

PART VI  
PROHIBITIONS

Fraud and  
corruption

72.-(1) Procuring and approving entities as well as tenderers, suppliers, contractors and consultants under public financed contracts shall proceed in a transparent and accountable manner during the procurement and execution of such contracts.

(2) Where a procuring entity or an approving authority is, after appropriate investigations, satisfied that any person or firm, to which it is proposed that a tender be awarded, has engaged in corrupt or fraudulent practices in competing for the contract in question, the entity or authority may

- (a) reject a proposal for award of such contract;
- (b) declare any person or firm ineligible for a period of ten years to be awarded a public financed contract.

(3) The procuring entity or an approving authority may, after determination by a court of law or following a special audit by the Controller and Auditor-General, that corrupt or fraudulent practices were engaged in by any person or firm during the procurement, award of contract or the execution of that contract

- (a) cancel the portion of the funds allocated to a contract for goods, works or services; and
- (b) declare any person or firm ineligible for a period of ten years to be awarded a public financed contract;

(4) Any member of the procuring entity or approving authority who engages in corrupt or fraudulent practices during the procurement proceedings or the execution of the public financed contract shall be dealt with in accordance with section 76 of this Act.

(5) The procuring entity shall, in any tender forms for public contracts, include an undertaking of the tenderer to observe the country's laws against fraud and corruption (including bribery) in competing for and executing a contract.

Conducts  
influencing  
Public  
Officers

73.-(1) No person, whether such person has made an offer or not shall, with intent to gaining any advantage or concession for himself or any other person

- (a) offer any member or an associate of a member of a tender board or its committee or any employee or an associate of an employee of a tender board or its committee or any consultant or an associate of any consultant or a person or an associate of any person providing services, a gift of money or other valuable thing; or
- (b) approach any member or any associate of a member of a tender board or its committee or any of its officer or an associate of any office with respect to any matter that is before that tender board or committee or that is expected to come before a tender board or a committee.

(2) No procuring entity, member of an approving authority or any public officer or other Government authority shall accept a gratuity in any form, any offer of employment or any other thing, service or value as an inducement with respect to an act or decision of, or procedure followed by, the procuring entity or by the approving authority in connection with any procurement proceedings or tender; and a procuring entity shall promptly reject a tender of any supplier, contractor or consultant who gives, agrees to give or offers, directly or indirectly, any such inducement.

(3) Procurement shall not be made from a public officer or associate of a public officer acting in a private capacity, either alone or as a partner in a partnership or as an officer of a company.

(4) A procuring entity shall not include in any tender document any condition or specification such as to favour anyone supplier, contractor or consultant.

(5) Any member of an approving authority or a member of its staff or of a procuring entity or member of staff of a procuring entity shall declare any interest that he may have in any supplier, contractor or consultant, and shall take no part, nor seek to influence in any way, procurement proceedings in which that supplier, contractor or consultant is involved or liable to become involved.

(6) Any tender proved to have been awarded on the basis of inducement as provided in the proceeding subsections shall be revoked forthwith and the same shall be reported to the relevant professional body for ethical proceedings.

(7) A supplier, contractor or consultant whose tender or proposal has been rejected or revoked on the grounds of inducement and corrupt practices shall not be able to qualify or pre-qualify in any procurement proceedings during the ten years following the date of the notice of such rejection or revocation.

(8) Any rejection or revocation on the grounds of inducement or corrupt practices shall be notified to the Chief Executive Officer of the Authority who shall in turn take effect to notify all Government procuring entities and approving authorities for the purposes of effecting the provisions of subsection (7).

(9) A supplier, contractor or consultant blacklisted under subsection (7) shall not be permitted to start a new supplies, contracting or consulting firm during that period.

Disclosure  
of payment  
made by  
way of  
commission  
etc.

74.-(1) A supplier, contractor or consultant, in relation to the public contract shall, within thirty days after the execution of the contract, furnish in writing to the Prevention of Corruption Bureau and the Tanzania Revenue Authority

- (a) stating particulars of any consideration given or to be given to any person or organization for the purpose of or as a commission for obtaining the contract; and
- (b) giving the names of the persons to whom and the organization to which any such consideration was or is to be given.

(2) If no such consideration is to be given to any person or organization, a statement furnished pursuant to subsection (1) shall so state;

(3) Where in relation to a public contract, a body corporate is a contractor, then

- (a) if the consideration for the contract exceeds in value or total, two percent of the contract value, the statement furnished pursuant to subsection (1)
  - (i) shall be signed by the Chief Executive of the body corporate; and
  - (ii) if the contract is a subsidiary of another body corporate, shall also be signed by the Chief Executive of the other body corporate; and
- (b) in any case other than that which is referred to in paragraph (a), the statement so furnished shall be signed by an officer of the body corporate deputed by the body corporate to do so.

Cap.212

(4) The provisions of the Companies Ordinance in relation to the determination of whether a body corporate is the subsidiary of any other body corporate shall apply.

Conduct  
of  
directors,  
servants or  
agents

75.-(1 ) Any conduct engaged in or on behalf of a body corporate

- (a) by a director, servant or agent of the body corporate within the scope of the actual or apparent authority; or
- (b) by any other person at the direction or with the consent or agreement (whether express or implied) of a director, servant or agent of the body corporate, whether giving of the direction, consent or agreement is within the scope of the actual or apparent authority of the director, servant or agent, shall be deemed, for the purposes of this Act, to have been engaged in by the body corporate.

(2) Any conduct engaged in or on behalf of a person other than a body corporate

- (a) by a servant or agent of the person within the scope of actual or apparent authority of the servant or agent; or

(b) by any other person at the direction or with the consent or agreement (whether express or implied) of a servant or agent of the first mentioned person, when the giving of the direction, consent or agreement is within the scope of the actual or apparent authority of the servant or agent,  
shall be deemed, for the purposes of this Act, to have been engaged in by the first-mentioned person.

Institution of  
criminal proceed-  
ings Cap.16 Act  
No.3 of 1971

76. The measures provided by this Act shall not preclude the institution of criminal proceedings pursuant to the Penal Code, the Prevention of Corruption Act, 1971 or any other written Law against any person discharging functions or exercising powers under this Act or regulations made under this Act.