

THE PUBLIC PROCUREMENT AND DISPOSAL OF
PUBLIC PROPERTY (REVIEW BOARD) REGULATIONS, 2024

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LEGAL NOTICE NO. 99

REPUBLIC OF TRINIDAD AND TOBAGO

THE PUBLIC PROCUREMENT AND DISPOSAL OF
PUBLIC PROPERTY ACT, 2015

REGULATIONS

MADE BY THE MINISTER UNDER SECTION 51F OF THE PUBLIC
PROCUREMENT AND DISPOSAL OF PUBLIC PROPERTY ACT AND
SUBJECT TO NEGATIVE RESOLUTION OF PARLIAMENT

THE PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC
PROPERTY (REVIEW BOARD) REGULATIONS, 2024

PART I

PRELIMINARY

1. These Regulations may be cited as the Public Procurement and Disposal of Public Property (Review Board) Regulations, 2024. Citation

2. In these Regulations —

Interpretation

“applicant” means a person who makes a request;

“chairman” means the chairman of the Review Board appointed pursuant to section 51C of the Act;

“mediation” includes all forms of facilitation, settlement conferences and other forms of negotiation utilized for the purpose of resolving a conflict;

“Office” means the Office of Procurement Regulation established under section 9 of the Act;

“request” means a request for a review of an order or decision of the Office pursuant to section 51G of the Act;

“respondent” means a party to the review, other than the applicant;

“Review Board” means the Public Procurement Review Board established under section 51A of the Act;

“Review Manager” means the person responsible for managing the Secretariat pursuant to regulation 11(2);

“Secretariat” means the Secretariat established under regulation 11(1); and

“the Act” means the Public Procurement and Disposal of Public Property Act, 2015.

Act No. 1 of
2015

PART II
REVIEW BOARD

Financial year	<p>3. (1) Subject to subregulation (2), the financial year of the Review Board shall be the twelve-month period ending on 30th September each year.</p> <p>(2) The first financial year of the Review Board shall be the period beginning on the day on which these Regulations come into effect and ending on 30th September, 2024.</p>
Expenses of the Review Board	<p>4. The expenses incurred by the Review Board in carrying out its functions and duties shall be a charge on the Consolidated Fund.</p>
Reports of the Review Board	<p>5. (1) The chairman shall, within three months of the end of each financial year, submit a report on the operations of the Review Board for the preceding year, to the Minister.</p> <p>(2) The Review Board shall keep proper accounts and reports of all income and expenditure of the Review Board, which shall be audited annually by either the Auditor General or an auditor appointed by the Review Board with the consent of the Auditor General.</p> <p>(3) The chairman shall submit a copy of the audited report of the Review Board to the Minister.</p> <p>(4) The Minister shall lay the reports referred to in subregulations (1) and (3) in each House of Parliament as soon as practicable.</p>
Salaries and allowances of members of the Review Board Chap. 23:52	<p>6. (1) The members of the Review Board shall be part-time members.</p> <p>(2) The offices of the members of the Review Board are not pensionable offices for the purposes of the Pension Act.</p> <p>(3) The members of the Review Board shall be paid such salary and allowances as the Minister determines.</p>
Location of Review Board	<p>7. The Review Board may sit at such times and places and in such manner in Trinidad and Tobago, including <i>via</i> appropriate electronic means, as the chairman considers necessary for the proper execution of its functions and duties.</p>
Responsibility of the chairman	<p>8. The chairman is responsible for the management of the Review Board.</p>
Declaration of interest	<p>9. (1) A member of the Review Board or a member of staff of the Review Board who has a direct or indirect interest in a matter under consideration by the Review Board 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.</p> <p>(2) Where a member of the Review Board or a member of staff of the Review Board has dealt with a matter prior to the disclosure of his interest in accordance with subregulation (1), the decision taken with respect to the matter shall be null and void.</p>

10. A member of the Review Board or a member of staff of the Review Board who, in the performance of his duty, receives information and makes a record of, divulges or communicates the information, other than in the performance of his duty, commits an offence and is liable on summary conviction to a fine of thirty thousand dollars and imprisonment for two years. Confidentiality

PART III

STAFF OF THE REVIEW BOARD

11. (1) There is established a Secretariat under the Review Board, which shall be responsible for the day-to-day operations of the Review Board. Establishment of Secretariat

(2) The Secretariat shall be managed by a Review Manager who shall be accountable to the Review Board.

(3) The terms and conditions and salaries and allowances of the Review Manager shall be determined in accordance with regulation 13.

12. The Secretariat shall be responsible for—

- (a) keeping the books, files and other records of the Review Board and ensuring that the appropriate entry is made; Responsibility of the Secretariat
- (b) retaining custody of documents filed in proceedings;
- (c) keeping an account of, and providing a receipt for, the fees and other money paid to the Review Board;
- (d) assessing costs ordered by the Review Board; and
- (e) producing any book, file or other record in its possession to an officer authorized by the Auditor General.

13. The staff of the Review Board is to be—

- (a) appointed on such terms and conditions; and
- (b) paid such salary and allowances,

Staff of the
Review Board

as recommended by the Review Board and approved by the Minister.

14. (1) A public officer or any person in the employ of a 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 Review Board. Secondment

(2) Where a secondment is effected pursuant to subregulation (1), the Review Board 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 shall not exceed three years.

Advisor to
the Review
Board

15. Where the Review Board requires the assistance of a person with technical or special knowledge, in an advisory capacity, on a temporary basis, it may employ such person on such terms and conditions as it determines.

PART IV

PROCEEDINGS OF THE REVIEW BOARD

Sittings of the
Review Board

16. (1) The quorum for the sitting of the Review Board shall be two members, one of whom shall be the chairman.

(2) At a sitting of the Review Board, the chairman shall have a casting vote.

Computation
of time

17. (1) Where a period of time is expressed as a number of days, the period of time is to be computed as clear days.

(2) Where the period of time for conducting business with the Review Board expires on a day on which the Review Board is not operating, then the period of time extends to 4.00 p.m. on the next day on which the Review Board operates.

(3) Where any act is required to be done, other than at the office of the Review Board, on a Saturday, Sunday, public holiday, Carnival Monday or Carnival Tuesday, it may be done by 4.00 p.m. on the next following day that is not a Saturday, Sunday, public holiday, Carnival Monday or Carnival Tuesday.

Request for
review
Schedule 1

18. (1) A request shall be made in the application form set out in Schedule 1 and either submitted electronically or at the office of the Secretariat.

(2) Where the application form is to be submitted electronically, the original application form and one copy of all relevant supporting documents, including the written decision of the Office to be reviewed, shall be submitted.

(3) Where the application form is to be submitted at the office of the Secretariat, the original application form and four copies of all relevant supporting documents, including the written decision of the Office to be reviewed, shall be submitted.

Schedule 2

(4) The application form shall be accompanied by the payment of the prescribed fee, set out in Schedule 2.

Effect of
request

19. A request does not operate as a stay of proceedings on the decision of the Office, unless it is so ordered by a court.

Service of
request

20. (1) The Secretariat shall, within three days of receipt of a request, submit a copy of the request together with a copy of all the relevant documents to—

(a) the respondent; and

(b) such other persons as the Review Board directs.

(2) Notwithstanding subregulation (1), the Review Board may dismiss a request where the request is not submitted within the time limit for making a request set out in section 51G of the Act and shall inform the applicant of its decision.

21. (1) An applicant may withdraw the whole or part of his request without the permission of the Review Board. Withdrawal of request

(2) Where an applicant wishes to withdraw the whole or part of his request he shall—

- (a) prepare the withdrawal in the form set out in Schedule 3; Schedule 3
- (b) serve the withdrawal on every other party to the proceeding; and
- (c) file the withdrawal with the Review Board, together with the information related to the service of the withdrawal.

(3) Unless the Review Board orders otherwise, an applicant who withdraws the whole or part of his request is liable for costs as determined by the Review Board which the party against whom the request was withdrawn incurred on or before the withdrawal was served.

22. The Review Board may grant leave to—

Intervention

- (a) any person in the procurement proceedings; or
- (b) any public body,

with a material, direct or pecuniary interest in the review proceedings to intervene in the review proceedings and to make representations in the course of the review proceedings.

23. (1) A party to a review may appear before the Review Board either in person or *via* appropriate electronic means, and may be represented by his Attorney-at-law or an agent. Review proceedings

(2) The chairman shall preside at all sittings of the Review Board.

(3) The Review Board may order that written submissions be made in addition to or in place of oral submissions to the Review Board.

(4) Each sitting of the Review Board shall be held in public, including *via* appropriate electronic means, unless—

- (a) evidence of a sensitive nature to the parties is part of a review proceedings;
- (b) it would impair the protection of essential security interests of the State;
- (c) it would be in contravention of the law;

- (d) it would impede law enforcement;
- (e) it would prejudice the legitimate commercial interests of a supplier or contractor; or
- (f) it would impede fair competition.

(5) The Review Board shall notify the parties to a review of the date, time, place and manner set for its sitting for the review.

(6) The Review Board may proceed to hear and determine a review before it in the absence of a party to the review who was duly requested to appear before the Board and has failed to appear without reasonable excuse.

(7) During a sitting of the Review Board, it may give directions and do all such things as are necessary or expedient for a just and timely determination of the review, including the referral of the parties to the review to mediation where it is reasonably practicable.

Evidence 24. (1) At a sitting of the Review Board, the Review Board shall not be bound by the Civil Proceedings Rules, 1998 or the rules of evidence set out in the Evidence Act.

Chap. 7:02

(2) The Review Board may admit any relevant evidence, either oral or documentary, which is not privileged.

(3) The Review Board may exclude evidence if its probative value is substantially outweighed by the danger of unfair prejudice.

(4) The Review Board may inform itself on any matter which it thinks just and take into account any generally recognized scientific or technical fact, information or opinion within any area of expertise of its members or its advisors and such facts as it considers relevant, and each party to the review shall be given the opportunity of adducing evidence in regard thereto.

(5) A party to a review shall not introduce a document or other evidence which was not submitted to the Office during the challenge proceedings pursuant to Part V of the Act, unless the Review Board is of the opinion that exceptional circumstances exist which warrant the introduction of the document or other evidence.

(6) For the purposes of subregulation (2), “relevant evidence” means evidence which has the tendency to make the existence of any fact that is of consequence to the determination of the proceedings more probable or less probable than it would be without the evidence.

Decisions of 25. (1) Subject to subregulation (2), a decision of the Review Board shall be that of the majority of the members present.

Board

(2) Where a question of law arises in the course of the proceedings the opinion of the chairman shall prevail.

(3) The decision of the Review Board shall be delivered by the chairman.

26. (1) The Review Board shall produce a written record of every decision it makes. Written decision of the Review Board

(2) The written decision of the Review Board shall be signed by the chairman and a copy of the signed, written decision shall be sent to the parties to the review and to the intervenors, where applicable.

(3) The copy of the signed, written decision of the Review Board may be sent *via* electronic mail, registered mail or hand delivered.

(4) Subject to subregulation (5), the written decision of the Review Board, together with the relevant documents, shall be made available to the public within fourteen days of making its decision.

(5) A decision of the Review Board shall not be made public where it would—

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

27. (1) Where the subject matter of a request is before a court, the Review Board may dismiss the request, unless the court requires the Review Board to make a determination on the request prior to proceeding with the matter before the court. Effect of court proceedings

(2) Where a court has made a determination on a matter, which is the subject of a request, based on its merits, the Review Board shall dismiss the request.

28. (1) A party shall not be entitled to recover any cost of or incidental to the proceedings from another party unless it is so ordered by the Review Board. Payment of costs

(2) The Review Board may order that costs follow the event.

(3) Where cost is awarded by the Review Board, the Review Board may direct that the party against whom the order is made shall pay to the other party—

- (a) the cost of the other party, as assessed by the Review Manager; or
- (b) a proportion of the costs of the other party, as may be just taking into consideration such factors as the culpability, willfulness or cooperation of the other party, as assessed by either the Review Board or the Review Manager.

SCHEDULE 1

Regulation 18(1)

APPLICATION FOR REQUEST FOR REVIEW

REPUBLIC OF TRINIDAD AND TOBAGO

PUBLIC PROCUREMENT REVIEW BOARD

APPLICATION NO.

BETWEEN

..... (Party A)
(FULL NAME)

AND

..... (Party B)
(FULL NAME)

Reference No.

Request for review of the decision of the Office of the Procurement
Regulation in the matter of (Party A) vs
..... (Party B)

Reason for request for review (Grounds):
.....
.....

Name:

Address:

Contact Number:

Email address (where applicable):

Dated this day of 20.....

.....
Signature

SCHEDULE 2

Regulation 18(4)

APPLICATION FEES

<i>Value of Transaction</i>	<i>Application Fee</i>
Procurement of an estimated value exceeding one million dollars but not exceeding five million dollars	\$3,000.00
Procurement of an estimated value exceeding five million dollars	\$5,000.00

SCHEDULE 3

Regulation 21(2)

**REPUBLIC OF TRINIDAD AND TOBAGO
PUBLIC PROCUREMENT REVIEW BOARD**

APPLICATION NO.

BETWEEN

..... **(Party A)**
(FULL NAME)

AND

..... **(Party B)**
(FULL NAME)

Reference No.

NOTICE OF WITHDRAWAL

TAKE NOTICE that Party A hereby withdraws his Application /
part of its Application for Request for Review before the Review
Board filed herein on the day of, 20.....

Part of Application that is withdrawn:
.....
.....

Dated theday of, 20.....

.....
Signature

To: Party B

And To: The Review Board

Dated this 6th day of June, 2024.

C. IMBERT
Minister of Finance