objects of this Act.

Illegality of procurement or disposal

6. (1) Subject to subsection (2), any procurement of goods, works or services or retention or disposal of public property that is not done in accordance with this Act and any procurement contract or agreement that is not entered into in accordance with this Act shall be void and illegal.

(2) Nothing in subsection (1) shall affect the rights of an innocent third party.

Application of the Act

7. (1) This Act applies to public bodies and public-private partnership arrangements.

(2) To the extent that this Act conflicts with an obligation of the State under or arising out of the following:

- (a) a treaty or other form of agreement to which Trinidad and Tobago is a party with one or more States or entity within a State;
- (b) an agreement entered into by the Government of Trinidad and Tobago with an international financing institution; or

(c) an agreement for technical or other cooperation between the Government of Trinidad and Tobago and the Government of a foreign State,

the requirements of the treaty or agreement shall prevail except that the procurement of goods, works or services shall be governed by this Act and shall promote the socio-economic policies of Trinidad and Tobago and shall adhere to the objects of this Act.

(3) A procuring entity engaged in procurement proceedings relating to a treaty or agreement referred to in subsection (2)(a) shall comply with section 29 and submit a report on such compliance to the Office.

(4) The Office shall, within twenty-one days of receiving a report under subsection (3), forward a copy of the report to the Speaker of the House of Representatives who shall cause the report to be laid in Parliament at the earliest opportunity.

8. This Act binds the State.

Act binds the State

PART II

THE OFFICE OF PROCUREMENT REGULATION

9. There is hereby established as a body corporate the Office of Procurement Regulation (hereinafter referred to as “the Office”).

Establishment and
incorporation of the
Office

10. (1) The Office shall be governed by a Board which shall be appointed by the President after consultation with the Prime Minister and the Leader of the Opposition and shall comprise no less than eight and no more than eleven members as follows:

Procurement Board

(a) the Procurement Regulator (hereinafter referred to as “the Regulator”), who shall be

the Chairman and who shall have at least ten years' experience in matters relating to procurement and possess—

- (i) a degree from an accredited University in a field relating to finance, economics or law; or
 - (ii) a degree from an accredited University in accounting or an equivalent professional qualification in accounting;
- (b) a member with qualifications and experience in accounting;
 - (c) a member with qualifications and experience in finance;
 - (d) a member with qualifications and experience in business management;
 - (e) a member with qualifications and experience in civil engineering;
 - (f) an Attorney-at-law of at least ten years' standing;
 - (g) a member with qualifications and experience in any other field relating to procurement; and
 - (h) no more than four members who represent the interests of the community, women, youth, religion or civil society.

(2) The President, after consultation with the Prime Minister and Leader of the Opposition shall appoint a member as Deputy Chairman of the Board who shall exercise the powers and functions of the Regulator in the event of the Regulator's absence or inability to exercise his powers or perform his functions.

(3) The names of all members of the Board as first constituted and every change in the membership of the Board thereafter shall be published in the *Gazette* and at least one newspaper in daily circulation in Trinidad and Tobago.

(4) The Office shall have an official seal which shall be authenticated by the signatures of—

(a) the Regulator or in his absence, the Deputy Chairman; and

(b) any other member authorized by the Board,

and shall be judicially noticed.

11. (1) The Regulator shall be appointed for a term of seven years and is eligible for reappointment, except that he shall not serve more than two consecutive terms. Tenure and remuneration of members

(2) The Regulator shall be entrusted with the day-to-day management, administration, direction and control of the business of the Office with authority to act in the conduct of the business of the Office.

(3) A person who has served as the Regulator for two consecutive terms shall not be eligible to become a member.

(4) The appointment of members, other than the Regulator, shall be as follows:

(a) of the six members appointed under section 10(1)(b) to (g)—

(i) three members shall be appointed for a term not exceeding six years and shall be eligible for reappointment for not more than one consecutive term; and

(ii) three members shall be appointed for a term not exceeding five years and shall be eligible for reappointment for not more than one consecutive term; and

(b) the members appointed under section 10(1)(h) shall be appointed for a term not exceeding four years and shall be eligible for reappointment for not more than one consecutive term.

(5) The appointment of a member shall be by instrument in writing.

(6) The Regulator may resign his office by letter addressed to the President.

(7) A member, other than the Regulator, may resign his office by letter addressed to the Regulator who shall immediately cause it to be forwarded to the President.

(8) The resignation of the Regulator shall take effect from the date of receipt of his letter of resignation by the President, and in the case of a member, other than the Regulator, by the Regulator.

(9) The salaries and allowances of the Regulator and other members shall be determined by the Minister, subject to the approval of Parliament.

(10) All expenses incurred by the Office for the purposes of this Act shall be a charge on the Consolidated Fund.

Removal of member

12. The President may remove a member from office upon being satisfied that the member—

- (a) is declared to be bankrupt;
- (b) is incapable of performing the duties of a member;
- (c) has neglected his duties or has engaged in conduct that would bring his office into disrepute;
- (d) has been absent, without the leave of the Board, from three consecutive meetings of the Board;
- (e) has been convicted of an offence involving dishonesty;
- (f) has been convicted of an offence under the Integrity in Public Life Act; or

(g) has been convicted of an offence punishable by imprisonment for one year or more or an offence under this Act.

13. (1) The functions of the Office are to—

Functions of the
Office

- (a) establish a comprehensive database of information on public procurement, including information on tenders received, the award and value of contracts, and such other information of public interest as the Office thinks fit;
- (b) set training standards, competence levels and certification requirements to promote best practices in procurement;
- (c) issue and review guidelines in relation to public procurement and the retention and disposal of public property, including model guidelines for special guidelines under sections 30(1)(b) and 54(1)(b);
- (d) prepare, update and issue model handbooks, incorporating standardized bidding documents, procedural forms and relevant documents for use in public procurement and the retention and disposal of public property;
- (e) approve, in respect of each procuring entity, special guidelines and handbooks in relation to public procurement and the retention and disposal of public property;
- (f) promote the use of technology in public procurement and the retention and disposal of public property;
- (g) provide best practice advice in the conduct of procurement activities, including the promotion of electronic transactions;
- (h) audit and review the system of procurement and disposal of public property to ensure compliance with the objectives of the Act;

- (i) harmonize policies, systems and practices in relation to public procurement activities and the disposal of public property;
- (j) review procurement practices and delivery systems on an annual basis to identify best practices;
- (k) determine, develop, introduce, maintain and update related system-wide databases and technology;
- (l) promote the awareness of public bodies and the public to issues relating to public procurement and disposal of public property;
- (m) undertake research and surveys with respect to public procurement and disposal of public property;
- (n) investigate, on its own initiative or upon complaint from any party involved in public procurement or disposal of public property or any member of the public, any alleged or suspected breach of this Act;
- (o) act for, in the name and on behalf of the State to dispose of real property owned by the Government in such manner as the Government may consider appropriate and desirable;
- (p) create and publish standard form contracts for public procurement and disposal of public property;
- (q) prepare and maintain a database of pre-qualified contractors and suppliers;
- (r) prepare and maintain a list of pre-qualified mediators, arbitrators and experts for the purposes of alternative dispute resolution under this Act; and
- (s) provide advice on best practice on the aggregation of the procurement or disposal of goods for the purpose of obtaining value for money.

(2) In the exercise of its functions, the Office shall—

- (a) act expeditiously and take such other steps as it thinks fit in order to minimize any negative economic impact arising out of the performance of its functions; and
- (b) not be subject to the direction or control of any other person or authority in the performance of its functions, but shall be accountable to the Parliament.

14. (1) In the performance of its functions, the Office Powers of the Office may—

- (a) monitor the procurement of goods, works and services, and the disposal of public property, by public bodies to ensure compliance with this Act;
- (b) conduct audits and periodic inspections of public bodies to ensure compliance with this Act;
- (c) issue directions to public bodies to ensure compliance with this Act; and
- (d) carry out such other activities and do such other acts as it considers necessary or expedient for the carrying out its functions.

(2) A public body or person who, without reasonable justification, fails to comply with a direction issued under this Act commits an offence and is liable on summary conviction to a fine of one hundred thousand dollars.

(3) At all times the Office shall, in the performance of its functions and exercise of its powers, act in an objective and non-discriminatory manner.

15. (1) The Board shall meet at least once every Meetings month and as often as is required to effect its business.

(2) The Regulator shall preside at meetings of the Board and, in the absence of the Regulator, the Deputy Chairman shall preside.

(3) The quorum of a meeting of the Board shall be six members, including either the Regulator or the Deputy Chairman.

(4) The minutes of each meeting of the Board shall be kept in proper form and be confirmed at the next meeting.

(5) The Board may regulate its own proceedings.

Committees

16. (1) The Board may appoint such committees as it considers necessary.

(2) A committee may—

- (a) inquire into and advise the Board on any matter within the scope of the Board's functions;
- (b) exercise such of the powers of the Board as the Board delegates to it in writing; or
- (c) perform such other duties as the Board assigns to it.

(3) Membership of a committee may include or consist of persons who satisfy the fit and proper criteria as prescribed by the Regulations and who are not members of the Board, except that the chairperson of a committee shall be a member of the Board.

(4) The Board shall appoint the chairperson of a committee.

(5) A committee shall be subject to the control of the Board and may be discharged or reconstituted at any time by the Board.

(6) A committee may regulate its own procedure, subject to any directions that may be given by the Board.

17. (1) A member of the Board or a committee who has a direct or indirect interest in a matter under consideration by the Board or committee shall disclose the fact of his interest at the earliest opportunity and shall not participate in the consideration of, or vote on, any question relating to the matter.

(2) A member of the Board or committee who knowingly or wilfully fails to disclose his interest in accordance with subsection (1) commits an offence and is liable on summary conviction to a fine of five hundred thousand dollars and imprisonment for one year.

18. (1) The Office shall appoint such staff as it considers necessary for the efficient performance of the functions of the Office.

(2) The staff of the Office shall be appointed on such terms and conditions as the Office may determine.

19. (1) A public officer or any person in the employ of any public body may, with the approval of the appropriate Service Commission or public body and with the consent of the officer or employed person, be seconded to the service of the Office.

(2) Where any secondment is effected, the Office shall make, with the appropriate public body, such arrangements as may be necessary to preserve the rights of the officer or employed person to superannuation benefits for which the officer or employed person would have been eligible had that officer or employed person remained in the service from which the secondment was effected.

(3) A period of secondment under this section shall not exceed five years.

Establishment of
pension fund plan

20. (1) The Office shall, within five years of the date of assent to this Act, establish a pension fund plan.

(2) All staff of the Office shall be members of the pension fund plan.

Funds of the Office

21. The funds of the Office shall consist of moneys appropriated by Parliament for the purposes of the Office.

Accounts and audit

22. Section 116 of the Constitution shall apply to the accounts of the Office.

Exemptions

23. The Office shall be exempt from stamp duties, corporation taxes, customs duties, value added taxes, motor vehicle taxes and all other taxes, charges, levies and imposts.

Report of the
Regulator

24. (1) The Regulator shall submit his reports annually to the Speaker of the House of Representatives, the President of the Senate and the Minister.

(2) A report under subsection (1) shall include—

- (a) a figure representing the total value of contracts as awarded by public bodies, and another figure representing the cost of the total value of procurement contract variances for that year;
- (b) the number of unfulfilled contracts awarded by public bodies in respect of procurement;
- (c) a summary of transactions in respect of each public body specifying in respect of public procurement—
 - (i) the number of procurement contracts awarded;
 - (ii) the number of procurement contracts varied;
 - (iii) the quantum of those variances;

- (iv) the number of unfulfilled procurement contracts and the quantum of cost incurred;
 - (v) with respect to the procurement for a project, a brief description, the awardee, the value, the scope of works and the expected deliverables of the project; and
 - (vi) lessons learnt as a consequence of the management of procurement contracts;
- (d) a summary of transactions in respect of each public body concerning the disposal of public property—
- (i) in respect of real property, the address and other identifying details of the property disposed of, including value, to whom it was disposed, date of disposal, means of disposal and consideration; and
 - (ii) in respect of property other than real property, details of the property disposed of, including value, to whom it was disposed, means of disposal, and consideration;
- (e) details of changes implemented to ensure current best practice for procurement, and disposal of public property;
- (f) the names of public bodies that have failed to comply with this Act;
- (g) an assessment of the overall performance of the procurement system;
- (h) a summary of unresolved issues that are to be dealt with; and
- (i) any recommendations requiring action on the part of a procuring entity.

(3) A report under subsection (1) need not include details of contracts less than two million dollars or contracts for the settlement of legal liability other than the total number and quantum.

(4) The President of the Senate and the Speaker of the House of Representatives shall cause the report to be laid before the Senate and the House of Representatives, respectively, at the next sitting of the Senate and the House of Representatives after the receipt thereof, respectively.

(5) The Minister may, on the recommendation of the Office, vary the amount specified in subsection (3), by Order subject to negative resolution of Parliament.

Financial year

25. The financial year of the Board shall be the twelve-month period ending on 30th September each year.

PART III

GENERAL PROVISIONS

Procurement
Depository

26. (1) The Office shall establish a database, to be known as “the Procurement Depository”, to which suppliers or contractors can submit information with respect to, among other things, their qualifications and experience.

(2) The Procurement Depository shall be accessible by the public for viewing.

(3) A supplier or contractor who submits information to the Procurement Depository shall be responsible for ensuring its accuracy.

(4) In conducting its due diligence, pursuant to section 29(1)(e), a procuring entity may require a supplier or contractor who has submitted information to the Procurement Depository to confirm the accuracy of the information submitted.

- 27.** (1) A procuring entity shall—
- (a) no later than six weeks after the approval of Information on possible forthcoming procurement the National Budget, publish on its website or in any other electronic format, information regarding all planned procurement activities for the following twelve months;
 - (b) update the information referred to in paragraph (a) as necessary; and
 - (c) provide a printed copy of the information referred to in paragraph (a) upon request and payment of the prescribed fee.

(2) Where the information referred to in subsection (1) is unavailable or not forthcoming, a complaint may be made to the Office which shall conduct an investigation in accordance with section 41, and if justified, grant an extension of time or issue such direction as it thinks fit.

- (3) Publication under this section does not—
- (a) constitute a solicitation;
 - (b) oblige a procuring entity to issue a solicitation; or
 - (c) confer any rights on suppliers or contractors.

(4) Subsection (1) shall not apply to a procuring entity involved in the procurement of goods and services for the purpose of national security.

28. (1) A procuring entity may limit participation in Participation by suppliers or contractors procurement proceedings to promote local industry development and local content.

(2) A procuring entity, when first soliciting the participation of suppliers or contractors, shall declare whether the participation of suppliers or contractors is limited pursuant to this section and the nature of, and reason for the limitation.

(3) A declaration made under subsection (2) shall not be altered.

(4) A procuring entity that decides to limit the participation of suppliers or contractors pursuant to this section shall include in the record of the procurement proceedings a statement of the reasons and circumstances on which it relied.

Due diligence

29. (1) A procuring entity shall ensure that suppliers and contractors—

- (a) have the legal capacity to enter into the procurement contract;
- (b) are not insolvent, in receivership, bankrupt or being wound up, their affairs are not being administered by a court or a judicial officer, their business activities have not been suspended and they are not the subject of legal proceedings for any of the foregoing;
- (c) have not, and their directors or officers have not, been convicted of any criminal offence;
- (d) have fulfilled their obligations to pay all required taxes and contributions in Trinidad and Tobago;
- (e) have the necessary professional and technical qualifications and competence, financial resources, equipment and other physical facilities, managerial capability, reliability, experience and personnel to perform the procurement contract; and
- (f) meet relevant industry standards.

(2) Subject to the right of suppliers or contractors to protect their intellectual property or trade secrets, a procuring entity shall require suppliers or contractors to provide appropriate documentary evidence or other information to satisfy itself that the suppliers or contractors are qualified in accordance with subsection (1).

(3) Any requirement established pursuant to this section shall be set out in the pre-qualification or pre-selection documents, if any, and in the solicitation documents and shall apply equally to all suppliers or contractors.

(4) A procuring entity shall evaluate the qualifications of suppliers or contractors in accordance with the qualification criteria specified in subsection (1) and procedures set out in the pre-qualification or pre-selection documents, if any, and in the solicitation documents.

(5) Notwithstanding subsection (4), a procuring entity may require the supplier or contractor presenting the successful submission to certify on oath that the documentary evidence provided to demonstrate his qualifications for the particular procurement is true and correct.

(6) A procuring entity shall disqualify a supplier or contractor if the information submitted concerning the qualifications of the supplier or contractor was materially inaccurate or materially incomplete so as to constitute a misrepresentation.

(7) A procuring entity may disqualify a supplier or contractor if the information submitted concerning the qualifications of the supplier or contractor was inaccurate or incomplete in any respect and the supplier or contractor fails to promptly remedy the inaccuracy or incompleteness upon the request of the procuring entity.

(8) A procuring entity may require a supplier or contractor that was pre-qualified in accordance with this Act to demonstrate his qualifications again in accordance with the same criteria used to pre-qualify such supplier or contractor.

(9) A procuring entity shall disqualify any supplier or contractor who, without reasonable cause, fails to demonstrate his qualifications when requested to do so.

(10) A procuring entity shall promptly notify each supplier or contractor who is requested to demonstrate his qualifications again as to whether or not he has done so to the satisfaction of the procuring entity.

Guidelines and handbooks in relation to public procurement

- 30.** (1) A procuring entity shall comply with—
- (a) such general guidelines in relation to public procurement as the Office may issue;
 - (b) such special guidelines in relation to public procurement as the Office may approve for that procuring entity; and
 - (c) such handbooks in relation to public procurement as the Office may approve for that procuring entity for the purposes of ensuring compliance with this Act and guidelines under paragraphs (a) and (b).
- (2) Special guidelines under subsection (1)(b)—
- (a) shall be prepared by the procuring entity and submitted to the Office for its approval; and
 - (b) may provide that general guidelines under subsection (1)(a) shall apply to a procuring entity subject to such exemptions or amendments as are specified in the special guidelines.
- (3) Handbooks under subsection (1)(c) shall be prepared by the procuring entity and submitted to the Office for its approval.

Splitting of procurement

31. A procuring entity shall not split procurement requirements for a given quantity of goods, works or services to avoid obligations under the Act.

Estimation of the value of procurement

32. (1) A procuring entity shall not divide its procurement or use a particular valuation method for estimating the value of procurement so as to limit competition among suppliers or contractors or otherwise avoid its obligations under this Act.

(2) In estimating the value of procurement, a procuring entity shall include the estimated maximum total value of the procurement contract, or of all procurement contracts envisaged under a framework agreement over its entire duration, taking into account all forms of remuneration.

33. (1) A procuring entity may cancel ^{a Cancellation of the procurement} procurement—

- (a) at any time prior to the acceptance of the successful submission; or
- (b) after the successful submission is accepted under the circumstances referred to in section 35(6).

(2) A procuring entity shall not open any tenders or proposals after taking a decision to cancel the procurement.

(3) The decision of a procuring entity to cancel a procurement and the reasons for its decision shall be included in the record of the procurement proceedings and promptly communicated to any supplier or contractor who presented a submission.

(4) A procuring entity shall promptly publish a notice of the cancellation of the procurement in the same manner and place in which the original information regarding the procurement proceedings was published, and return any tenders or proposals that remain unopened at the time of the decision to the respective suppliers or contractors.

34. (1) Where a procuring entity is of the opinion that a submission is abnormally low, it shall request, in ^{Rejection of abnormally low submissions} writing from the supplier or contractor, details of the submission that gives rise to concerns as to the ability of the supplier or contractor to perform the procurement contract.

(2) Where a procuring entity, having taken into account any information provided by the supplier or contractor following its request under subsection (1) and the information included in the submission, is still of the opinion that the price, in combination with other constituent elements of the submission, is abnormally low in relation to the subject matter of the procurement

and raises concerns with the procuring entity as to the ability of the supplier or contractor who presented that submission to perform the procurement contract, the procuring entity may reject the submission.

(3) The decision of a procuring entity to reject a submission in accordance with this section, the reasons for that decision, and all communications with the supplier or contractor under this section shall be included in the record of the procurement proceedings and the decision of the procuring entity and the reasons therefor shall be promptly communicated to the respective supplier or contractor.

Acceptance of the successful submission and entry into force of the procurement contract

35. (1) A procuring entity shall accept the successful submission unless—

- (a) the supplier or contractor presenting the successful submission is disqualified in accordance with section 29;
- (b) the procurement is cancelled in accordance with section 33; or
- (c) the submission found successful at the end of evaluation is rejected as abnormally low under section 34.

(2) A procuring entity shall promptly notify each supplier or contractor who presented submissions of its decision to accept the successful submission at the end of the standstill period.

(3) The notice referred to in subsection (2) shall contain, at a minimum, the following information:

- (a) the name and address of the supplier or contractor presenting the successful submission;
- (b) the contract price; and
- (c) the duration of the standstill period as set out in the solicitation documents.

(4) Subsection (2) shall not apply to awards of procurement contracts where a procuring entity determines that urgent public interest considerations require the procurement to proceed without a standstill period.

(5) The decision of a procuring entity that urgent public interest considerations exist and the reasons for the decision shall be included in the record of the procurement proceedings.

(6) Upon expiry of the standstill period or, where there is none, promptly after the successful submission is ascertained, a procuring entity shall dispatch the notice of acceptance of the successful submission to the supplier or contractor who presented that submission, unless the Office orders otherwise.

(7) Unless a written procurement contract is required, a procurement contract in accordance with the terms and conditions of the successful submission enters into force when the notice of acceptance is delivered to the supplier or contractor concerned, so, however, that the notice is dispatched while the submission is still in effect.

(8) Where the solicitation documents require the supplier or contractor whose submission has been accepted to sign a written procurement contract conforming to the terms and conditions of the accepted submission—

- (a) the procuring entity and the supplier or contractor concerned shall sign the procurement contract within a reasonable period of time after the notice of acceptance is dispatched to the respective supplier or contractor; and
- (b) the procurement contract enters into force when the contract is signed by the respective supplier or contractor and by the procuring entity.

(9) Neither a procuring entity nor the respective supplier or contractor shall take any action that interferes with the entry into force of the procurement contract or its performance during the time between the dispatch of the notice of acceptance and the entry into force of the procurement contract.

(10) If the supplier or contractor whose submission has been accepted fails to sign any written procurement contract as required or fails to provide any required security for the performance of the contract, a procuring entity shall withdraw the award and either—

- (a) select the next highest ranked submission from among those remaining in effect, in accordance with the criteria and procedures set out in this Act and in the solicitation documents; or
- (b) terminate the procurement proceedings.

(11) Notices under this section are dispatched when they are promptly and properly addressed or otherwise directed and transmitted to the supplier or contractor or conveyed to an appropriate authority for transmission to the supplier or contractor by any reliable means specified in accordance with the Regulations.

Public notice of the award of a procurement contract or framework agreement

36. (1) Upon the entry into force of a procurement contract or conclusion of a framework agreement, a procuring entity shall promptly publish on its website or in any other electronic format, notice of the award of the procurement contract or the framework agreement, specifying the name of any supplier or contractor with whom the procurement contract or framework agreement was entered into, the goods or services to be supplied, the works to be effected and, in the case of procurement contracts, the date of the award of the contract and the contract price.

(2) Where the information referred to in subsection (1) is unavailable, a complaint may be made to the Regulator.

37. A procuring entity shall submit to the Office no Report of procuring entities later than three weeks after the end of each quarter a report of all contracts awarded during the immediately preceding quarter.

38. (1) Notwithstanding any other law for carrying Use of electronic means in public procurement out the purposes of this Act, public procurement under this Act may be undertaken using electronic means.

(2) Nothing in subsection (1) shall affect the validity of procurements effected by means that were lawful before the coming into force of this Part.

39. (1) In its communications with suppliers or Confidentiality contractors or with any person, a procuring entity shall not disclose any information if non-disclosure of such information is necessary for the protection of essential security interests of the State or if disclosure of such information would be contrary to law, would impede law enforcement, would prejudice the legitimate commercial interests of the suppliers or contractors or would impede fair competition, unless disclosure of that information is ordered by the court and, in such case, subject to the conditions of such an order.

(2) Other than when providing or publishing information pursuant to this Act, a procuring entity shall treat submissions in such a manner as to avoid the disclosure of their contents to competing suppliers or contractors or to any other person not authorized to have access to this type of information.

(3) Any discussions, communications, negotiations or dialogue between a procuring entity and a supplier or contractor shall be confidential, unless the disclosure is ordered by the court or required by law.

(4) Subject to subsection (1), in procurement involving classified information, a procuring entity may—

- (a) impose on suppliers or contractors requirements aimed at protecting classified information; and

- (b) demand that suppliers or contractors ensure that their sub-contractors, directors, officers and employees comply with the requirements aimed at protecting classified information.

Prohibition of victimisation

40. A person shall not be dismissed, suspended, demoted, disciplined, harassed, denied a benefit or otherwise negatively affected because—

- (a) he, acting in good faith and on the basis of a reasonable belief, has—
- (i) notified the Director of Public Prosecutions, the Police, the Integrity Commission or the Office that his employer or any other person has contravened or is about to contravene this Act;
 - (ii) done or stated the intention of doing anything that is required to be done in order to avoid having any person contravene this Act; or
 - (iii) refused to do or stated the intention of refusing to do anything that is in contravention of this Act; or
- (b) his employer or any other person believes that he will do something described in paragraph (a).

PART IV

INVESTIGATION AND ENFORCEMENT

Complaints

41. (1) The Office may on its own initiative, or shall as a result of a complaint made under this Act, consider, inquire into and investigate any alleged breach of this Act.

(2) A person who wishes to allege or make a complaint that—

- (a) bid rigging or other forms of collusion between all or any of the interested parties to procurement proceedings has occurred; or

(b) an irregularity in procurement proceedings or a breach of this Act has occurred, may do so in writing to the Office.

(3) Notwithstanding any other written law, where a person has a reasonable belief that bid rigging or other forms of collusion between all or any of the interested parties to procurement proceedings has occurred, that person shall report the matter in writing to the Office.

(4) A person who knowingly and mischievously makes, or causes to be made, a false report to the Office or misleads the Office by giving false information or by making false statements or accusations, commits an offence and is liable on conviction to a fine of five hundred thousand dollars and to imprisonment for one year.

42. (1) Where the Office considers it necessary or desirable for the purposes of performing or exercising its functions, powers, or duties under this Act, it may, by written notice served on any person, require the person—

Power to obtain information and documents

- (a) to supply to the Office, within the time and in the manner specified in the notice, any book, record, document or information specified in the notice;
- (b) to produce to the Office, or to a person specified in the notice acting on its behalf in accordance with the notice, any book, record, document or information specified in the notice within the time and in the manner specified in the notice;
- (c) if necessary, to reproduce, or assist in reproducing, in usable form, information recorded or stored in any book, record or document within the time and in the manner specified in the notice; or

(d) to appear before the Office, or a specified person, at a time and place specified in the notice to provide information, either orally or in writing, and produce any book, record or document specified in the notice.

(2) Information supplied in response to a notice under subsection (1)(d) shall, if given in writing, be signed in the manner specified in the notice.

(3) If a book, record or document is produced in response to a notice under subsection (1), the Office, or the person to whom the book, record or document is produced may examine and make copies of the book, record or document or extracts thereof.

(4) The Office may require a person to give orally or in writing, information on oath or affirmation and may administer an oath or affirmation at any place.

(5) A person who is required to provide information under this section may be represented by counsel and may claim any privilege to which the person is entitled.

(6) Where a person who is required to appear before the Office or give information fails or refuses to appear or provide information without lawful justification, the Office may make an application to the High Court to compel the person to do so.

Investigations by the
Office

43. (1) Any officer in the service of the Office and authorised by the Regulator in writing (hereinafter referred to as an “authorised officer”) may, for the purpose of conducting an investigation into any alleged or suspected breach of this Act—

(a) examine and inquire into the affairs of a public body or person in respect of whom the investigation is being conducted;

(b) examine and make copies of, or remove from the premises, all such books, records and documents or other things relating to the

subject of the investigation, whether or not they are in the possession or control of the person in respect of whom the investigation is ordered or of any other person; or

(c) subject to subsection (3), enter the premises of a public body or person during reasonable hours.

(2) Any book, record or document removed under subsection (1)(b) shall be returned to the public body or person from whom or to the premises from which it was removed, as soon as practicable.

(3) An authorized officer shall not enter the premises of a public body or person, unless the Office first obtains, on an *ex parte* application to a Judge of the High Court, an order authorizing him to enter the premises to conduct an investigation under subsection (1).

(4) An authorized officer shall provide the Office with a full and complete written report of the investigation including any transcript of statements and any material in his possession relating to the investigation.

44. After conducting an investigation under this Act, the Office shall without delay, in writing, inform the affected parties and the Minister, the Chief Secretary or public official having responsibility for that body, of the result of that investigation and make such recommendations as it considers necessary in respect of the matter which was investigated. ^{Outcome of investigation}

45. Where, after the conduct of an investigation, the Office is satisfied that there are reasonable grounds for suspecting that an offence has been committed, it shall make a report to the Director of Public Prosecutions who may take such action as he thinks appropriate. ^{Report to Director of Public Prosecutions}

Restrictions on withholding or concealing

46. No person shall withhold, conceal, destroy or refuse to produce any book, record or document required for the purpose of an examination or investigation under this Act.

No breach of duty

47. Notwithstanding any other written law, no person shall be regarded as having breached any duty to which he may be subject by reason of his communication in good faith to the Office, of any information or opinion on a matter which is relevant to any function of the Office under this Act, whether or not in response to a request made by the Office.

Notice of adverse report

48. The Office shall not make a report which concludes that a public body or a person has failed without reasonable justification to fulfil a duty or obligation under this Act unless reasonable notice has been given to the public body or person of the alleged failure and the public body or person has been allowed full opportunity to be heard either in person or by an Attorney-at-law.

PART V

CHALLENGE PROCEEDINGS

Right to challenge and appeal

49. (1) A supplier or contractor may bring challenge proceedings where it is alleged that—

- (a) a procuring entity made a decision or took action that is not in compliance with this Act; and
- (b) the supplier or contractor has suffered or is likely to suffer loss or injury because of the decision or action of the procuring entity.

(2) Challenge proceedings may be made by way of an application for review by the Office under section 50.

(3) Subject to section 52, all hearings under this Part shall take place in public.

50. (1) A supplier or contractor may apply to the Office for review of a decision or an action taken by a procuring entity in the procurement proceedings. Application for review by the Office

(2) Applications for review shall be submitted to the Office in writing within the following time periods:

- (a) applications for review of the terms of solicitation, pre-qualification or pre-selection or of decisions or actions taken by a procuring entity in pre-qualification or pre-selection proceedings, prior to the deadline for presenting submissions; or
- (b) applications for review of other decisions or actions taken by a procuring entity in the procurement proceedings—
 - (i) within the standstill period applied pursuant to section 35(2); or
 - (ii) where no standstill period has been applied, within seven working days after the publication of the notice of the decision or action that is taken in accordance with this Act.

(3) Within three days of receiving an application for review the Office shall publish a notice of the application in at least two newspapers in daily circulation in Trinidad and Tobago and on its website or any other electronic format.

(4) The Office may, within three days of the receipt of an application for review—

- (a) order the suspension of the procurement proceedings at any time before the entry into force of the procurement contract; or
- (b) order the suspension of the performance of a procurement contract or the operation of a framework agreement that has entered into force,

if and for as long as it finds such a suspension necessary to protect the interests of the applicant.

(5) Promptly upon receipt of an application for review, the Office shall notify the procuring entity of the application and upon receipt of the notice, the procuring entity shall provide the Office with effective access to all documents in its possession relating to the procurement proceedings, in a manner appropriate to the circumstances.

(6) Within seven days of receiving an application for review the Office shall notify the procuring entity and all qualified suppliers and contractors of the application and its substance and of its decision on suspension pursuant to subsection (4).

(7) Where the Office decides to suspend the procurement proceedings, the performance of a procurement contract or the operation of a framework agreement, as the case may be, it shall specify the period of the suspension and where it decides not to suspend the procurement proceedings, it shall provide the reasons for its decision to the applicant and to the procuring entity.

(8) The Office may dismiss an application and shall lift any suspension applied, where it is of the opinion that the application is manifestly without merit or was not presented in compliance with the deadlines set out in subsection (2).

(9) The Office shall promptly notify the applicant, the procuring entity and all qualified suppliers and contractors in the procurement proceedings of the dismissal and the reasons therefor and that any suspension in force is lifted and such a dismissal constitutes a decision on the application.

(10) In making its decision with respect to an application that it has entertained, the Office may take one or more of the following actions, as appropriate:

- (a) prohibit a procuring entity from acting in a manner, or taking a decision or following a procedure, that is not in compliance with this Act;
- (b) require a procuring entity that has acted or proceeded in a manner that is not in compliance with the provisions of this Act to act, to take a decision or to proceed in a manner that is in compliance with the provisions of this Act;
- (c) confirm a decision of a procuring entity;
- (d) overturn the award of a procurement contract or a framework agreement that entered into force in a manner that is not in compliance with this Act and, if notice of the award of the procurement contract or the framework agreement has been published, direct that the notice of the overturning of the award be published;
- (e) direct that the procurement proceedings be terminated;
- (f) dismiss the application;
- (g) require the payment of compensation for any reasonable costs incurred by the supplier or contractor submitting an application as a result of an act or decision of, or procedure followed by, a procuring entity in the procurement proceedings that is not in compliance with the provisions of this Act, and for any loss or damages suffered, which shall be limited to the costs of the preparation of the submission or the costs relating to the application, or both; or
- (h) take such other action as is appropriate in the circumstances.

(11) The decision of the Office under subsection (10) shall be issued within twenty working days after receipt of the application and the Office shall

immediately thereafter communicate its decision to the procuring entity, to the applicant, to all other participants in the application for review and to all other participants in the procurement proceedings and all persons shall comply with the decision and directive of the Office.

(12) The Office shall give all its decisions and actions taken in writing and shall, no more than twenty working days after the making of its decision, provide written reasons for the decision and action taken and they shall promptly be made part of the record of the procurement proceedings, together with the application received by the Office under this section.

Rights of
participants in
challenge
proceedings

51. (1) Any supplier or contractor participating in the procurement proceedings to which the application relates, as well as any public body whose interests are or could be affected by the application, shall have the right to participate in challenge proceedings under this Part.

(2) A supplier or contractor who is notified of an application for review and who fails to participate in proceedings relating to the application is barred from subsequently challenging the decisions or actions that are the subject matter of the application.

(3) The participants in challenge proceedings under this Part shall have the right to—

- (a) be present, represented and accompanied at all hearings during the proceedings;
- (b) be heard;
- (c) present evidence, including witnesses; and
- (d) seek access to the record of the challenge proceedings subject to section 52.

52. No public hearing for the purpose of challenge proceedings shall take place and no information shall be disclosed in challenge proceedings if it would—

Grounds for confidentiality in challenge proceedings

- (a) impair the protection of essential security interests of the State;
- (b) be contrary to law;
- (c) impede law enforcement;
- (d) prejudice the legitimate commercial interests of the suppliers or contractors; or
- (e) impede fair competition.

PART VI

DISPOSAL OF STORES AND EQUIPMENT OF A PUBLIC BODY

53. This Part applies with respect to the retention and disposal of stores and equipment of a public body that are unserviceable, obsolete or surplus.

Application

54. (1) A public body shall comply with—

Guidelines and handbooks in relation to retention and disposal of public property

- (a) such general guidelines in relation to the retention and disposal of stores and equipment of a public body as the Office may issue;
- (b) such special guidelines in relation to the retention and disposal of stores and equipment of a public body as the Office may approve for that public body; and
- (c) such handbooks in relation to the retention and disposal of stores and equipment of a public body as the Office may approve for that public body for the purposes of ensuring compliance with this Act and guidelines under paragraphs (a) and (b).

(2) Special guidelines under subsection (1)(b)—

- (a) shall be prepared by the public body and submitted to the Office for its approval; and

(b) may provide that general guidelines under subsection (1)(a) shall apply to a public body subject to such exemptions or amendments as are specified in the special guidelines.

(3) Handbooks under subsection (1)(c) shall be prepared by the public body and submitted to the Office for its approval.

Disposal Committee **55.** A public body shall establish a disposal committee comprising not less than three officers for the purpose of recommending the best method of disposing of unserviceable, obsolete or surplus stores or equipment.

Procedure for disposal **56.** (1) A public body shall refer all matters relating to the disposal of unserviceable, obsolete or surplus stores or equipment to its disposal committee.

(2) A public body shall comply with subsection (1) within a reasonable time after the stores or equipment become unserviceable, obsolete or surplus.

(3) Within fourteen days after receiving the recommendations of the disposal committee, the accounting officer shall give the committee a written notice as to whether the accounting officer accepts or rejects the recommendations of the committee and where the accounting officer rejects the recommendations, he shall include in the notice written reasons for the rejection.

(4) If the accounting officer accepts the recommendations of the disposal committee, the stores and equipment shall be disposed of in accordance with those recommendations.

(5) If the accounting officer rejects the recommendations of the disposal committee, he shall, after consultation with the Minister with responsibility for the public body, determine the manner in which the

stores or equipment shall be disposed of and give the Office a copy of the notice under subsection (3) and inform the Office, in writing, of his decision under this subsection and his reasons therefor.

57. A public body shall not dispose of unserviceable, obsolete or surplus stores and equipment to an employee of the public body or a member of a board or committee of the public body except as expressly allowed under Regulations.

Prohibition of disposal within public body

PART VII

MISCELLANEOUS

58. (1) For the purposes of this section—

Ineligibility list

“ineligibility list” means a list of suppliers or contractors who shall not participate in procurement proceedings;

“senior officer” means a managing director, chief executive officer, chief operating officer, deputy managing director, president, vice-president, secretary, treasurer, chief financial officer, financial controller, general manager, deputy general manager, corporate secretary, chief accountant, chief auditor, chief investment officer, chief compliance officer or chief risk officer; and

“supplier or contractor” includes any person who is a director, manager, senior officer, partner or other similar officer or any person who purports to act in such a capacity.

(2) The Office shall be responsible for preparing and maintaining an ineligibility list in accordance with this section.

(3) The Office may add a supplier or contractor to the ineligibility list where the supplier or contractor—

- (a) consistently fails to provide satisfactory performance;
- (b) is found to be indulging in corrupt or fraudulent practices; or
- (c) is convicted of an offence under this Act.

(4) The Minister, on the advice of the Office, may make Regulations to specify the mechanism and manner for adding a supplier or contractor to the ineligibility list, including the procedure for removing a supplier or contractor from an ineligibility list.

(5) A supplier or contractor shall be accorded an adequate opportunity to be heard and to make representation before he is added to the ineligibility list pursuant to this section.

(6) Where a supplier or contractor is added to the ineligibility list pursuant to this section—

- (a) any information relating to the supplier or contractor that is stored in the Procurement Depository shall be removed; and
- (b) the fact of the addition of the supplier or contractor to the ineligibility list shall be published and communicated to all public bodies.

Conduct influencing
public officer

59. (1) For the purposes of this section, “associate”, when used to indicate a relationship with any person, means—

- (a) an entity of which that person beneficially owns or controls, directly or indirectly, either shares or securities currently convertible into shares, carrying more than twenty per cent of the voting rights;
- (b) a partner of that person acting on behalf of the partnership of which they are partners;

- (c) a trust or estate, in which that person has a substantial beneficial interest or in respect of which he serves as a trustee, legal representative or in a similar capacity;
- (d) a spouse or child of that person; or
- (e) a relative of that person if that relative has the same residence as that person.

(2) No person shall, with intent to gaining an advantage or concession for himself or any other person—

(a) offer—

- (i) any member or an associate of a member of a procuring entity;
- (ii) any consultant or an associate of any consultant providing services to a procuring entity; or
- (iii) any person or an associate of any person providing services to a procuring entity,

a gift of money or other valuable thing; or

(b) approach—

- (i) any member or an associate of a member of a procuring entity;
- (ii) any consultant or an associate of any consultant providing services to a procuring entity; or
- (iii) any person or an associate of any person providing services to a procuring entity,

with respect to any matter that is before that procuring entity or that is expected to come before that procuring entity.

(3) No member, officer or employee of a public body shall accept a gratuity in any form, any offer of employment, service or any other thing of value as an inducement with respect to an act or decision of, or

procedure followed by, the public body in connection with any procurement proceedings and a public body shall promptly reject a tender of any supplier or contractor who gives, agrees to give or offers directly or indirectly, any such inducement.

(4) A procuring entity shall not procure goods, works or services from a member of its staff or a person who has direct influence on the decision of a procuring entity.

(5) A procuring entity shall not include in a solicitation document any condition or specification which is likely to favour a particular supplier or contractor.

(6) A member of staff of a procuring entity or a person with direct influence on the decisions of a procuring entity shall declare any interest that he may have in any tender and shall, so far as possible, recuse himself from the proceedings.

(7) Where a procuring entity is satisfied that an inducement was offered, or any corrupt, fraudulent, collusive, coercive or obstructive practice was carried out in relation to a tender or proposal, the procuring entity shall reject or revoke the tender or proposal and report the matter to the Office for appropriate action.

(8) A supplier or contractor whose tender or proposal is rejected or revoked under subsection (7) shall be added to the ineligibility list, pursuant to section 58, for a period of ten years following the date of rejection or revocation of his tender or proposal.

(9) The Office shall notify, in writing, all public bodies of the disqualification of any supplier or contractor under this section.

(10) A person who contravenes this section commits an offence and is liable on conviction to a fine of one million dollars and five years' imprisonment.

60. (1) A person who—

Offence involving
collusion

- (a) is involved in, or participates in bid rigging; or
- (b) directly or indirectly influences in any manner or attempts to influence in any manner any procurement proceedings in order to obtain an unfair advantage in the award of a procurement contract,

commits an offence and is liable to a fine of five million dollars and imprisonment for ten years.

(2) A person who alters any procurement document with intent to influence the outcome of procurement proceedings commits an offence and is liable to a fine of two million dollars and imprisonment for seven years.

61. (1) Any person who contravenes a section referred to in the First Column of Schedule 1 commits an offence and is liable on conviction to the penalty specified in the Third Column of that Schedule.

Offence and penalty
Schedule 1

(2) For the purpose of this Act, a public body shall have a procurement officer who shall be responsible for public procurement and the disposal of public property for that body and shall notify the Office, in writing, of the name and designation of its procurement officer.

(3) A reference in this Act to the commission of an offence by a public body shall be construed as a reference to the commission of the offence by the procurement officer referred to in subsection (2) or an officer who purports to act in such capacity, if it is proved that—

- (a) the offence was committed with his direct consent or connivance; or
- (b) he, with knowledge, did not exercise reasonable diligence to prevent the commission of the offence.

(4) No prosecution of an offence under this Act may be instituted without the written consent of the Director of Public Prosecutions.

Immunity

62. No personal liability shall attach to any member of the Board, a committee or the staff of the Office or to any authorized officer for anything done, omitted or permitted in the course of the operations of the Office, unless it is shown that the act or omission was reckless or in bad faith.

Regulations

63. (1) The Minister may, on the recommendation of the Office, make regulations to give effect to the provisions of this Act, including regulations with respect to—

- (a) the conduct of challenge proceedings under Part V; and
- (b) the addition to, or removal from, an ineligibility list under section 58.

(2) Regulations made under this section may provide that the contravention of any regulation constitutes an offence and may prescribe penalties for any offence not exceeding a fine of one million dollars and imprisonment for five years.

(3) Regulations made under this section shall be subject to affirmative resolution of Parliament.

Repeal

64. (1) The Central Tenders Board Act is repealed save that any actions in respect of a procurement or disposal of public property which had commenced before the proclamation of this Act shall proceed as if the Central Tenders Board Act continues to have effect, and a reference to the Director of Contracts or the Central Tenders Board Act shall be construed as a reference to the Office or this Act, as the context requires.

(2) Section 28 of the Tobago House of Assembly Act is repealed.

Chap. 25:03

65. Where any procurement proceeding is in force upon the commencement of this Act, it shall be deemed to be in conformity with this Act and to the extent that the transaction would have been valid prior to the commencement of this Act, it shall be deemed to be so valid for the purposes of this Act.

Savings of certain procurement proceedings

PART VIII TRANSITIONAL

66. (1) This section applies to an officer who, on the date of assent of this Act—

Options available to public officers

- (a) holds a permanent appointment to; or
- (b) holds a temporary appointment to, and has served at least two continuous years in, a public office specified in the Schedule 2.

Schedule 2

(2) A person to whom this section applies may, within three months of the coming into force of this Act, exercise one of the following options:

- (a) voluntary retire from the Public Service on terms and conditions agreed between him or his appropriate recognized association and the Chief Personnel Officer;
- (b) transfer to the Office with the approval of the Public Service Commission on terms and conditions no less favourable than those enjoyed by him in the Public Service; or
- (c) remain in the Public Service provided that an office commensurate with the office held by him in the Public Service prior to the date of the assent of this Act, is available.

Preservation and
accrual of
superannuation
benefits

67. The superannuation benefits which have accrued to a person who exercises the option under section 66(2)(b) shall be preserved at the date of his employment by the Office and such person shall continue to accrue superannuation benefits under the Pensions Act up to the date of the establishment of the pension fund plan on the basis of salary applicable to the office which he held immediately prior to his employment by the Office under section 66.

Payment of
superannuation
benefits by the Office
prior to the
establishment of a
pension fund plan

68. (1) Where a member of staff of the Office who exercises the option referred to in section 66(2)(b) dies or retires prior to the establishment of the pension fund plan, and at the date of his death or retirement was in receipt of a salary higher than that referred to in section 67, the superannuation benefits payable to his estate or to him shall be based on the higher salary.

(2) The difference between the superannuation benefits payable on the basis of the higher salary and those payable under the Pensions Act on the basis of the salary referred to in section 66, shall be paid by the Office.

Payment of
superannuation
benefits by pension
fund plan

69. (1) Where a member of staff of the Office who exercises the option referred to in section 66(2)(b) retires or dies and is a member of the pension fund plan, he shall be paid superannuation benefits by the pension fund plan at the amount which, when combined with the superannuation benefits payable under section 67 is the equivalent to the benefits based on his pensionable service in the Public Service combined with his service in the Office and calculated at the pensionable salary applicable to him on the date of his retirement or death.

(2) For the purposes of this section, “pensionable salary” has the meaning assigned to it by the pension fund plan.

Preservation of
existing proceedings
and contracts

70. Nothing in this Act affects the validity of any proceedings commenced, or contract entered into, before the commencement of this Act, but if this Act would have been applicable to the proceedings or the contract if the proceedings had commenced, or the contract had been entered into after the commencement of this Act,

the conduct of the proceedings and the performance of the contract shall, from the commencement of this Act, be subject to such directions as the Office may issue under section 14(1)(c) for the purposes of achieving the objectives of this Act.

SCHEDULE 1

(Section 61)

OFFENCES AND PENALTIES

FIRST COLUMN	SECOND COLUMN	THIRD COLUMN
Section	Offence	Specified Penalty
31	Splitting of procurement	Summary Conviction—\$500,000 and imprisonment for one year
39	Failure of procuring entity to comply with requirements with respect to the confidentiality of information	Summary Conviction—\$500,000 and imprisonment for one year
40	Victimisation	Summary Conviction—\$500,000 and imprisonment for one year
41	Failure of a person to report instances of collusion	Summary Conviction—\$500,000 and imprisonment for one year
46	Concealing or destroying information required for an investigation	Conviction on Indictment—5 Million and 10 years imprisonment
52	Failure to comply with requirements with respect to confidentiality in challenge proceedings	Summary Conviction—\$500,000 and imprisonment for one year

SCHEDULE 2

[Section 66(1)]

PUBLIC OFFICES OF THE CENTRAL TENDERS BOARD

Director of Contracts
Deputy Director of Contracts
Assistant Director
Administrative Officer IV
Administrative Officer II
Contracts Officer III
Contracts Officer II
Contracts Officer I
Clerk IV
Accounting Assistant
Clerk III
Clerk II
Clerk I
Clerk Stenographer IV
Clerk Stenographer III
Clerk Stenographer I/II
Clerk Typists
Vault Attendant
Messenger II
Messenger I
Maid I
Cleaner I
Chaffeur I
Estate Constable
Architect II
Civil Engineer II
Mechanical Engineer
Quantity Surveyor II
Economist I
Quantity Surveyor Assistant I
Engineering Assistant II
Draughtsman I

Passed in the House of Representatives this 5th day of December, 2014.

J. SAMPSON-MEIGUEL

Clerk of the House

IT IS HEREBY CERTIFIED that this Act is one the Bill for which has been passed by the House of Representatives and at the final vote thereon in the House has been supported by the votes of not less than three-fifths of all the members of the House, that is to say, by the votes of 26 members of the House.

J. SAMPSON-MEIGUEL

Clerk of the House

Passed in the Senate this 16th day of December, 2014.

N. ATIBA-DILCHAN

Clerk of the Senate

IT IS HEREBY CERTIFIED that this Act is one the Bill for which has been passed by the Senate and at the final vote thereon in the Senate has been supported by the votes of not less than three-fifths of all the members of the Senate, that is to say, by the votes of 24 Senators.

N. ATIBA-DILCHAN

Clerk of the Senate

POLICY NO:	
Policy Area: Procurement	Section: 2
Title of Policy: Standard Procurement Methods	
Prepared By: Manager, Projects Department - Nicole Rattan	
Effective Date:	Revision Date:
Approved Date:	Approved by Chief Executive Officer: Raees Patel
Approved Date:	Approved by Board of Directors:

POLICY STATEMENT

This policy has been developed to provide guidelines and associated parameters for the procurement exercises undertaken by CISL. The content defined within this policy is in conformance with the stipulations of the State Enterprises Performance Monitoring Manual (2011) issued by the Ministry of Finance and the Public Procurement and Disposal of Public Property Act (2015). This policy also adheres to the regulations as defined within the Freedom Of Information Act (1999) and the Proceeds of Crime Act of (2000) under the Laws of the Republic of Trinidad and Tobago.

PURPOSE OF POLICY

The objective of this policy is to outline the legislative framework that is endorsed and practiced by CISL. It is geared towards eliminating practices of ad hoc processes for the acquisition of goods and services as well as ensuring transparency, accountability, value for money and economic efficiency within all procurement operations.

GENERAL POLICY

Procurement does not only entail accessing goods and services at the lowest cost from inputs to outputs. The procurement policy defined herein promotes value for money by mandating that the following be exerted in all procurement exercises undertaken by CISL's Projects Department:

- Promote innovation and sustainability
- Ascertain optimum solutions for addressing issues
- Are executed in tandem with national objectives
- Establish confirmation of funding
- Seek relevant approvals prior to initiating procurement exercises
- Conduct assessments for the best value for money to be expended

2.1 – Ethical Procurement Standards

In accordance with Section IX in Appendix B of the State Enterprises Performance Monitoring Manual, CISL strives to uphold ethical procurement standards in all undertakings.

CISL places a high level of importance on having persons conducting procurement exercises on behalf of the Company avoid inadequacies as well as the perception of such inadequacies. The integrity and credibility of the procurement system requires CISL to be impartial, fair, transparent and free of any relationships that may cause persons to be unduly partial to any service provider(s). It is up to each individual to ensure that they do not violate the spirit of procurement ethics.

Procurement ethics shall include, but may not be limited to the following considerations:

a. *Legitimate Business Need*

The procurement of Materials, Works and/or Services will be limited to those necessary to the operation as well as the mission of CISL and its corporate interests.

b. *Conflict of Interest*

Any director, officer and employee of CISL who is a Related Party to a person submitting an offer or has an interest in a company, firm, partnership or other body and/or individual submitting an offer for the supply of Materials or Works and/or Services which is the subject of consideration by and for CISL shall be required to disclose such interest as specified in the State Enterprises Performance Monitoring Manual and Section 29 (1) of the Integrity in Public Life Act 2000 and shall not take part in the consideration or discussion of the offer, nor vote on any consideration concerning such offer.

Any director, officer or employee of CISL is strictly prohibited from:

i. Directly or indirectly establishing improper business relationships with any bidder for his/her own personal benefit or the benefit of the bidder or any other person;

ii. Directly or indirectly influencing or seeking to influence the tendering process to further his/her own interest and/or the interest of the bidder or any other person;

iii. The obligation not to take part in the consideration or discussion of neither offer, nor vote on any consideration concerning such offer shall be binding for a period of two (2) years from the date such director, officer or employee ceases to have an interest.

- c. *Gifts and Tokens of Appreciation*
No director, officer or employee having official responsibility for procurement within CISL shall solicit, demand, accept, or agree to accept from a bidder, offeror, contractor or subcontractor, any payment, donation, loan, subscription, advance, deposit of money, services or anything, present or promised, that would be considered influential in the making of a decision, as specified in the State Enterprises Performance Monitoring Manual and Section 27 (1) of the Integrity in Public Life Act 2000.
- d. *Disclosure of Previous and/or Subsequent Employment*
Any director, officer or employee of CISL having official responsibility for procurement who was previously employed or accepts employment with a bidder, offeror or prospective service provider with whom he/she has dealt in any official capacity must provide written notice to CISL of his/ her past employment or intention to accept such employment.

The disclosure of previous employment shall be binding for a period of two (2) years from the date of separation from said Company.
- e. *Kickbacks*
Kickbacks involve getting something of value from a bidder, offeror, contractor or subcontractor in an attempt to influence the award of business and are strictly prohibited at CISL.
- f. *Misrepresentations*
Any director, officer or employee of CISL having official responsibility for procurement is prohibited from knowingly falsifying, concealing or misrepresenting material facts concerning a procurement transaction.
- g. *Insufficient Authorization*
No employee shall obligate CISL without having received prior written authorisation from an approved official i.e. the Manger, Projects Department as endorsed by the Chief Executive Officer or Designate. To do so shall be considered a misrepresentation of authority and the individual(s) will be subjected to disciplinary action as decided collectively by the Management Team of CISL.
- h. *Confidentiality*
All directors, officers and employees of CISL shall regard all documents and information relating to the procurement process as confidential except for the purposes of the exercise or performance of his/her functions as/when authorised by CISL unless compelled by law or an order under the law to furnish to any competent

judicial or administrative authority, a portion or the entirety of the confidential information.

The wilful violation of any of the above provisions as applicable within CISL that compromises the Company and/or brings CISL or the individual(s) into disrepute may lead to disciplinary and/or legal actions.

2.2 – Forms Of Procurement

When the determination is made by the relevant authorised personnel clearly identifying the need for the procurement of services and the confirmation of funding has been established, the most appropriate procurement method must be decided.

2.2.1 – Public or Open Tendering

Public or Open Tendering is a process whereby invitations are issued to the general public at large (i.e. local, regional and international) through advertisements or other forms of public notice such as website bulletins or media announcements. Public or Open Tendering shall be used in the following instances:

- (i) When CISL's list of prequalified service providers (i.e. contractors and consultants) does not cater or adequately cater for particular types of materials, works and/or services.
- (ii) Where it is competitively more advantageous.
- (iii) Where the terms and conditions of CISL's borrowings so require.

2.2.2 – Selective Tendering

Selective Tendering is a process whereby tenders are invited from CISL's list of service providers specifically approved by the Prequalification Committee and/or where justified, Minister's approval or the approval of relevant authorised personnel. This method may also be utilised when standardization has been approved and there is a service provider to meet the demands required. This method may also be utilised when an existing contract is being executed and the entity requires further similar works and selective tendering in the instance reflects cost effectiveness and efficiency.

The minimum number of invitees shall be ten (10) so as to allow adequate competition in the procurement process. The invitees selected shall be ten (10) prequalified firms to provide the particular materials, works and/or services. In cases where there are less than ten (10) registered service providers, all of the registered/prequalified firms shall be invited. In cases where the

procurement exercises to seek services for multiple projects are being executed simultaneously a rotational approach is to be employed. No tender deposit is required for selective tendering.

Service providers shall be continually evaluated based on the following:

- Performance inclusive of responsiveness to tender invitations
- Overall compliance with contract terms and conditions
- Current market research
- Competence as deemed by the Prequalification Committee based on the prequalification process and/or based on previous experience(s) of the firm's history working with CISL
- Shortlisted according to predefined criteria
- Specialist service provider or manufacturer established worldwide

2.2.3 – Sole Tendering

Sole Tendering occurs when only one firm is invited to submit a bid. There must be proper and plausible justification. This may justifiably occur under the following circumstances:

- During an emergency/disaster when immediate services are required.
- As a result of a Technical Agreement and other established co-operation between the Government of Trinidad and Tobago and a foreign country.
- When continuity for further work is required by an existing technical contractor and the inside knowledge gained by this contractor's performance is satisfactory to deliver the additional services. The said contractor shall prepare Technical and Price proposals on the basis of the Terms of Reference and this would be negotiated by CISL.

When sole tendering is being executed, all submissions are to be addressed to the Chairman of the Tenders Committee. All uninvited submissions are to be formally returned to the respective service provider(s).

Approval for such instances of tendering is to be granted by CISL's Board of Directors or the Minister of Finance and the Economy. Once sanctioned by CISL's Executive, the Projects Department shall provide all relevant details and a report must be submitted as soon as possible to the Minister of Finance and the Economy.

2.2.4 – Three Quote System

Three quotations may be invited within authorised limits in the sum of TT\$1M or less. The invited firm offering the lowest cost may be selected. If not, a justification must be recorded which clearly demonstrates the principles of *Value For Money, Transparency* and *Accountability* with respect to the final decision.

2.2.5 – Emergency Method

When an emergency situation occurs i.e. where there is a natural disaster or industrial disaster and/or the safety of people and/or property and/or plant and/or equipment and/or community and/or environment are in jeopardy such that it requires immediate action, the most senior Company official on duty, if unable to contact the person(s) with the appropriate authority, may authorise the procurement of materials or works and/or services necessary to avert danger or to bring the situation under control.

Within two (2) working days of the termination of the emergency, a written application shall be made to the relevant financial authority for ratification of the action taken. Such application shall include but not be limited to:

- (i) A Statement of the emergency circumstance that prevailed;
- (ii) In-house estimate;
- (iii) Actual Cost, and
- (iv) Reasons for the selection of the particular service provider(s)

2.2.6 – Exemptions / Merit Awards

Merit awards for the procurement of materials, works and/or services including consultancy services shall be issued without inviting competitive bids in any of the following circumstances:

- (i) Where the materials are non-interchangeable spares or replacement parts for materials already in use.
- (ii) When the works and/or services are to be carried out on a site where the employment of another service provider may hinder the progress of work already being performed by an existing service provider, taking due account of cost effectiveness of the approach adopted.
- (iv) When the material, works and/or services represent a natural or direct continuation of an agreement previously awarded competitively and completed, taking due account of the incumbent service provider's performance and cost effectiveness of the approach adopted.

(v) Where only one (1) service provider is capable or available or identified as having the qualifications or special proficiency, experience and skill of exceptional worth, expertise and/or equipment to supply the required materials, works and/or services or is the agent/representative for the materials, works and/or services.

(vi) Where the materials, works and/or services are of an urgent and critical nature i.e. there is some measure of risk to people, property, plant, equipment or the environment or the community and the profitability of the CISL's operation demand.

(vi) When significant cost savings can be achieved by using a service provider who is familiar with a particular project due to prior similar undertakings.

(vii) Where a service provider was selected out of a competitive bidding process and, within thirty (30) days, additional items are required. All prices must be valid and repeat engagements shall not exceed TT\$10,000.00.

Prior approval shall be required for all merit awards in accordance with the Schedule of Financial Authorities. A detailed description of the materials to be purchased or works or services to be performed must be presented along with a certification of at least one of the merit circumstances listed above.

Executing Units shall prepare an In-house Estimate as well as relevant documentation, which may include the scope of works, specifications, form of bid, conditions of contract or form of agreement and any other relevant information. The service provider shall be required to submit a Bid or written proposal, which must be evaluated for validity in comparison to the In-house Estimate.

2.2.7 – Consultancy Services

CISL strives to operate in accordance with Section XIV in Appendix B of the State Enterprises Performance Monitoring Manual. With the exception of Merit Consultancy contracts, all consulting services shall be competitively tendered by CISL. Consultancy firms must be prequalified based on predefined criteria provided by the Executing Unit in addition to the normal registration credentialing process.

Individual Consultants are normally hired to carry out assignments for which the experience and qualifications of the individual are crucial to the task to be undertaken. They are selected on the basis of their qualifications for the assignment. Advertisement is not required and Consultants do not need to submit proposals in such instances.

Consultants shall be selected through comparison of qualifications of at least three (3) candidates among those who have expressed interest in the assignment or who have been approached directly by CISL. Individuals considered for comparison of qualifications shall meet the

minimum qualifications deemed relevant for the assignment and those selected by CISL shall be the best qualified and shall be fully capable of carrying out the assignment. Capability shall be assessed on the basis of academic background, experience and knowledge of the local conditions, such as local language, culture and administrative system as applicable.

2.3 – Strategic Procurement

In accordance with Section XV in Appendix B of the State Enterprises Performance Monitoring Manual, the goal of Strategic Procurement is to build relationships, seek out opportunities to deliver cost savings and efficiencies as well as to help deliver value for money.

This may include identifying potential partnerships and alliances, market capability, performance measures, stakeholders, internal organisational requirements, preliminary costs and risk management issues as well as building capabilities and adopting strategies to control cost.

CISL shall put strategies in place to analyse costs, trends, price forecasts and gather market intelligence as it relates to all undertakings in the procurement of goods and/or services.

2.4 – Procurement Records

CISL shall be responsible for the maintenance and storage/archival of procurement records and associated files including electronic files in accordance with Section 55 of the Proceeds of Crime Act 2000.

All files shall retain sufficient details to enable reconstruction of the events and decisions applicable to the process from invitation to award including all relevant documents.

CISL shall ensure that electronic files are adequately protected and backed up regularly to ensure availability and integrity of information.

A register of all contracts issued shall be maintained for a minimum of ten (10) years as mandated, the details of which shall be disclosed as required in compliance with the Freedom Of Information Act (1999) and the Public Procurement and Disposal of Public Property Act (2015) and any other legislative requirements that may become applicable to CISL's Projects Department operations.

2.5 - Compliance Requirement

The Government of the Republic of Trinidad and Tobago has agreed that the Minister of Finance review and audit contracts awarded by State Enterprises as considered necessary and appropriate.

In accordance with Section 3.1.5 of the State Enterprises Performance Monitoring Manual, CISL is required to submit to the Minister of Finance within fourteen (14) days following the end of each month, lists of contracts which were awarded during the month together with the value of each contract. Tender rules and any amendments must also be submitted to the Minister of Finance for approval.

POLICY STAKEHOLDERS

All employees must observe the regulations set out within this policy. MANAGEMENT shall be responsible for communicating and implementing this policy.

CONTACTS

- i. MANAGER, PROJECTS DEPARTMENT
- ii. CHIEF EXECUTIVE OFFICER