

JAMAICA

No. 7 – 2025

I assent,

[L.S.]

PATRICK L. ALLEN,
Governor-General.

26th day of March, 2025.

AN ACT to Amend the Public Procurement Act.

[27th day of March, 2025]

BE IT ENACTED by the Parliament of Jamaica, by and with the advice and consent of the Senate and House of Representatives of Jamaica, and by the authority of the same, as follows:—

1. This Act may be cited as the Public Procurement (Amendment) Act, 2025, and shall be read and construed as one with the Public Procurement Act (hereinafter referred to as the principal Act) and all amendments thereto.

Short title
and
construction.

2. Section 2 of the principal Act is amended by—

- (a) deleting the definitions of “bid”, “bidding documents”, “international competitive bidding”, “invitation to bid”,

Amendment
of section 2
of principal
Act.

“national competitive bidding”, “open bidding”, “procurement method threshold”, “sector committee” and “standard bidding document”;

- (b) inserting, in the appropriate alphabetical sequence, the following definitions—

“bid” means a response to a solicitation issued by a procuring entity and includes a tender, a proposal and a quotation;

“bidding document” means a solicitation document that—

- (a) invites bids;
- (b) establishes the objects of a bid;
- (c) specifies the conditions of a proposed procurement contract; and
- (d) establishes the applicable bidding procedures;

“call-off contract” means a procurement contract entered into pursuant to a framework agreement;

“competition threshold” has the meaning assigned to it by section 22B;

“level of competition” means—

- (a) open international competition;
- (b) open national competition; or
- (c) restricted competition;

“open international competition” means a procurement opportunity for participation by any supplier that meets any prescribed eligibility criteria;

“open national competition” means a procurement opportunity for participation by any approved registered suppliers or approved unregistered

suppliers that are tax compliant in Jamaica at the time of the bid submission deadline;

“restricted competition” means a procurement opportunity that is limited to single-source procurement or to participation by two or more selected suppliers;

“solicitation” means an invitation to bid, submit quotations, or participate in a request for proposal proceedings;

“solicitation document” means a standard form document developed by the Office for use in public procurement proceedings and all amendments made to the document for the applicable method of procurement;”.

3. Section 4(3) of the principal Act is amended by deleting the words “and with the written approval of the Chief Public Procurement Policy Officer”.

Amendment of section 4 of principal Act.

4. Section 7(1)(e) of the principal Act is amended by deleting the words “standard forms of contracts, bidding documents,” and substituting therefor the words “solicitation documents, standard forms of contracts,”.

Amendment of section 7 of principal Act.

5. Section 11(1) of the principal Act is amended—

Amendment of section 11 of principal Act.

(a) in paragraph (b), by deleting the words “award of procurement contracts” and substituting therefor the words “award of contracts”; and

(b) by deleting paragraph (g) and renumbering paragraphs (h) and (i) as paragraphs (g) and (h).

6. The principal Act is amended by—

Repeal of sub heading and section 13 of principal Act.

(a) deleting the sub-heading “*Sector Committees*”; and

(b) repealing section 13.

7. The principal Act is amended by repealing section 14.

Repeal of section 14 of principal Act.

Amendment
of section 15
of principal
Act.

8. Section 15 of the principal Act is amended—

- (a) in subsection (1), by deleting the word “present” and substituting therefor the word “submit”; and
- (b) in subsection (3) by—
 - (i) deleting the words “international competitive bidding under section 23” and substituting therefor the words “open international competition”; and
 - (ii) deleting the words “procurement method threshold” and substituting therefor the words “competition threshold”.

Amendment
of heading
and insertion
of new
sections 22A
and 22B in
principal Act.

9. The principal Act is amended by deleting the heading “PART III—*Methods of Public Procurement*” and inserting next after section 22 the following—

“
PART III. *Methods of Public Procurement
and Levels of Competition*

Methods of
procurement
and applicable
levels of com-
petition.

22A.—(1) Subject to the provisions of this Part, a procuring entity may conduct procurement by means of—

- (a) open bidding;
- (b) restricted bidding;
- (c) single-source procurement;
- (d) request for proposals without negotiation;
- (e) request for proposals with consecutive negotiations; or
- (f) request for quotations.

(2) The procuring entity may engage in a framework agreement procedure in accordance with section 25F.

(3) A procuring entity shall use a procurement method at the level of competition applicable to that method as may be prescribed by the regulations.

(4) Where a procuring entity uses a method of procurement at the level of restricted competition, the procuring entity shall include, in the record required under section 47, a statement of the reasons and the circumstances on which the procuring entity relied to justify the use of the method at that level.

22B.—(1) The relevant competition threshold shall determine the application of any— Competition threshold.

- (a) level of competition for public procurement; and
- (b) method of procurement for restricted competition.

(2) A procuring entity may procure goods, works or services of—

- (a) a value not exceeding the relevant competition threshold without the prior approval of the head of the procuring entity;
- (b) a value exceeding the relevant competition threshold only with the prior approval of the head of the procuring entity.

(3) For the purposes of subsection (1), the Minister may, by order, subject to affirmative resolution, prescribe the value limits for the relevant competition thresholds for the procurement of goods, works or services under this Act.”.

Repeal and replacement of section 23 of principal Act.

10. The principal Act is amended by repealing section 23 and substituting therefor the following—

“Use of procurement methods other than open competition.”

23.—(1) Except as otherwise provided for in sections 24 and 25, a procuring entity shall conduct procurement by means of open competition.

(2) A procuring entity may, if it appears to be necessary to do so, deploy any method of procurement utilizing restricted competition in the circumstances specified in section 24 or 25 and shall—

- (a) restrict competition in the manner that best accommodates the circumstances of the procurement concerned; and
- (b) to the extent practicable seek to maximize competition.

(3) Where a procuring entity conducts procurement in accordance with section 24 or 25, it shall include in the record required under section 47, a statement of the reasons and the circumstances on which it relied to justify the use of that level of competition.”.

Amendment of section 24 of principal Act.

11. Section 24 of the principal Act is amended—

- (a) by deleting the marginal note and substituting therefor the following—

“Restricted competition.”;

- (b) by deleting the words “by means of restricted bidding” wherever they appear and substituting therefor, in each case, the words “at the level of restricted competition”;

- (c) in subsection (1)—

- (i) by deleting paragraph (b) and substituting therefor the following—

“(b) the value of the procurement does not exceed the competition threshold for restricted competition.”;

- (ii) in paragraph (c), by deleting the words “restricted bidding” and substituting therefor the words “restricted competition”; and
 - (iii) in paragraph (d), by deleting the words “any such other competitive method of procurement” and substituting therefor the words “a procurement method at any other level of competition”;
- (d) in subsection (2)—
- (i) in paragraph (a), by deleting the word “bid” and substituting therefor the word “participate”; and
 - (ii) by deleting paragraph (b) and substituting therefor the following—
 - “(b) in the circumstances referred to in paragraph (b) or (c) of subsection (1), then it shall, in a non-discriminatory manner, select suppliers from which to invite bids, where practicable, a minimum of three participants should be invited to participate so as to ensure effective competition.”; and
- (e) by deleting subsection (3).

12. Section 25 of the principal Act is amended—

Amendment
of section 25
of principal
Act.

- (a) in subsection (1), by deleting paragraph (e) and substituting therefor the following—
 - “(e) the procuring entity is procuring the goods, works or services from another procuring entity.”; and
- (b) in subsection (2), by deleting the words “procurement method threshold” and substituting therefor the words “competition threshold”.

Amendment
of section
25F
of principal
Act.

13. Section 25F of the principal Act is amended by renumbering the section as section 25F(1) and inserting the following as subsections (2) to (4) —

“ (2) Where a procuring entity intends to engage in procurement under subsection (1), the procuring entity shall—

- (a) make a projection of the aggregate estimated value of anticipated call-off contracts to be awarded during the term of the framework agreement; and
- (b) seek any required approval in accordance with the procurement contract approval limit for call-off contracts in the framework agreement.

(3) The procurement contract approval limit for call-off contracts in the framework agreement is the aggregate estimated value of anticipated call-off contracts projected to be awarded under the framework agreement.

(4) The aggregate value of call-off contracts awarded by a procuring entity shall not exceed the value of the framework agreement to which that procuring entity is a party.”.

Amendment
of section 31
of principal
Act.

14. The principal Act is amended by deleting section 31 and substituting therefor the following—

“ Participa-
tion
in pro-
curement
pro-
ceedings.

31.—(1) Except when authorized or required to do so by this Act, the regulations or any other law, a procuring entity shall establish no requirement limiting the participation of persons, firms or entities in procurement proceedings that discriminates against or among any of them or against or among any categories of them.

(2) In accordance with subsection (1), a procuring entity may apply to a procurement proceeding any special and differential treatment measures as may be prescribed.”.

15. Section 34(3) of the principal Act is amended—

Amendment
of section 34
of principal
Act.

- (a) in paragraph (b), by deleting the word “presented” and substituting therefor the word “submitted”; and
- (b) in paragraph (e), by deleting the word “presenting” and substituting therefor the word “submitting”.

16. Section 41(3)(c) of the principal Act is amended by deleting the word “presented” and substituting therefor the word “submitted”.

Amendment
of section 41
of principal
Act.

17. Section 43 of the principal Act is amended by deleting subsection (3) and substituting therefor the following—

Amendment
of section 43
of principal
Act.

“ (3) A standstill notice shall not be issued pursuant to section 44 unless, in the case of a procurement contract within—

- (a) the Tier 1 Limit, the procuring entity has determined a successful bidder; or
- (b) the Tier 2 Limit or Tier 3 Limit, the procuring entity has determined a successful bidder and the Commission has approved or endorsed the award of contract.”.

18. Section 44 of the principal Act is amended—

Amendment
of section 44
of principal
Act.

- (a) by deleting the words “the bidder presenting the successful bid” wherever they appear, and substituting therefor, in each case, the words “the bidder submitting the successful bid”;
- (b) in subsection (2)(a), by deleting the word “presented” and substituting therefor the word “submitted”;
- (c) in subsection (4)—
 - (i) in paragraph (b), by deleting the full stop and substituting therefor the words “; or”; and
 - (ii) by inserting next after paragraph (b) the following paragraph—
 - “(c) where the value of the contract does not exceed the competition threshold for single-source procurement.”; and

- (d) by deleting subsection (8) and inserting next after subsection (7) the following subsections—

“ (8) Upon receipt by the procuring entity of a bidder’s query, application for reconsideration, or challenge referred to in subsection (3), prior to the expiry of the standstill period, the procuring entity may reject the previously accepted bid, and accept a different bid.

(8A) Where the procuring entity accepts a different bid, the procuring entity shall issue a new standstill notice in accordance with subsection (2).”.

Amendment
of section 53
of principal
Act.

19. Section 53 of the principal Act is amended—

- (a) in subsection (2) by deleting all the words before the words “the Review Board” and substituting therefor the words “In relation to proceedings under section 51(2),”; and
- (b) by inserting next after subsection (3), the following subsection—

“ (4) Where the Review Board has made a determination as to who, in addition to the applicant and the Commission, is entitled to participate in the proceedings, the Review Board shall give notice to that person, the applicant and the Commission.”.

Amendment
of section 60
of principal
Act.

20. Section 60(1)(i) of the principal Act is amended by deleting the words “the standard forms of contracts, bidding documents,” and substituting therefor the words “solicitation documents, the standard forms of contracts,”.

21. The principal Act is amended by repealing the First Schedule and substituting therefor the following—

Repeal and replacement of First Schedule to principal Act.

“
FIRST SCHEDULE (Section 4)
*Goods, Works, and Services Not Subject to
Parts III and V of this Act*

PART A

1. The procurement methods and processes set out in Parts III and V do not apply to the following goods, works and services—

- (a) goods, works and services donated to the Government of Jamaica by a non-governmental organization under the conditions specified in Part B of this Schedule;
- (b) land or any immovable property or rights in relation thereto;
- (c) works of art, cultural performances, products or services associated with creative expression;
- (d) goods, works and services relating to the staging of productions in support of or associated with creative expression and cultural events, including, but not limited to—
 - (i) artistic co-ordination, direction and management;
 - (ii) the management of artistic works or events;
 - (iii) the management of intellectual property rights;
 - (iv) venue rental;
 - (v) infrastructure and technical effects;
 - (vi) design and technical direction of cultural performances;
 - (vii) the engagement of artistes and performers;
- (e) medical services;
- (f) legal services;
- (g) medallions and insignias for use pursuant to the National Honours and Awards Act;
- (h) goods, works and services of a sensitive nature for use in or acquisition for the purposes of national defence or national security;
- (i) travel services and hotel accommodation or facilities;
- (j) contracts for broadcasting time;

- (k) programme material intended for broadcasting by broadcasters;
- (l) goods, works and services under multilateral or bilateral agreements to which Jamaica is a party, or an agreement between Jamaica and an international organization, providing for an alternate system of procurement than that which is provided under this Act;
- (m) educational instruction and training programmes;
- (n) goods, works or services relating to or connected with the operations of Jamaican diplomatic missions or consulates;
- (o) co-sponsorship arrangements, trade and travel road shows and co-operative advertising;
- (p) the procurement of banknotes and coins for issue by the Bank of Jamaica;
- (q) the implementation by the Bank of Jamaica of monetary policy and foreign exchange policy through financial contracts;
- (r) financial advisory services procured from the International Finance Corporation in respect of road development projects in Jamaica;
- (s) technical cooperation and assistance for the provision of goods, works and services pursuant to any agreement between the Government of Jamaica, through the Jamaica Special Economic Zone Authority, and the Government of the Republic of Singapore, through the Singapore Cooperation Enterprise related to, or connected with, the implementation of the Jamaica Logistics Hub Initiative;
- (t) group life insurance or group health insurance;
- (u) goods, works and services required during a situation of emergency or extreme urgency, notice in relation to the acquisition of which is published in accordance with paragraph 3;
- (v) fiscal agency or depository services;
- (w) services related to the sale, redemption and distribution of public debt;
- (x) national-level financial transactions;
- (y) employment in the public service pursuant to a contract of service or a contract for services;
- (z) goods, works or services provided by a foreign government or any foreign organization declared by the Minister to be a government or organization providing technical assistance to Jamaica.

2.—(1) In this Schedule—

“broadcasting” has the meaning assigned to it by the Broadcasting and Radio Re-Diffusion Act;

“International Finance Corporation” has the meaning assigned to it by the International Finance Corporation Agreement Act;

“Jamaica Logistics Hub Initiative” means the set of arrangements aimed at positioning Jamaica as a global logistics hub by capitalizing on Jamaica’s strategic location to serve major trade corridors, for job creation and enhanced economic and fiscal growth;

“travel services” means the business of arranging, at the request or on behalf of persons proposing to travel within or from Jamaica by land, sea or air, for the provision of passages for such persons by any motor vehicle rental, shipping or aircraft company or firm or by general agents in Jamaica of any motor vehicle rental, shipping or aircraft company or firm.

(2) For the purposes of paragraph 1(u), situations of emergency or extreme urgency are those that—

(a) arise as a result of—

- (i) events not attributable to or foreseeable by the procuring entity;
- (ii) a disaster within the meaning of any enactment concerned with disaster risk management;
- (iii) a period of public disaster or a period of public emergency proclaimed or declared under any enactment; or
- (iv) a disaster or an emergency declared by the Minister with responsibility for a procuring entity by notice published in the *Gazette*, after consultation with the head of that procuring entity; and

(b) necessitate the award of a procurement contract to effect repairs or remedial action to safeguard the public interest, or to protect infrastructure, property or public monies from loss.

3.—(1) Where situations of emergency or extreme urgency necessitate the award of a procurement contract (referred to as an emergency contract), the procuring entity shall give notice to the public of all emergency contracts awarded by that procuring entity.

(2) A notice referred to in sub-paragraph (1), shall—

- (a) be published, within one month after the emergency contract was awarded, in the manner specified in guidelines issued by the Office;
- (b) in respect of each emergency contract awarded—
 - (i) identify the specific emergency contract awarded;
 - (ii) name the contractor to whom and the date on which the emergency contract was awarded;
 - (iii) state the value of the emergency contract; and
 - (iv) specify the circumstances of emergency or extreme urgency that necessitated award of the procurement contract as an emergency contract.

PART B

Conditions for Exemption of Goods, Works and Services Donated to the Government of Jamaica by a Non-Governmental Organization Under Part A

4. The procurement methods and processes set out in Parts III and V do not apply to goods, works and services donated to the Government of Jamaica by a non-governmental organization that is—

- (a) registered as a charitable organization under the Charities Act; or
- (b) registered as a company under the Companies Act.”.

Amendment
of Second
Schedule to
principal Act.

22. The Second Schedule to the principal Act is amended by deleting—

- (a) paragraph 1 and substituting therefor the following paragraph—

“ Con-
stitution
of Com-
mission.

1.—(1) Members of the Commission shall be persons of high integrity, being persons who have not been convicted of any offence involving fraud, dishonesty or moral turpitude.

(2) The Commission shall consist of the following members, who, subject to paragraph 2, shall be appointed by the Governor-General by instrument in writing—

- (a) a Chairman, who shall be a person with experience in the public service and with knowledge and expertise in public procurement, recommended by the Prime Minister, after consultation with the Leader of the Opposition;
- (b) three persons with knowledge and experience in the field of procurement or complementary disciplines, being persons recommended by the Minister and selected from a panel of eight persons nominated by associations representing the private sector and professional bodies, respectively;
- (c) an attorney-at-law with at least five years' experience in contract or commercial law and administrative law nominated by the Jamaica Bar Association or such other association as may represent attorneys-at-law;
- (d) a public officer engaged in financial administration, nominated by the Financial Secretary; and
- (e) a public officer with expertise in works appointed by the Minister responsible for works.

(3) The Chief Public Procurement Policy Officer and the Executive Director of the Commission shall each be an *ex-officio* member of the Commission.”; and

(b) paragraph 2 and substituting therefor the following paragraph—

“Tenure of office. 2.—(1) The Chairman shall hold office for a term of five years and shall be eligible for re-appointment for not more than one further term.

(2) The members of the Commission, other than the Chairman and the ex-officio members, shall hold office for a term of four years and shall be eligible for re-appointment for not more than one further term.”.