

**THE PUBLIC PROCUREMENT AND DISPOSAL OF
PUBLIC PROPERTY (PRE-QUALIFICATION AND PRE-
SELECTION) (NO.2) REGULATIONS, 2021**

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Legal Notice No.

REPUBLIC OF TRINIDAD AND TOBAGO

**THE PUBLIC PROCUREMENT AND DISPOSAL OF
PUBLIC PROPERTY ACT, 2015**

REGULATIONS

Made by the Minister of Finance on the recommendation of the Office of Procurement Regulations under section 63 of the Public Procurement and Disposal of Public Property Act, 2015 and subject to affirmative resolution of Parliament

**THE PUBLIC PROCUREMENT AND DISPOSAL OF
PUBLIC PROPERTY (PRE-QUALIFICATION AND PRE-
SELECTION) (NO.2) REGULATIONS, 2021**

Citation

1. These Regulations may be cited as the Public Procurement and Disposal of Public Property (Pre-Qualification and Pre-Selection) Regulations, 2021.

Interpretation

2. In these Regulations –
“invitation” means an often formal request to be present or participate;
“Office” means the Office established pursuant to section 9 of the Act; and
“Procurement Depository” means the Procurement Depository established pursuant to section 26 of the Act;

Register of pre-qualified suppliers and contractors

3. (1) A supplier or contractor shall register in the Procurement Depository and upload the required information and supporting documents, to enable a procuring entity to determine whether or not it meets the criteria for pre-qualification.

(2) A supplier or contractor shall ensure that the information submitted in the Procurement Depository is complete and accurate.

(3) Registration and pre-qualification in the Procurement Depository shall be on an ongoing basis.

4. (1) A supplier or contractor may be pre-qualified by a procuring entity for the line(s) of business and value category of goods, works and services that the procuring entity may procure where:

(a) the supplier or contractor has registered in the Procurement Depository and submitted a request for pre-qualification; or

(b) the procuring entity has issued an invitation to pre-qualify for a specified procurement proceeding pursuant to sub-regulation (4) and the supplier or contractor has made a submission in the Procurement Depository in response to the invitation.

(2) The procuring entity shall ensure that a supplier or contractor that is pre-qualified meets the requirements set out in section 29 (1) of the Act in relation to each line of business and value category of the goods, works or services offered by the supplier or contractor.

(3) In conducting its due diligence of a supplier or contractor, a supplier or contractor may be deemed to be compliant with Section 29 (1) (d) of the Act if:

(a) the supplier was not informed of the exact amount of taxes or national insurance contributions owed in such time to allow it the opportunity of fulfilling its obligations before the deadline of submitting its pre-qualifications document. In such situations, the pre-qualification process continues but approval is only granted after evidence of payment is provided.

(b) the supplier has entered into a binding agreement with the regulatory body to pay outstanding taxes or national insurance and such agreement is submitted to the entity at the time of seeking pre-qualification.

(4) Where pre-qualification is made under sub-regulation (1) (a), the procuring entity shall -

- (a) review the information submitted into the Procurement Depository and assess whether the supplier or contractor meets the requirements for pre-qualification;
- (b) ensure that information submitted in the Procurement Depository for pre-qualification meet the requirements set out in section 29(1) of the Act;
- (c) engage with the supplier or contractor, where applicable, to promptly confirm that the information in the Procurement Depository is complete and accurate.

(5) Where pre-qualification is made under sub-regulation 4 (1) (b) a procuring entity shall issue a public invitation to pre-qualify in the Procurement Depository where –

- (a) there are no pre-qualified suppliers or contractors in the Procurement Depository for the goods, works or services required; or
- (b) the number of pre-qualified suppliers or contractors in the Procurement Depository is deemed insufficient for a competitive process.

(6) A public invitation to pre-qualify in the Procurement Depository shall be published in at least one newspaper in daily circulation in Trinidad and Tobago, on the public body's website and on the Office's website.

(7) A public invitation to pre-qualify in the Procurement Depository shall also be published in international publications, where applicable.

5. (1) An invitation to pre-qualify under regulation 4(1)(b) shall contain the following information:

- (a) the name and address of the procuring entity
- (b) the contact information of the procuring entity's authorized representative;
- (c) a summary of the principal terms and

conditions of the procurement contract to be entered into as a result of the procurement proceedings, including -

Content of invitation to pre-qualify

- (i) the nature, quantity and place of delivery of the goods to be supplied;
 - (ii) the nature and location of the works to be effected;
 - (iii) the nature of the services and the location where they are to be provided; or
 - (iv) the required time for the supply of the goods, the completion of the works, or the provision of the services;
- (d) the criteria and procedures to be used for ascertaining the qualifications of suppliers or contractors and the information submitted by them;
 - (e) a declaration pursuant to section 28 of the Act, where applicable;
 - (f) deadline for submission of clarification questions;
 - (g) a statement that suppliers and contractors must register in the Procurement Depository;
 - (h) the language in which the information should be submitted;
 - (i) a statement that the submission in response to the invitation to pre-qualify must be made through the Procurement Depository; and
 - (j) the deadline for applying for pre-qualification in response to the specific invitation to pre-qualify.

Clarification of
pre-qualification
documents

6. (1) A supplier or contractor may request clarification of the pre-qualification documents within a reasonable time prior to the deadline for presenting applications to pre-qualify.

(2) The procuring entity shall respond to a request made under sub-regulation (1) within such time that will enable the supplier or contractor to present his application to pre-qualify in a timely fashion.

(3) The response to the request that might reasonably be expected to be of interest to other suppliers or contractors shall, without identifying the source of the request, be communicated to all suppliers or contractors to whom the procuring entity provided the pre-qualification documents.

(4) Where a procuring entity issues a clarification or modification of the pre-qualification requirements, it shall, prior to the deadline for presenting submissions, extend the deadline in order to afford suppliers or contractors sufficient time to take the clarification or modification into account in their respective applications.

7. (1) A procuring entity shall promptly notify each supplier or contractor, who presented an application to pre-qualify, of its decision.

Notice of pre-qualified supplier or contractor

(2) Where a procuring entity decides not to pre-qualify a supplier or contractor it shall provide the supplier or contractor with written reasons for its decisions.

8. A procuring entity shall only invite suppliers or contractors who are pre-qualified in the Procurement Depository to participate in procurement proceedings.

Pre-qualified suppliers or contractors to participate in procurement proceedings

9. (1) A public body may engage in pre-selection proceedings for procurement which it requires.

Pre-selection of suppliers

(2) Where the list of pre-qualified suppliers or contractors is prohibitively lengthy and would result in the public body spending an inordinate amount of time on the evaluation of submissions, the procuring entity may, at a minimum, pre-select suppliers or contractors on the basis of the following:

- (a) geographical location;
- (b) estimated contract value;
- (c) specialized nature of the goods, works or services; or
- (d) previous procurement history

(3) Without prejudice to sub-regulation (2), the procuring entity may consider other criteria as determined by the nature of the procurement exercise.

(4) Additionally, or alternatively, as may be appropriate, a procuring entity may invite all pre-qualified suppliers or contractors in the specific area of procurement to participate in the pre-selection proceedings.

(5) A procuring entity shall issue a public invitation for pre-qualification in accordance with the pre-qualification criteria set out in regulation 4 where a high-value or specialized procurement is involved and the conditions set out under sub-regulation 4(4) apply.

Invitation for pre-selection

10. (1) An invitation for pre-selection shall specify the minimum and maximum number of suppliers or contractors that would be invited to make a submission.

(2) The invitation for pre-selection shall be issued as a pre-requisite to a specific procurement.

Assessment for pre-selection

11. Pre-selected suppliers or contractors would subsequently be assessed against additional scoring criteria relevant to the pre-selection, to which a maximum and minimum score would be applied and the suppliers or contractors would be ranked in accordance with the overall scores obtained.

Pre-selection scoring criteria

12. The pre-selection scoring criteria shall, where applicable, include but not be limited to the following:

- (a) the supplier's or contractor's relevant experience;
- (b) the qualifications of the key members of staff proposed;
- (c) managerial capability, reliability, experience to perform the specific contract;
- (d) transfer of knowledge, if such transfer is relevant to the procurement or is a specific part of the terms and conditions of the procurement;
- (e) the extent of participation by Trinidad and Tobago nationals in the provision of the services, where applicable;
- (f) environmental conditions for sustainable procurement and sustainable development;
- (g) requirement for contributing to local industry development;
- (h) such other requirement specific to the procurement;

13. The number of pre-selected suppliers or contractors who have achieved the required score following the pre-selection evaluation exercise, shall be invited to make submissions.

Pre-selected suppliers or contractors to be invited to participate in procurement proceedings

Dated this day of , 2021.

Minister of Finance

Approved by the Senate this day of , 2021.

Clerk of the Senate

Approved by the House of Representatives this day of , 2021.

Clerk of the House