

**T T F T C**

**TRINIDAD AND TOBAGO FAIR TRADING COMMISSION**

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## Administrative Report

For The Financial Year Ended September 30, 2015

**REPORT ON THE OPERATIONS OF THE FAIR TRADING COMMISSION (FTC)  
IN ACCORDANCE WITH SECTION 43 (B) OF THE FAIR TRADING ACT  
FOR THE FINANCIAL YEAR ENDED SEPTEMBER 30, 2015**

The Annual Report 2015 delves into the operations of the Fair Trading Commission ("the FTC") for the year in question and is designed to present an overview of the various aspects of the work of the FTC in fiscal 2015. The report is initiated with background information of the FTC which includes the reasons for its establishment, the FTC's mandate and a summary of its work during the financial year including recommendations to enable the FTC to better perform its functions.

The report also details the FTC's core values as well as its present and proposed organizational structure. It also provides insight into the strategic direction undertaken to steer the FTC towards its objective of creating a Fairer Trinidad and Tobago. The FTC's achievements are also examined to provide an understanding of its performance over the past year.

The Annual Report 2015 is broken down into seven (7) chapters as follows:

- Chapter 1- Introduction and Background to the FTC
- Chapter 2- Organizational Structure
- Chapter 3- Accomplishments
- Chapter 4- Financial Operations
- Chapter 5- Human Resource Development Plan
- Chapter 6- Reporting Functions
- Chapter 7- Procurement Procedures

## Chapter 1

### Introduction and Background to the FTC

Competition policy was introduced in Trinidad and Tobago, as part of the efforts of successive governments to effect economic reforms and liberalization with the emphasis being on the need to place faith in the market with competition policy serving as a complement to other policies geared towards trade and market liberalization

The Fair Trading Act (“the Act”) was passed in 2006 and the FTC an independent Statutory Agency was established pursuant to the Act in 2014 as part of efforts to effect economic reforms with the emphasis being on the need to place faith in the market. Cabinet agreed in 2007 that a phased approach to the proclamation of the Act be adopted with Parts IV, V and VI of the Act being proclaimed to facilitate the appointment of the FTC Commissioners, the recruitment and retention of the Executive Director and key staff; the training of Commissioners and staff, the sourcing and outfitting of a venue for the FTC and the development of a public education campaign on the role and functions of the FTC. Subsequently in 2011, Cabinet approved the interim organizational structure of the FTC as set out in Chapter 2. Subsequently Part II of the Act which provides for the establishment of the FTC, its functions and powers and the offences related to the performance of these functions was proclaimed in 2012.

The FTC is the third competition agency established in the CARICOM region and is one of the more than one hundred competition agencies that are presently functioning globally. The FTC seeks to create and maintain a fairer Trinidad and Tobago for all which will be characterized by vigorous competition with the result being high quality goods and services being provided at competitive prices. The FTC prides itself in being a transparent and accountable agency that encourages the maintenance and promotion of free and fair competition in the conduct of business in Trinidad and Tobago.

The objectives of the FTC include:

1. Ensuring that all legitimate business enterprises have an equal opportunity to participate in the economy
2. Preventing anti-competitive conduct while at the same time complementing policies that promote competition
3. Raising awareness of the benefits of competition
4. Exhibiting a high level of integrity and intellect

The FTC supports competition for the following reasons:

- Increased competition is an important way for businesses to grow to efficient sizes which, in turn, serves to reduce inefficiency
- Greater efficiency better enables businesses to compete in global markets, or to compete more effectively in their domestic markets because of the desire to keep ahead of rivals.

- It brings about innovation, technological development and also promotes economic growth
- It stimulates businesses to increase their productivity and efficiency and thereby improve their market position
- It provides an incentive for businesses to perform at their best, leading to the production of a higher quality and a wider choice of goods and services at competitive prices.
- It encourages entrepreneurial activities and market entry
- It can work together with other complementary policies and strategies such as Industrial Policy and National Development Plans
- Competition law and policy are key instruments for addressing globalization, including enhancing trade and investment, resource mobilization, harnessing knowledge and reducing poverty

When the Act is fully proclaimed and brought into force, the FTC will have the power to

- Carry out investigations
- Summon and examine witnesses
- Call for, require the production of and examine documents with respect to an investigation
- Direct an enterprise to take such steps as are necessary and reasonable in the circumstances
- Take to court any business or individual who has been carrying on anti-competitive practices and has failed to take corrective measures

The FTC's vision is to be a transparent and accountable agency that encourages the maintenance and promotion of free and fair competition in the conduct of business in Trinidad and Tobago with the result being high quality goods and services being provided at competitive prices. The FTC's core values which are the inviolable set of principles and standards of conduct and performance necessary to achieve its objectives are the following:

- Accountability
- Transparency
- Consistency
- Fairness
- Commitment

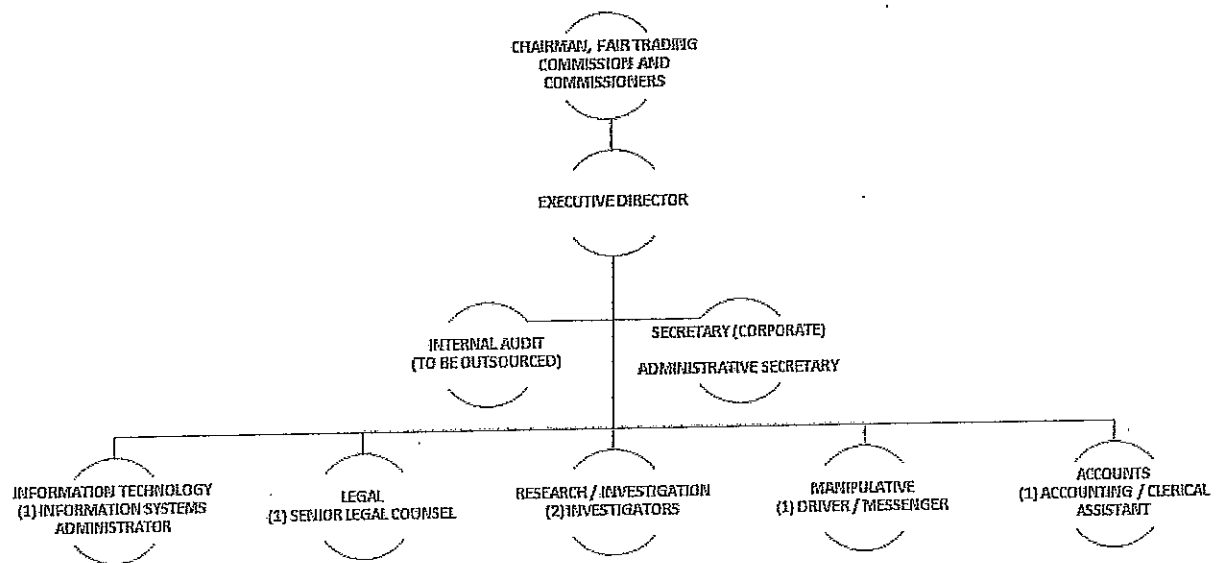
When the FTC is properly established, resourced and staffed, it should have a deterrent effect on anti-competitive conduct in Trinidad and Tobago which will lead to consumer savings and greater consumer welfare. Moreover, an effective FTC working in tandem with the Government's trade, investment and industrial policies will play a crucial part in contributing to the development of a competitive business regime and the stimulation of innovation.

## Chapter 2

### Organizational Structure

In 2011, Cabinet approved the following interim organizational structure of the FTC

#### Organisational Structure



This structure when staff are hired and trained will allow the FTC to fully carry out its functions under the Fair Trading Act and allow the FTC to pursue major policies and initiatives all of which are stakeholder driven.

For the period under review, the FTC's Board of Commissioners ('the Board') comprised the following members:

Chairman- Justice Amrika Tiwary-Reddy (Retired)

Commissioner- Dr Ronald Ramkissoo

Commissioner- Dr Anne-Marie Mohammed (Regulated Industries Commission representative).

Meetings of the FTC are held once per month with officials from the Ministry of Trade and Industry ("the Ministry") performing secretarial services.

The Board provides overall strategic direction to the FTC. In this regard, the Board may pass resolutions or grant approval to implement specific decisions to guide the FTC at a policy level

in order to ensure that the FTC's goals and objectives are achieved. It also has the responsibility to ensure that managerial performance is reviewed on a timely basis and that corrective measures are implemented where required.

The Executive Director Mr Bevan Narinesingh was appointed in November 2014, after a competitive and transparent recruitment process during the preceding reporting period. The Executive Director is the Chief Executive Officer of the FTC and manages the FTC's daily operations under the strategic direction of the Board.

Interviews were conducted for the positions of Senior Legal Officer, Corporate Secretary and Investigator. However due to the small annual amounts that have been budgeted and released to the FTC, the Executive Director remains the only full time staff member. Consequently, he has had to perform functions that would ordinarily be performed by other persons namely legal and research duties and responsibilities.

In terms of the payment of bills and other financial obligations, this is done directly through the Ministry with the checks being signed by the Ministry's Permanent Secretary. The expectation is that the FTC will directly receive funds from the Consolidated Fund through the Ministry after it becomes fully operationalized.

## Chapter 3

### Accomplishments

The FTC was faced with the challenge of attempting to undertake initiatives geared toward its establishment and full operationalization with a very lean staff and small budget.

Notwithstanding this, the FTC still has some achievements of which it can boast for 2015.

#### Accomplishments

- The Executive Director commenced work
- The Executive Director was appointed as a Member of the CARICOM Project Steering Committee to Strengthen the CSME Regulatory and Market Regime and as a Member of the CARICOM Task Force on Competition
- The FTC joined the International Competition Network which is a network of national and multinational competition authorities whose primary objective is to address practical competition enforcement and policy issues.
- Conducting study visits to the Bureau of Competition Canada, the United States Federal Trade Commission and the Department of Justice and the Jamaica Fair Trading Commission
- Presentations to a number of stakeholders including the Trinidad and Tobago Manufacturers' Association and the Trinidad and Tobago Chamber of Commerce
- Acquisition of office equipment
- Participation in the Annual Trade and Investment Conference where the FTC had an Information booth and also conducted a presentation session which was generally well received by attendees.

#### Way Forward

Upon the full proclamation of the Act, the FTC will be ready to carry out its functions. Most notably, persons or businesses will be able to immediately access the services of the FTC as the FTC will be open to the public and be able to receive complaints and conduct investigations.

The FTC will be expected to undertake highly technical and complex investigations relating, *inter alia*, to collusion, price discrimination, exclusive dealing, excessive pricing, predatory pricing, tied selling, refusal to supply, group boycotts, price fixing and abuse of a dominant position.

In order to meet its mandate, the FTC needs to significantly increase its visibility. It is crucial that the FTC begins to build visibility and promote its relevance in the upcoming years.

The challenge is to target communications to the relevant audiences that matter with the FTC building on previous efforts with the objective being to identify the means and opportunities to encourage a range of stakeholders to "*buy into*" the FTC and help it achieve its mandate.

The FTC's communications strategy will entail it leveraging existing events and functions as well as adding new elements to enhance its identity and build brand awareness with the FTC being positioned as results-oriented, focusing on deliverables and accomplishments with its activities and achievements being highlighted.

The forthcoming year will see the FTC focus on the rationalisation of its Strategic Planning process while remaining a stakeholder focussed organization. It is however clear that the FTC needs to be more fully staffed in order to meet its mandate and its expectations.



## Chapter 4

### Financial Operations

The FTC is funded through yearly subventions by the Government of Trinidad and Tobago through the Ministry. It should be noted that the FTC does not have its own bank account. Consequently, all unspent allocations are returned at the end of the fiscal year to the Consolidated Fund.

The development of the FTC's budget is based on the organization's mandate, expected operational expenditure and its goals and objectives projected for the particular year. Formulation of the budget for the coming year is also done in consideration of actual income and expenditure from the previous year.

The development of the budget has been the purview of the Executive Director. The formulated budget is reviewed and approved by the FTC's Board, then forwarded to the Corporation Sole and the Line Ministry for their further review.

In Fiscal year 2014-2015, the Commission received a budget of Two Million Dollars (\$2,000,000) which was used to pay staff, Commissioner stipends, to buy equipment and books, to host internal meetings, to host a booth at the Trade and Investment Conference, to attend international meetings and to train staff.



**REPORT OF THE AUDITOR GENERAL OF THE REPUBLIC OF TRINIDAD AND TOBAGO ON THE FINANCIAL STATEMENT OF THE FAIR TRADING COMMISSION FOR THE YEAR ENDED SEPTEMBER 30, 2015**

Section 43 (2) of the Fair Trading Act, Chapter 81:13 requires the Auditor General to audit the accounts of the Fair Trading Commission. The accompanying financial statement of the Fair Trading Commission comprised of a Statement of Income and Expenditure and Notes to the financial statement numbered 1 to 7.

**MANAGEMENT'S RESPONSIBILITY FOR THE FINANCIAL STATEMENT**

2. The management of the Fair Trading Commission is responsible for the preparation and fair presentation of these financial statement in accordance with cash basis of accounting, and for such internal control as management determines is necessary to enable the preparation of financial statement that is free from material misstatement, whether due to fraud or error.

**AUDITOR'S RESPONSIBILITY**

3. The Auditor General's responsibility is to express an opinion on these financial statement based on the audit. The audit was conducted in accordance with auditing standards which require that ethical requirements be complied with and that the audit be planned and performed to obtain reasonable assurance about whether the financial statement is free from material misstatements.

4. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statement. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatements of the financial statement, whether due to fraud or error. In making those risk assessments, the auditor considers internal controls relevant to the entity's preparation and fair presentation of the financial statement in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal controls. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by management, as well as evaluating the overall presentation of the financial statement.

5. It is my view that the audit evidence obtained is sufficient and appropriate to provide a basis for the opinion.

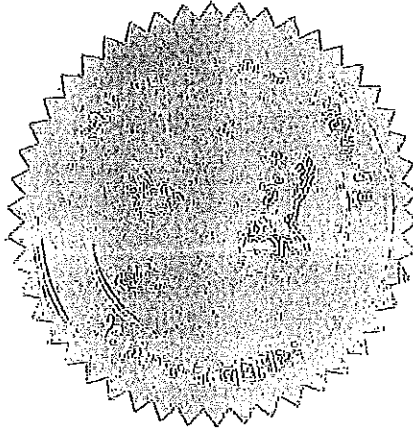
OPINION

6. In my opinion the financial statement present fairly, in all material respects, the financial performance of the Fair Trading Commission for the year ended September 30<sup>th</sup> 2015 and is in accordance with the basis of accounting at Note 2 to the financial statements.

SUBMISSION OF REPORT

7. This Report is being submitted to the Speaker of the House of Representatives, the President of the Senate and the Minister of Finance in accordance with the provisions of sections 116 and 119 of the Constitution of the Republic of Trinidad and Tobago.

14<sup>TH</sup> JULY, 2017  
PORT OF SPAIN



*MAJ*  
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AUDITOR GENERAL

SS  
20170714

**FAIR TRADING COMMISSION**  
**STATEMENT OF INCOME AND EXPENDITURE**  
**FOR THE YEAR ENDED SEPTEMBER 30, 2015**

	Note	For the Year Ended 30/09/2015 TT\$	For the Three Months Ended 30/09/2014 TT\$
<b>INCOME</b>			
Government Subvention	3	1,500,000.00	262,000.00
<b>TOTAL INCOME RECEIVED</b>		<u>1,500,000.00</u>	<u>262,000.00</u>
<b>EXPENSES</b>			
Salaries (including NIS contributions)	4	494,983.47	-
Commissioners' Fees and Travelling Allowances	5	216,000.00	36,000.00
Advertisements for vacant positions	6	17,505.59	35,750.63
Training of Commissioners		-	7,316.52
Training		7,000.52	-
Psychometric Testing for shortlisted Executive Director Candidates		-	5,750.00
Travel and Study Visits	7	419,801.00	-
Promotional Material		19,423.00	-
Computer and IT Equipment		18,726.43	-
Books		3,980.79	-
Trade and Investment Convention		4,887.50	-
Catering Services		5,798.47	-
<b>TOTAL EXPENSES</b>		<u>1,208,106.25</u>	<u>84,817.15</u>
<b>UNSPENT BALANCE</b>		<u>291,893.75</u>	<u>177,182.85</u>

The Notes attached on pages 2 - 5 form an integral part of the financial statement.

Executive Director - Bevan Narinesingh

*Bevan Narinesingh*  
Signature

22/11/2017  
Date

Chair of the  
Fair Trading  
Commission

- Justice Amrika Tiwary-Reddy

*Amrika Tiwary-Reddy*  
Signature

20.1.17  
Date

**FAIR TRADING COMMISSION**  
**NOTES TO THE FINANCIAL STATEMENTS**  
**FOR THE YEAR ENDED SEPTEMBER 30, 2015**

**1. BUSINESS ACTIVITY**

- (a) The Trinidad and Tobago Fair Trading Commission is an independent statutory body established pursuant to the Fair Trading Act, Chapter 81:13 ("the Act"). The Commission is responsible for implementing and administering the Act.

Its main purpose is to promote and maintain effective competition throughout the economy and to ensure that competition is not distorted, restricted or prevented.  
The functions of the Commission are inter alia to—

- (a) carry out subject to Section 9, on its own initiative or at the request of any interested person such -
- (i) investigations in relation to the conduct of business, as will enable it to determine whether any enterprise is engaging in business practices in contravention of this Act and the extent of such practices; and
  - (ii) other investigations as may be requested by any interested person or as it may consider necessary or desirable in connection with matters falling within the provisions of this Act;
- (b) advise the Minister on such matters relating to the operation of this Act, as it thinks fit or as may be requested by the Minister; and
- (c) investigate on its own initiative or at the request of any person adversely affected and take such action as it considers necessary with respect to the abuse of a monopoly power by any enterprise.
- (b) The President appoints the Fair Trading Commission's Commissioners pursuant to Section 26 (3) of the Act. Commissioners are selected from among persons of proven competence and experience in the fields of law, economics, accountancy, business, management or other relevant professions. Three Commissioners were appointed by the President on June 16, 2014 for a period of three years. Under Section 31 of the Act, a Commissioner shall, in respect to his office be paid a remuneration and allowances as the President may determine.
- (c) The Commission was established under Section 4 of the Act for the purpose of performing such duties and functions as are conferred upon it by the Act and by any other written law and is a body corporate constituted in accordance with Part IV. The Commission commenced operations on July 1, 2014 and held the first Commissioners' meeting on July 31, 2014.

**FAIR TRADING COMMISSION**  
**NOTES TO THE FINANCIAL STATEMENTS**  
**FOR THE YEAR ENDED SEPTEMBER 30, 2015**

**1. BUSINESS ACTIVITY (Continued)**

(d) In the financial year the Commission had no accounting staff. The Accounting functions were performed by the line Ministry (the Ministry of Trade and Industry).

The Commission under Section 35 (1) of the Act shall appoint for a term not exceeding five years on such terms and conditions as may be approved by the Minister, an Executive Director who shall be the Chief Executive Officer of the Commission. The Executive Director was appointed on November 3, 2014.

**2. ACCOUNTING POLICIES**

The Financial Statement has been prepared using a Cash Basis of Accounting.

**3. GOVERNMENT SUBVENTION**

The Government Subvention for the Fair Trading Commission for the financial year ended September 30, 2015 is TT\$1,500,000.00. The Ministry of Trade and Industry received the said sum under Current Transfers and Subsidies, Other Transfers, Fair Trading Commission Vote -- 48/04/009/16. The Commission sought approval from the Permanent Secretary of the Ministry of Trade and Industry for releases from the Vote to meet the expenses of the Commission. This arrangement was necessary given that the Commission was not operational at the start of the financial year and no bank account was set up when the Commission commenced operation in July, 2014.

**4. SALARIES (INCLUDING NIS CONTRIBUTIONS)**

The Executive Director was the only staff member hired for the financial year 2015.

**5. COMMISSIONERS' FEES AND TRAVELLING ALLOWANCES**

The Fair Trading Commission is classified in Group B of the Board Fees and Allowance as determined by the Ministry of Finance and the Economy circular, with monthly fees and travelling allowance payable as follows:

**FAIR TRADING COMMISSION**  
**NOTES TO THE FINANCIAL STATEMENTS**  
**FOR THE YEAR ENDED SEPTEMBER 30, 2015**

**5. COMMISSIONERS' FEES AND TRAVELLING ALLOWANCES (Continued)**

Position	Fee \$	Travelling \$
Chairman	8,000.00	1,000.00
Deputy Chairman	6,000.00	750.00
Member	4,000.00	500.00

Actual payments made were for the period September, 2014 to August, 2015. Details are:

Position	Fee\$	Travelling Allowance\$	Total\$
Chairman	8,000.00 x 12 mths = 96,000.00	1,000.00 x 12 mths = 12,000.00	108,000.00
Members	4,000.00 x 12 mths x 2 Members = 96,000.00	500.00 x 12 mths x 2 Members = 12,000.00	108,000.00
<b>TOTAL</b>	<b>192,000.00</b>	<b>24,000.00</b>	<b>216,000.00</b>

**6. ADVERTISEMENTS FOR VACANT POSITIONS**

The following positions were advertised in the daily newspapers:

- Senior Legal Counsel
- Secretary (Corporate)
- Accounting/Clerical Assistant
- Investigator
- Information Systems Administrator
- Administrative Secretary
- Driver/Messenger

Applicants were shortlisted for all the positions and interviews were held for the Senior Legal Counsel, Secretary (Corporate) and Investigator. No positions were filled in 2015 due to lack of accommodation and budgetary allocation.

**7. TRAVEL AND STUDY VISITS**

The Commission attended the following study visits for the financial year:

- Canadian Competition Bureau - March 9 -- 10, 2015
- United States Federal Trade Commission - March 12, 2015
- Department of Justice- Anti-Trust Division - March 13, 2015
- Jamaica Fair Trading Commission - Sept 28-29, 2015

**FAIR TRADING COMMISSION**  
**NOTES TO THE FINANCIAL STATEMENTS**  
**FOR THE YEAR ENDED SEPTEMBER 30, 2015**

**7. TRAVEL AND STUDY VISITS**

The purpose of the study visits were to generate an exchange of experiences and a sharing of best practices between the senior officials of the relevant Host Competition Agency and the officials from the Fair Trading Commission. The meetings organized during the study visits were of a high level nature and were specifically focused on issues relating to the following:

- How to address and deal with the challenges of setting up and establishing a new Competition Commission including the handling of interactions with the relevant stakeholders;
- Advice concerning how to be effective advocates of competition policy;
- New developments in competition law and policy;
- The developing of proper performance management standards for staff; and
- How to prepare and develop proper industry studies and conduct proper investigations.



## Chapter 5

### Human Resource Development Plan

The FTC is presently undertaking a staff recruitment exercise. The objective is that when hired, staff will be trained inter alia in the areas of competition law and policy, industrial economics and forensic evidence gathering.

All posts in the organization will be filled through a transparent process based on the following steps:

- (i) Advertising of vacancy in the daily newspapers
- (ii) Sorting through of applications based on criteria agreed to by the Board
- (iii) Conducting interviews of suitable candidates who depending on the position advertised may be required to submit a written essay prior to the oral interview
- (iv) Make a selection based on the interview and evaluation process
- (v) Formerly offer the post to the most suitable candidate

Persons who are shortlisted for senior positions are also required to complete either a psychometric test administered by an independent recruitment agency or submit a written essay on a relevant topic.

Furthermore when more staff is hired the FTC intends to develop proper Performance Measurement Tools which will guide staff reviews and assessment.

## Chapter 6

### Reporting Functions

- (a) The Executive Director produces a quarterly Statement of Proposed Expenditure based on the FTC's Annual Budget as agreed to by the Ministry of Finance. This quarterly statement is used by the Executive Director to monitor and evaluate the FTC's financial performance at a glance. It is also used to report to the Board and Line Ministry on the FTC's ability to meet operating expenses with available income and helps to guide request for releases from the Ministry of Finance.
- (b) The following Reports are submitted to the Ministry and Parliament
- Summary of National Insurance Contributions (NI 187)
  - N.I.B. Statement of Contributions Due (NI 184)
  - Monthly Return of PAYE Tax & Health Surcharge Deductions
  - Monthly Income & Expenditure Report
  - Audited Financial Statements
  - Annual Budget
  - Administrative Report

## Chapter 7

### Procurement of Resources

Procurement of goods and services is conducted in accordance with the Guidelines set forth in the State Performance Guidelines Manual.

The procedure used for procurement at the FTC is the selected tender. The FTC has opted to utilize this system for the following reasons:

- A core of prequalified suppliers can be established in advance, making the overall procurement workload significantly lower than that in an open tender
- Product quality may be more easily assured through this restricted tendering system
- It is easier and faster to evaluate bidders based on proven track records, product quality and expertise known to the organization

In practice the tender procedure is as follows: the FTC sends out Request for Proposals from a list of suppliers provided by the Ministry with a requirement that there be at least three submitted quotations prior to there being any consideration or decision taken as to the successful supplier. All recommended suppliers need to first be approved by the Board with the recommendation that a formal request then be made to the Ministry for the release of funds.

It should be noted that there has not been any large scale procurement activity during the reporting period with the major items purchased being IT related equipment.

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