PUBLIC PROCUREMENT Bill 2026

Arrangement of Sections

Section

PUBLIC PROCUREMENT Bill 2026

A BILL FOR AN ACT TO PROVIDE FOR THE POWERS AND RESPONSIBILITIES OF OFFICERS OF THE GOVERNMENT OF TUVALU IN UNDERTAKING PUBLIC PROCUREMENT

PART 1 PRELIMINARY

1 Short Title

This Bill may be cited as the Public Procurement Bill 2026.

2 Commencement

This Bill shall come into force on the date of publication.

3 Interpretation

In this Bill, unless the context otherwise requires:

"Act" means the Public Procurement Act;

"**Beneficial Owner**" means the natural person or persons who ultimately own or control a bidder, supplier, or contractor, or the natural person on whose behalf a transaction is being conducted.

"**call-off**" means a specific contracted delivery or order of goods, works, or services purchased by a procuring entity from a supplier under a Framework Agreement.

"**conflict of interest**" means any situation in which a public officer or other person involved in a procurement proceeding has a financial, personal, or professional interest that could improperly influence, or could reasonably be perceived to improperly influence, the performance of their duties or the outcome of the procurement proceeding

"**corrupt practices**" means any offer, payment, consideration, or benefit given or received by any person to improperly influence the actions of another person involved in a procurement proceeding, including bribery, fraud, collusion, coercion, and obstruction as defined in the Penal Code and as supplemented by the Leadership Code Act;

"**e-procurement**" means the use of electronic communications and information systems, including the internet and government digital platforms, to conduct and manage procurement proceedings, including procurement planning, supplier registration, the publication of notices, submission and evaluation of bids, award of contracts, and contract management;

"**emergency procurement**" means procurement undertaken in response to a declared state of emergency, natural disaster, or other urgent situation that poses an immediate risk to public safety, health, or the continuity of essential government services;

"**framework agreement**" means an agreement with one or more procuring entities and one or more suppliers, contractors, or service providers, the purpose of which is to establish the terms governing contracts to be awarded during a given period, in particular with regard to pricing rates or mechanism and, where appropriate, the quantity envisaged;

"**forms**" means templates that have been prepared as standard documents by the Central Procurement Unit for use by procuring entities during procurement proceedings;

"head of a procuring entity" means the Permanent Secretary of a Ministry or the Chief Executive Officer (or equivalent) of a State-Owned Enterprise;

"life-cycle costing" means the evaluation of the total cost of ownership over the entire useful life of goods, works, or services, encompassing the initial bid price, maintenance and repair costs, operational costs such as power and resource consumption, and socioeconomic and environmental costs at final disposal;

"lowest evaluated price" means the price of a substantially responsive bid that results in the lowest total calculated cost to the procuring entity after the application of any arithmetical corrections, unconditional discounts, and objective evaluation adjustments specified in the bidding documents;

"**major procurement**" means procurement estimated to cost in excess of the threshold prescribed in the Regulations;

"**Minister**" means the minister responsible for finance;

"**minor procurement**" means procurement estimated to cost not more than the threshold prescribed in the Regulations;

"**most advantageous and responsive bid**" means the bid that meets the qualification criteria, is substantially responsive to the solicitation documents, and is determined to offer the best Value for Money based on the optimal combination of price, quality, life-cycle costs, and other non-price evaluation criteria specified in the bidding documents;

“**non-consulting services**” means services other than consulting services that are contracted on the basis of a measurable physical output;

“**procurement**” means the acquisition of goods, works and non-consulting services and the recruitment of consulting services;

“**procurement plan**” means an annual plan prepared by a procuring entity that identifies all anticipated procurement requirements, estimated costs, preferred methods of procurement, and indicative timelines for the relevant financial year, linked to the approved budget;

“**procurement proposal**” means a written application by a procuring entity to commence a procurement proceeding;

“**procurement portal**” means the official government website or digital platform designated by the Minister for the publication of procurement notices, contract awards, and procurement-related information;

“Procurement Appeals Board” means the board established under section 14 of the Bill responsible for the resolution of procurement complaints and challenges;

“**Procurement Review Committee**” means the committee established under section 9 of the Act to consider the recommendations of the Central Procurement Unit on major procurement proceedings;

“**procuring entity**” means a) a Ministry or Department of the Government of Tuvalu; (b) a State-Owned Enterprise or statutory corporation; (c) a Kaupule (Local Government) established under the Falekaupule Act; or (d) any other body or unit that is the recipient of public funds and is duly authorized to apply those funds to public procurement;

“**public officer**” means a person employed in the public service of Tuvalu and any person serving under the Crown;

“**public procurement**” means procurement funded by public funds;

“**Regulations**” means the regulations promulgated by the Minister under section 18 of the Bill;

"**State-Owned Enterprise**" means a commercial or statutory entity in which the Government of Tuvalu exercises control or majority ownership.

“**supplier**” means a potential party or party to a contract for the supply of goods or non-consulting services to a public body.

"Sustainability" means the wise and ethical employment of resources, incorporating environmental, social, and economic aspects that contribute to long-term strategic national development goals. This includes climate resilience, gender equity, youth employment, circular economy principles, and consideration of whole-of-life costs.

“**value for money”** means the optimum combination of combination of whole-of-life cycle costs and quality to meet the needs of the Government.

4 Scope of application

(1) The Bill shall apply to all procurement carried out by any procuring entity of the Government of Tuvalu. A contract awarded after a procurement proceeding during which there has been serious and wilful breach of the provisions of this Bill shall not be binding upon the Government.

(2) The Minister may, by Regulations, grant procedural flexibility from the specific procurement methods and procedures established under Bill to a State-Owned Enterprise that operates commercially in a competitive market.

(3) Where a procurement is funded by a grant, loan, or other assistance from an intergovernmental or international financing institution, or through a bilateral agreement with another State, and the funding agreement expressly requires the application of the donor's or lender's own procurement rules, this Act shall not apply and the procurement shall be governed entirely by the rules of that donor or lender.

(4) The Minister may prescribe in the Regulations specific exemptions from the application of this Bill or specific Parts of this Bill. Any procurement exempted under the Regulations pursuant to this subsection shall, to the extent practicable, continue to be conducted in accordance with the core principles established in this Bill.

5 Mandatory Forms

(1) The use of all standard bidding documents, templates, manuals, and forms issued by the Central Procurement Unit shall be mandatory for all procuring entities.

(2) Any unauthorized modification of these standard documents, or the failure to use them, constitutes a strict act of non-compliance and a breach of discipline, making the procuring entity subject to administrative sanctions.

6 Responsibility

The Minister is responsible for the Bill

7 This Bill shall bind the Crown

This Bill shall bind the Crown.

8 Purpose

All public procurement proceedings shall be guided by the following core principles to ensure the optimum use of public resources:

(a) **Value for Money:** Procuring entities shall evaluate the whole-of-life costs, quality, and fitness for purpose, rather than defaulting to the lowest initial purchase price.

(b) **Economy and Efficiency:** Procurement shall be planned and executed to minimize delays, administrative burdens, and wasted resources.

(c) **Transparency:** All procurement rules, opportunities, and contract awards shall be publicly accessible.

(d) **Fair Competition:** Procurement shall foster open and fair competition among qualified suppliers, treating all equitably and without discrimination.

(e) **Integrity:** All participants shall adhere to the highest ethical standards, strictly avoiding conflicts of interest, fraud, and corruption.

(f) **Sustainable Development Outcomes:** Procurement shall be leveraged to achieve broader environmental, social, and economic benefits for Tuvalu, ensuring that government spending supports national development priorities and embodies the principles of paatagasi and kai filifil .

(g) **Proportionality**: The choice of method, timeframes, and requirements shall be proportionate to the value, risk, and complexity of the procurement, to avoid imposing unnecessary administrative or financial barriers on participants.

PART 2 INSTITUTIONAL ARRANGEMENTS

9 Procurement Monitoring and Oversight

(1) The Tuvalu Auditor-General shall provide monitoring and oversight of all procurement by:

(a) reviewing samples of recent and ongoing procurement proceedings in all procuring entities and determining whether the proceedings comply with the provisions of this Bill;

(b) reporting its findings on sample reviews to the Minister on a case by case basis; and

(c) reporting to Parliament annually on its findings during the previous twelve months, including recommendations for follow up action by the Minister where appropriate.

(2) (2) After consideration of the reports from the Tuvalu Auditor-General, the Minister shall instruct the Central Procurement Unit to take further action as appropriate.

10 Procurement Review Committee

(1) There is hereby established a Procurement Review Committee, which has the purposes of reviewing and approving all major procurement.

(2) The composition of the Procurement Review Committee shall be determined by the Minister in the Regulations.

11 Central Procurement Unit

(1) There is hereby established within the ministry responsible for finance a Central

Procurement Unit, which has the purposes of developing public procurement policy, carrying out all major and centralized procurement and other functions as prescribed by Regulation

(2) The Central Procurement Unit shall have such structure and organisation as the Minister may determine necessary for the efficient performance of its functions.

(3) The Central Procurement Unit may, subject to the conditions and financial thresholds prescribed in the Regulations, delegate its authority to execute procurement proceedings to a procuring entity.

(4) The Central Procurement Unit reserves the right to suspend or revoke any delegated procurement authority if the procuring entity demonstrates non-compliance with this Bill, the Regulations, or the specific conditions of its delegation.

12 Head of Procuring Entity

(1) The Head of a Procuring Entity shall bear ultimate accountability for the procurement performance of their respective entity and shall ensure that all procurement proceedings are conducted in strict compliance with this Bill, Regulations, and the standard bidding documents issued by the Central Procurement Unit.

(2) The Head of a Procuring Entity may formally delegate the day-to-day administration of procurement activities to a designated Procurement Officer or a certified procurement team within the entity.

13 Procurement Appeals Board

(1) There is hereby established a Procurement Appeals Board (the “Board”) as an independent body for the resolution of procurement complaints and challenges.

(2) The composition of the Procurement Appeals Board shall be determined by the Minister in the Regulations.

14 Leadership

Staff of the Central Procurement Unit, Heads of Procuring Entity, Procurement Officers, and members of the Procurement Review Committee and Procurement Appeals Board are hereby declared Leaders under the Leadership Code Act.

PART 3 PROCUREMENT PLANNING

15 Annual Procurement Planning

(1) Procuring Entities shall undertake procurement planning to mitigate supply chain risks inherent to Tuvalu’s geographic isolation, limited market capacity, and climate vulnerability, with the objective of achieving value for money and identifying opportunities to improve contributions to national development priorities. .

(2) To achieve these objectives, every Procuring Entity shall prepare an Annual Procurement Plan linked to the national budget cycle, in the format prescribed by the Regulations, and submit it to the Central Procurement Unit.

(3) The Central Procurement Unit shall publish the consolidated Annual

Procurement Plans on the national procurement portal to:

(a) maximize fair and open competition by providing the private sector with adequate advance notice to source materials and prepare competitive bids; and

(b) identify opportunities to aggregate government demand across Procuring Entities to achieve economies of scale and reduce excessive logistical and freight costs.

(4) No procurement proceedings shall be initiated unless the availability of sufficient public funds for the procurement has been confirmed and approved.

(5) A failure to plan or a lack of administrative forecasting by a Procuring Entity does not constitute an emergency and shall not be used to justify the use of emergency, direct, or non-competitive procurement methods.

16 Strategic Procurement Planning

(1) A Procuring Entity shall undertake strategic procurement planning for individual procurement proceedings prior to the issuance of any solicitation documents.

(2) The purpose of strategic procurement planning is to proactively identify the most appropriate procurement approach to achieve Value for Money. Such planning shall include, but is not limited to:

(a) a needs analysis and definition of the desired outcomes;

(b) market research to assess the capacity and readiness of local and international suppliers;

(c) the identification of supply chain, financial, and project delivery risks, and the formulation of appropriate mitigation measures;

(d) (d) an assessment of the life-cycle costs and impacts of the procurement, including the costs of acquisition, operation, maintenance, and end-of-life disposal, alongside relevant environmental and social considerations; and

(e) the justification for the selection of the procurement method.

(3) The extent, detail, and rigour of the strategic procurement planning undertaken by a Procuring Entity shall be strictly proportionate to the estimated value, technical complexity, and risk profile of the proposed procurement.

(4) The Minister shall, by Regulations, establish the financial thresholds or risk categories that mandate the preparation of a formally documented Strategic Procurement Plan for an individual project, and prescribe the templates for such plans.

17. Division into Lots

(1) A procuring entity shall not artificially split a procurement proceeding to avoid financial thresholds, limit competition, or circumvent required procurement methods.

(2) A procurement may be divided into lots to achieve the best overall value for money or facilitate participation of micro, small and medium-sized enterprises

or domestic suppliers, provided the applicable procurement method and approval authority are determined using the total aggregate value of all lots combined.

PART 4 PROCUREMENT METHODS

18 Procurement Methods For Goods, Works and Non-Consulting Services

(1) For Goods, Works and Non-Consulting Services, a procuring entity may conduct public procurement by means of:

(a) **Open Competitive Bidding (OCB)**: The default method for procurements exceeding standard thresholds. It is a single-stage competitive bidding process that shall be publicly advertised to ensure equal access to all eligible bidders. For large or complex civil works, this may be preceded by a Prequalification stage;

(b) **Two-Stage Open Competitive Bidding**: Used when technical or contractual aspects cannot be fully defined initially, or when the complex nature of the procurement requires the procuring entity to discuss various solutions with bidders before finalizing specifications;

(c) **Open Shopping (OS):** A single-stage request for quotations that is publicly advertised to provide equal access to all eligible and qualified bidders.

(d) **Limited Shopping (LS):** A single-stage request for quotations sent directly to as many bidders as practicable, but at least three but does not require public advertising.

(e) **Direct Contracting (DC)**: A non-competitive procurement method restricted to specific circumstances specified by Regulation.

(2) Except as otherwise provided in this Bill a procuring entity shall mandate Open Competitive Bidding as the default method of procurement. Alternative methods may only be used when the specific, justified conditions set out in the Regulations are met, and the justification shall be documented in the procurement record;

(3) In addition to the methods specified in subsection (1), a procuring entity may engage in specialized procurement arrangements to achieve Value for Money, , provided such arrangements are conducted in accordance with the conditions and procedures prescribed in the Regulations..

19 Procurement Methods For Consulting Services

(1) For Consulting Services, a procuring entity may conduct public procurement by means of:

(a) **Quality and Cost Based Selection** (QCBS): The default competitive process among short-listed consultants that evaluates both the quality of the technical proposal and the cost of the services to select the successful consultant.

(b) **Quality Based Selection** (QBS): Similar to QCBS, but the ranking and selection of the consultant are based entirely on technical merit. This is used for complex, highly specialized assignments where innovation is needed or assignments with a high downstream impact where expertise is paramount regardless of cost.

(c) **Selection Based on Consultants' Qualification**s (CQS): Used for smaller assignments or emergency situations where preparing and evaluating full, competitive proposals is not justified. The entity requests expressions of interest and selects the most qualified firm to submit a combined technical and financial proposal.

(d) **Single Source Selection** (SSS): A non-competitive method used only in exceptional cases specified by Regulation, which includes a natural continuation of a previous assignment, rapid selection for a catastrophe/emergency, very small assignments, or when only one consultant possesses exceptional worth for the task.

(e) **Selection of Individual Consultant** (ICS): Used specifically when the qualifications and experience of an individual are the paramount requirement, a team is not needed, and no corporate professional support is required.

20 Framework Agreements

(1) Procuring entities may engage in a framework agreement procedure for goods, works, non-consulting services, and consulting services where the need for the subject matter is expected to arise on an indefinite or repeated basis, or on an urgent basis during a given period of time.

(2) The term of a framework agreement shall be subject to a maximum duration, as prescribed by the Regulations.

(3) The award of a framework agreement, and any subsequent call-off contracts awarded under it, shall adhere to the principles of competition and transparency established in this Bill. Detailed procedures for open and closed framework agreements, and mini-competitions, shall be prescribed in the Regulation.

PART 5 PROCUREMENT PROCEDURES

21. Supplier Eligibility

(1) Subject to subsection (4), a procuring entity shall not discriminate against suppliers. Suppliers shall possess the legal, financial, and technical capacity to perform the contract and have fulfilled their tax and statutory obligations in Tuvalu.

(2) Procuring entities shall exclude any supplier convicted of a criminal offense relating to professional conduct or corruption, or who is currently suspended or debarred under the law.

(3) Procuring entities shall evaluate qualifications based strictly on pre-disclosed criteria and may disqualify any supplier who submits false, materially

inaccurate, or materially incomplete information.

(4) The Minister may prescribe in the Regulations the mechanisms to grant a margin of preference to domestic suppliers or to joint ventures and consortiums featuring local participation, or to restrict participation exclusively to domestic suppliers, provided the precise eligibility criteria and application methods are clearly stated in the bidding documents.

22. Bidding Procedures

(1) To ensure effective competition, a procuring entity shall invite participation in open procurement through widely disseminated public notices, unless an alternative restricted method is legally justified and recorded.

(2) A procuring entity shall use mandatory standard bidding documents issued by the Central Procurement Unit, which shall contain all necessary evaluation criteria, minimum requirements, and proposed contract conditions.

(3) A procuring entity shall provide sufficient time for suppliers to prepare and submit applications to pre-qualify and responsive bids, taking into account the nature and complexity of the procurement. The specific minimum timeframes for each procurement method shall be prescribed by the Minister in the Regulations

(4) Technical specifications shall be objective, functional, and generic, setting out the relevant technical, quality, functional and performance characteristics. Procuring entities shall not prepare, adopt, or apply any technical specification with the purpose or effect of unfairly limiting competition. Reference to a particular trademark, brand, patent, design, or specific origin is not permitted unless there is no other precise way to describe the requirement, in which case the words "or equivalent" shall be explicitly included and equivalent submissions accepted.

(5) A procuring entity may cancel a procurement proceeding at any time prior to the acceptance of the successful bid. A procuring entity shall incur no liability towards bidders solely by virtue of cancelling the procurement, unless the cancellation is a consequence of irresponsible or dilatory conduct by the procuring entity.

23 Evaluation and Basis of Award

(1) A procuring entity shall evaluate and compare tenders to ascertain the successful tender solely in accordance with the procedures and criteria explicitly set forth in the solicitation documents.

(2) The successful tender shall be either:

(a) where price is the sole award criterion, the tender with the lowest evaluated price; or

(b) where there are price and other non-price award criteria, the most advantageous and responsive bid (MARB) to the Government.

(3) Where the procuring entity determines the successful tender on the basis of the most advantageous and responsive tender under subsection (2)(b), the procuring entity is authorized to evaluate price alongside non-price criteria relating to the

subject matter of the procurement. Such non-price criteria may include, but are not limited to:

(a) the cost of operating, maintaining, and repairing goods or works over their useful life (life-cycle costing);

(b) the technical merit, quality, functional characteristics, durability, and the terms of warranties and guarantees;

(c) the cost and reliability of after-sales service, encompassing the availability of local spare parts, response times, and the provision of technical training for domestic staff;

(d) the time for delivery of goods, completion of works, or provision of services;

(e) the experience, reliability, and professional and managerial competence of the supplier;

(f) environmental characteristics, inclusive of energy efficiency, low-carbon material usage, climate-resilient design, and adherence to circular economy principles such as supplier take-back programs; and

(g) socioeconomic impacts advancing national sustainable development priorities, including the engagement and training of local labor, gender equity provisions, and the establishment of joint ventures with domestic enterprises.

(4) All non-price evaluation criteria shall, to the extent practicable, be objective, quantifiable, and expressed in monetary terms.

(5) The procuring entity shall explicitly state in the solicitation documents the relative weights to be allocated to each evaluation criterion and the manner in which those criteria will be combined and applied. No criterion, procedure, or weighting shall be used in the evaluation that has not been set out in advance in the solicitation documents.

(6) The Minister shall, by Regulations, prescribe the detailed operational procedures for the application of evaluation criteria, including the calculation of life-cycle costs and the application of merit-point scoring or quality-cost methodologies.

24. Bid Opening

(1) Bids shall be opened publicly or through an approved, secure electronic equivalent immediately following the submission deadline. No decisions regarding the rejection or disqualification of any bid shall be made during the opening session.

(2) Bids shall be evaluated by an Evaluation Committee or designated officers possessing the appropriate technical and financial expertise. To prevent conflicts of interest, persons responsible for evaluating bids shall be strictly separated from the authority responsible for approving the contract award.

(3) Contracts shall be awarded based solely on the criteria expressly set out in the bidding documents. The successful bid shall be ascertained on the basis of either the lowest evaluated bid price or the most advantageous bid.

(4) If a bid price appears abnormally low and raises material concerns about the bidder's ability to perform the contract, the procuring entity shall request a

detailed written clarification. If the bidder fails to reasonably demonstrate its capability, the procuring entity may reject the bid.

25. Contract Award and Management

(1) Where applicable, the procuring entity shall observe a mandatory standstill period before executing the procurement contract to allow aggrieved bidders the opportunity to challenge the award decision.

(2) A procurement contract enters into force when a written agreement is signed by both parties. Promptly following the award, the procuring shall h a public notice specifying the name of the successful supplier and the contract price

(3) The procuring entity shall be responsible for the management of all procurement contracts awarded under its jurisdiction, ensuring that both the supplier and the procuring entity meet their contractual commitments to time, cost, and quality.

(4) Any modification or amendment to a procurement contract shall be reviewed, issued, and documented in writing in accordance with the approval thresholds and conditions prescribed in the Regulations.

PART 6 ELECTRONIC PROCUREMENT

26 Electronic procurement

(1) The Minister shall, by notice, designate the official procurement portal and any other electronic systems authorised for use in procurement proceedings.

(2) Procuring entities shall use the procurement portal for the publication of all procurement notices, invitations to bid, and contract award notices, as required under the Regulations.

(3) The Minister may, in the Regulations, authorise the use of the procurement portal or other approved electronic systems for the submission and evaluation of bids, the execution of contracts, and other steps in procurement proceedings.

(4) Where e-procurement is used, the procuring entity shall ensure that:

(a) the electronic system is secure and reliable, and that the confidentiality of bid submissions is maintained until the time of opening;

(b) bidders have reasonable access to the system and that technical assistance is made available; and

(c) a complete audit trail of all actions taken through the electronic system is maintained.

(5) Where the Minister, by Regulation, mandates the use of e-procurement for a specified category of procurement or for all procurement above a specified threshold, procuring entities shall be required to use the approved e-procurement system for that category or threshold. The Regulations shall provide for a reasonable implementation period before any mandatory use requirement takes effect.

(6) Electronic communications, submissions, notices, and decisions made in accordance with this Bill through an approved e-procurement system shall have the same legal validity and effect as their paper-based equivalents. No transaction, notice, or document shall be denied legal effect solely on the ground that it was made or communicated by electronic means.

(7) Nothing in this section shall prevent a procuring entity from accepting bids or other submissions in paper form where electronic submission is not practicable for a particular procurement.

PART 7 RECORDS AND PUBLIC DISCLOSURE

27 Documentary record of procurement

(1) The procuring entity shall maintain a record of all procurement in the manner set forth in the Regulations.

(2) Records shall be retained for a minimum of seven (7) years following contract completion or the cancellation of the procurement proceeding.

(3) Records may be maintained in electronic form, provided that the integrity and authenticity of the records can be verified.

(4) The Tuvalu National Audit Office and the Procurement Appeals Board shall have unrestricted access to all procurement records upon request.

28 Public disclosure of procurement

(1) The Central Procurement Unit shall establish and maintain a publicly accessible procurement portal in a manner set forth in the Regulations.

(2) The Minister may, in the Regulations, prescribe categories of information that are to be withheld from public disclosure on grounds of national security or commercial confidentiality, provided that such exemptions are narrowly construed and do not impair meaningful public oversight.

PART 8 CONFLICT OF INTEREST

29 Declaration and management of conflicts of interest

(1) Every public officer and every member of the Procurement Review Committee or the Procurement Appeals Board involved in a procurement proceeding shall, before participating in any decision relating to that proceeding, declare in writing any actual, potential, or perceived conflict of interest. A conflict of interest declaration shall be made to the head of the procuring entity or, in the case of Committee or Board members, to the Chair. Where a conflict of interest is declared or identified, the person concerned shall:

(a) recuse themselves from all decisions relating to the affected procurement proceeding;

(b) not communicate with any bidder or potential bidder regarding the affected proceeding; and

(c) return any improperly obtained information relating to the proceeding.

(2) The Central Procurement Unit shall develop and publish a model conflict of interest declaration form for use by all procuring entities.

(3) A failure to declare a known conflict of interest shall constitute a breach of this Bill and be subject to the penalties provided in section 25.

30 Beneficial Ownership

(1) To safeguard the Government from acts that undermine a transparent, fair, and competitive procurement process, a procuring entity shall require the submission of beneficial ownership information from a supplier as a mandatory requirement to participate in any public procurement proceedings.

(2) Bidders shall declare this information either during their initial supplier registration process or every time they submit a bid to participate in a public procurement process, as prescribed by the Regulations.

(3) A procuring entity, in reviewing all bids, shall confirm the beneficial ownership of each bidder to ensure that multiple bids from the same beneficial owner do not undermine the competitive bidding process. The procuring entity may request documentation to satisfy itself that the beneficial ownership of a bidder is entirely independent from all other bidders in the same proceeding.

(4) In the event that a procuring entity discovers that:

(a) multiple bids have been submitted by the same beneficial owner under different legal entities; or

(b) bidder has submitted beneficial ownership information containing false or misleading entries;

the procuring entity shall immediately disqualify the bid or bids, and may recommend that the bidder be suspended or debarred from future public procurement.

(5) The Minister may, by Regulations, prescribe the standard Beneficial Ownership Disclosure Form to be included in solicitation documents, and establish the procedures for maintaining an online registry of beneficial ownership information.

PART 9 OFFENCES AND THE RIGHT TO CHALLENGE

31 Code of Conduct and Ethics

(1) All public officers participating in or administering procurement proceedings shall observe the highest standards of integrity, impartiality, and professionalism.

(2) No public officer shall:

(a) engage or attempt to engage in corrupt practices, as defined in this Bill or the Penal Code, in connection with any procurement proceeding;

(b) obstruct or interfere with the work of the Procurement Review Committee, the Procurement Appeals Board, or the Tuvalu

Auditor-General; or

(c) fail to disclose a conflict of interest or fail to recuse themselves from a procurement proceeding when a conflict arises.

(3) A public officer who contravenes subsection (2) commits an offence and:

(a) may be subject to disciplinary proceedings and dismissal from the public service; and

(b) shall upon conviction, be liable to a fine not exceeding $50,000 or to imprisonment for a term not exceeding five (5) years, or both.

32 Supplier Suspension and Debarment

(1) No bidder, supplier, or contractor shall:

(a) engage or attempt to engage in corrupt, fraudulent, coercive, or obstructive practices in connection with any procurement proceeding or contract execution;

(b) collude with other bidders or potential bidders to fix prices, allocate contracts, or otherwise distort competition; or

(c) wilfully misrepresent information in any bid, proposal, or procurement document.

(2) Where a procuring entity determines that a bidder has contravened subsection (1), the procuring entity shall immediately reject the bidder's submission and exclude them from the procurement proceeding.

(3) In addition to the rejection of their bid and any other criminal penalties provided by law, a bidder or supplier found to have contravened subsection (1) shall be subject to formal debarment from participating in future public procurement proceedings.

(4) The Minister shall prescribe in the Regulations the administrative due process procedures for suspension and debarment. The period of debarment shall be determined based on the severity of the offence up to a maximum of two (2) years

(5) The Central Procurement Unit shall maintain and publish on the procurement portal a list of debarred persons and entities.

33 Right to challenge and appeal

(1) A supplier or contractor that claims to have suffered loss or injury due to the alleged non-compliance of a procuring entity with this Bill may appeal the decision.

(2) The appeal shall be resolved through a two-tier system consisting of:

(a) an application for reconsideration to the procuring entity; and

(b) an application for review to an independent administrative appeals body, as established in the Regulations.

(3) The submission of an appeal within the prescribed time limits shall automatically suspend the procurement proceedings and prevent the entry into force of the procurement contract, unless urgent public interest considerations

justify proceeding.

PART 10 REGULATIONS AND FORMS

34 Regulations

(1) The Minister shall issue Regulations to implement the provisions of this Bill

(2) The Regulations shall provide for:

(c) annual procurement planning linked to budget preparation and approval;

(d) procedures for procurement planning including needs assessment, market scoping and selection of fit-for-purpose procurement methods;

(e) methods and procedures for the procurement of goods, works, consultants and non-consulting services to be applied by procuring entities during procurement proceedings;

(f) procedures for the establishment and management of framework agreements;

(g) thresholds to determine which method of procurement shall be used by procuring entities;

(h) procedures for the exceptional waiver of competitive bidding;

(i) procedures and timelines for emergency procurement, including the conditions for use, oversight requirements, and post-procurement reporting obligations;

(j) the use and governance of e-procurement systems, including security standards and the legal validity of electronic communications;

(k) a debarment regime, including the criteria for debarment, the process for listing and delisting, and the rights of affected persons;

(l) sustainable procurement criteria and guidance, including minimum standards for local content and environmental considerations where applicable;

(m) conflict of interest management procedures and the form and content of declarations required under Part 6; and

(n) other matters as the Minister may decide.

(3) The Minister may, on the advice of the Central Procurement Unit, introduce and amend procurement methods, procedures and thresholds from time to time.

35 Forms

(1) The Minister may cause to be prepared and issued standard Forms for use as templates by procuring entities during procurement proceedings. Forms may comprise:

(a) procurement plan;

(b) procurement proposal;

(c) advertisements, invitations for expressions of interest, invitations for bids and requests for proposals;

(d) pre-qualification, standard bidding and proposal documents;

(e) model templates for bid and proposal evaluation and reporting;

(f) notices of intention to award and notices of contract award

(g) forms of contract, including framework agreements and call-off contracts;

(h) forms for contract administration, contract modification, and contract closeout;

(i) declarations of supplier eligibility, beneficial ownership, and codes of conduct; and

(j) other forms as the Minister may decide.

(2) The Minister may, on the advice of the Central Procurement Unit, amend the Forms from time to time.

PART 11 REPEAL, TRANSITIONAL AND SAVINGS PROVISIONS

36 Repeal of the Public Procurement Act 2013

The Public Procurement Act 2013 is hereby repealed.

37 Transitional and Savings

(1) Notwithstanding the repeal of the Public Procurement Act 2013, any procurement proceeding commenced before the date of commencement of this Bill shall be continued, completed, and determined in accordance with the provisions of the repealed Act as if this Bill had not come into force.

(2) Any contract or agreement entered into under the repealed Act prior to the commencement of this Bill shall continue to be valid and binding, and shall be governed by the terms and conditions of that contract and the law applicable at the time of its execution.

(3) Any regulations, notices, orders, or forms made or issued under the repealed Act and in force immediately before the commencement of this Bill shall, so far as they are not inconsistent with the provisions of this Bill, continue in force and have effect as if made or issued under this Bill , until they are amended, revoked, or replaced by regulations or forms made under sections 34 or 35 of this Bill.

(4) Any person who, immediately before the commencement of this Bill, holds office or acts as a member of the Procurement Review Committee, a Review Panel, or as a Procurement Officer, shall continue to hold that office or act in that capacity as if appointed under this Bill, subject to the provisions of this Bill.

(5) Any complaint, challenge, or appeal pending before a Review Panel or court prior to the commencement of this Bill shall be heard and determined in

accordance with the procedures applicable under the repealed Act.