

KNOWLEDGE CENTRE

PPC Registration

PR:1

Relevant Facts or Questions Asked

A Procuring Entity (PE) sought guidance as follows:

- I. The Public Procurement Commission (PPC) declined to approve the award of a procurement contract due to non-adherence to prescribed procedural requirements;
- II. One of the reasons cited by the PPC for non-approval was the fact that the building for which the procurement is geared was declared a national heritage site, which requires specialized expertise that is not included in the PPC's registry;
- III. Thus, the PE was advised to reach out to the OPPP and the National Heritage Trust for guidance on how to proceed.

Advice

1. In instances where the PPC does not have a classification for certain goods, works, or services being procured. Section 18(1)(2) of the Public Procurement Act, 2015 (as amended) ("the Act") becomes applicable. The aforementioned section is set out below:

18. – (1) This section applies only in relation to procurement in respect of a category of goods, works and services for which there is no classification criteria prescribed by the Commission.

(2) Subject to subsection (1), a procuring entity that is desirous of inviting or receiving bids from or otherwise engaging or participating in the public procurement with a person, firm or entity that is not an approved registered supplier shall apply to the Commission, in writing, for the Commission's written approval to do so.

Thus, the law provides that the PPC approval may be granted for the suppliers to be registered as an 'approved unregistered supplier' in circumstances where no classification is provided in the register.

2. In this regard, the PE is advised to make contact with the Jamaica National Heritage Trust for a list of suppliers with the capacity and expertise to provide restorative works required by the procuring entity. Following which the PE should make a written application to the PPC seeking approval to engage the suppliers, in accordance with section 18 of the Act. The application should set out *inter alia* the following:

- i. There is no applicable category of registration;
- ii. The steps taken by the procuring entity to identify capable applicants;
- iii. Whether a competitive process was undertaken to ensure value for money;
- iv. Whether the procuring entity has any adverse trace in respect of the supplier which might pose a risk to the Government of Jamaica's reputation.

3. In relation to the matter of the 'Trust Account', the OPPP is of the opinion that the funds are public funds and would be subject to the Government of Jamaica's procurement guidelines. For reference, the Act defines public funds as follows:

"public funds" means –

- a) Funds allocated to a procuring entity out of the Consolidated Fund;*
- b) Government grants or loans made to a procuring entity; or*
- c) All other moneys which may in any manner become payable or vested in a procuring entity in respect of any matter incidental to its functions;*

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