

LEGAL NOTICE NO. 42

REPUBLIC OF TRINIDAD AND TOBAGO

THE PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC PROPERTY ACT,
2015

RESOLUTION

WHEREAS it is provided by section 11(9) of the Public Procurement and Disposal of Public Property Act, 2015 (hereinafter called “the Act”) that the salaries and allowances of the Procurement Regulator and Members of the Board of the Office of Procurement Regulation shall be determined by the Minister of Finance, subject to the approval of Parliament:

And whereas the Report on the Determination of Salaries and Allowances of Members of the Board of the Office of Procurement Regulation in the Schedule to this Resolution was laid in the House of Representatives on 21st April, 2017 and the Senate on 25th April, 2017:

Be it Resolved:

That the Salaries and Allowances contained in the Report on the Determination of Salaries and Allowances of Members of the Board of the Office of Procurement Regulation be approved.

Approved in the House of Representatives this 5th day of May, 2017.

J. SAMPSON-MEIGUEL
Clerk of the House

Approved in the Senate this 9th day of May, 2017.

B. CAESAR
Clerk of the Senate

SCHEDULE



**Report on the Determination of Salaries and Allowances
of Members of the Board of the Office of Procurement
Regulation**

**Minister of Finance
April 19, 2017**

Executive Summary

The Annual cost to the Office of Procurement Regulation (OPR) estimated at \$2.4 Mn, disaggregated as follows:

Designation	Salary	Allowances	Total
Regulator	0.6	0.4	1.0
Deputy Chairman	0.2	-	0.2
Other Members	1.2	-	1.2
			2.4

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Introduction

The Public Procurement and Disposal of Public Property Act, 2015 as amended by Act No.5 of 2016 (the Act) provides for a new regime of public procurement, and for the retention and disposal of public property, including State Land, in accordance with the principles of good governance, namely accountability, transparency and value for money. Among the key features of the Act is the establishment of the Office of Procurement Regulation as the governing body for matters relating to public procurement and the retention and disposal of public property. The Act also establishes the Public Procurement Review Board as the body responsible for reviewing the decisions of the Office of Procurement Regulation.

The full operation of the Act will reform Trinidad and Tobago's procurement laws and systems so that both are consistent with the principles of good governance. The Act will govern spending of public monies by all State agencies, including all State controlled companies, under a single regulatory framework that encompasses all stages of the procurement process. The responsibility for oversight and control resides with the Office of Procurement Regulation (OPR), which is headed by the Procurement Regulator and managed by a Board appointed by the President.

Section 11(9) of the Act states that the salaries and allowances of the Regulator and other members shall be determined by the Minister, subject to the approval of Parliament.

This Report sets out the proposed salaries and allowances of the Procurement Regulator and other members of the Board of the Office of Procurement Regulation as determined by the Minister of Finance. The determination of the proposed salaries and allowances was based primarily upon the level of responsibility of the Office, its authority and power under the Act, as well as the objects of the Act as a whole.

Composition of the Board of the Office of Procurement Regulation

Sections 9 and 10(1) and (2) of the Public Procurement and Disposal of Public Property Act, 2015 (the Act) provide for the establishment of the Office of Procurement Regulation (OPR) and the appointment by the President of a Board tasked with governing the OPR. Those sections state as follows:

"9. There is hereby established as a body corporate the Office of Procurement Regulation (hereinafter referred to as "the Office").

10. (1) The Office shall be governed by a Board which shall be appointed by the President after consultation with the Prime Minister and the Leader of the Opposition and shall comprise no less than eight and no more than eleven members as follows:

- (a) the Procurement Regulator (hereinafter referred to as "the Regulator"), who shall be the Chairman and who shall have at least ten years' experience in matters relating to procurement and possess—*
 - (i) a degree from an accredited University in a field relating to finance, economics or law; or*
 - (ii) a degree from an accredited University in accounting or an equivalent professional qualification in accounting;*
- (b) a member with qualifications and experience in accounting;*
- (c) a member with qualifications and experience in finance;*
- (d) a member with qualifications and experience in business management;*
- (e) a member with qualifications and experience in civil engineering;*
- (f) an Attorney-at-law of at least ten years' standing;*
- (g) a member with qualifications and experience in any other field relating to procurement; and*
- (h) no more than four members who represent the interests of the community, women, youth, religion or civil society.*

(2) The President, after consultation with the Prime Minister and Leader of the Opposition shall appoint a member as Deputy Chairman of the Board who shall exercise the powers and functions of the Regulator in the event of the Regulator's absence or inability to exercise his powers or perform his functions."

Context

The functions of the OPR, its authority and power present the context within which the salaries and allowances of the Procurement Regulator and members of the Board of the OPR were determined.

Functions of the Office of Procurement Regulation

According to Section 13(1) of the Act, the functions of the OPR are to:

- (a) establish a comprehensive database of information on public procurement, including information on tenders received, the award and value of contracts, and such other information of public interest as the Office thinks fit;
- (b) set training standards, competence levels and certification requirements to promote best practices in procurement;
- (c) issue and review guidelines in relation to public procurement and the retention and disposal of public property, including model guidelines for special guidelines under sections 30(1)(b) and 54(1)(b);
- (d) prepare, update and issue model handbooks, incorporating standardized bidding documents, procedural forms and relevant documents for use in public procurement and the retention and disposal of public property;
- (e) approve, in respect of each procuring entity, special guidelines and handbooks in relation to public procurement and the retention and disposal of public property;
- (f) promote the use of technology in public procurement and the retention and disposal of public property;
- (g) provide best practice advice in the conduct of procurement activities, including the promotion of electronic transactions;
- (h) audit and review the system of procurement and disposal of public property to ensure compliance with the objectives of the Act;
- (i) harmonize policies, systems and practices in relation to public procurement activities and the disposal of public property;
- (j) review procurement practices and delivery systems on an annual basis to identify best practices;

- (k) determine, develop, introduce, maintain and update related system-wide databases and technology;
- (l) promote the awareness of public bodies and the public to issues relating to public procurement and disposal of public property;
- (m) undertake research and surveys with respect to public procurement and disposal of public property;
- (n) investigate, on its own initiative or upon complaint from any party involved in public procurement or disposal of public property or any member of the public, any alleged or suspected breach of this Act;
- (o) act for, in the name and on behalf of the State to dispose of real property owned by the Government in such manner as the Government may consider appropriate and desirable;
- (p) create and publish standard form contracts for public procurement and disposal of public property;
- (q) prepare and maintain a database of pre-qualified contractors and suppliers;
- (r) prepare and maintain a list of pre-qualified mediators, arbitrators and experts for the purposes of alternative dispute resolution under this Act; and
- (s) provide advice on best practice on the aggregation of the procurement or disposal of goods for the purpose of obtaining value for money.

The Authority and Power of the Office of Procurement Regulation

Section 13(2)(b) of the Act prescribes that the OPR not be subject to the direction or control of any other person or authority in the performance of its functions, but shall be accountable to the Parliament.

Moreover Section 14(1) of the Act gives the OPR the power to:

- (a) monitor the procurement of goods, works and services, and the disposal of public property, by public bodies to ensure compliance with this Act;
- (b) conduct audits and periodic inspections of public bodies to ensure compliance with this Act;

(c) issue directions to public bodies to ensure compliance with this Act; and

(d) carry out such other activities and do such other acts as it considers necessary or expedient for the carrying out its functions.

Additionally under Section 14(2) a public body or person who, without reasonable justification, fails to comply with a direction issued under this Act commits an offence and is liable on summary conviction to a fine of one hundred thousand dollars.

Furthermore, according to Section 49(2) of the Act, challenge proceedings may be made (by a supplier or contractor) by way of application for review by the OPR, under Section 50 of the Act.

Proposed Salaries and Allowances

Procurement Regulator

The salary and allowances for the Procurement Regulator were bench-marked against the Auditor General and Puisne Judge as set out in the 96th Report of the Salaries Review Commission.

The Procurement Regulator is appointed by the President after consultation with the Prime Minister and Leader of the Opposition. The Regulator is entrusted with the day-to-day management, administration, direction and control of the business of the Office of Procurement Regulation with authority to act in the conduct of the business of the Office.

Recommendations

Salary

\$50,000 per month. (bench-marked against Auditor General and Puisne Judge)

Transport Facilities

- (i) The provision of a car valued at a maximum of \$400,000, exclusive of Value Added Tax and fully maintained by the organization;
- (ii) No provision should be made for a Transportation Allowance;
- (iii) When on duty in Tobago, provision of paid passages (by sea or air at the office holder's option) and free transport of his/her motor vehicle to and from Tobago.

Chauffeur or Service Allowance

\$7,500 per month (includes for commuted overtime).

Subsistence Allowance

- (i) \$200 per day when travelling on official business beyond a radius of sixteen (16) kilometres from official headquarters, and where it is necessary to purchase a meal(s).
- (ii) When on official duty in Tobago, the office holder to be eligible for hotel accommodation and meals, as necessary. In the absence of the provision of any meal(s), to be paid \$200 per day.

Security Monitoring Allowance

\$3,000 per annum

Housing Allowance

\$12,000 per month.

Entertainment

Actual expenses incurred for official entertainment to be met from an official Entertainment Vote under the control of the Office of the Procurement Regulator.

Procurement Regulator Contact Allowance/Continued Education Allowance

\$118,000 per annum (referenced against offering for Higher Judiciary and Chair and Deputy Chair of the Environmental Commission)

Overseas Travel Facilities

A Travel Grant of \$69,000 per annum. (referenced against offering for Higher Judiciary and Chair and Deputy Chair of the Environmental Commission)

Telecommunication Facilities

\$800 per month in respect of a land line. Administratively, the OPR may provide a cellular phone and meet expenses (including access charges) to a maximum of \$800 per month and official overseas calls (if such access is provided).

Medical Benefits

Entitlement to medical attention/treatment and prescribed drugs for self, spouse and children who are unmarried and under the age of eighteen, at any health care facility under the Regional Health Authorities, including the Eric Williams Medical Sciences Complex. Where such medical attention/treatment is not available at such health care facility, the office holder to be entitled to have the costs met at any other hospital, institution or nursing home in Trinidad and Tobago.

(‘Medical attention/treatment’ excludes optical and dental treatment/services. ‘Prescribed drugs’ exclude drugs which are obtainable without a prescription.)

Gratuity

Entitlement to a gratuity equivalent to 20 per cent of gross salary earned over the period of the appointment.

Vacation Leave

Twenty (20) working days per annum.

Sick Leave

Fourteen (14) working days in respect of each twelve (12) month period

Maternity Leave

Maternity Leave in accordance with the provisions of the Maternity Protection Act, Chapter 45:57

Chairman of the Board

The Chairman of the Board of the Office of Procurement Regulation is appointed by the President after consultation with the Prime Minister and Leader of the Opposition. The Chairman will preside over the Board of the Office of Procurement Regulation.

Recommendations

Salary

The Regulator, who is also Chairman of the Board, is being compensated in his original capacity and no other salary is recommended.

Transport Facilities

The Terms and Conditions applicable in the capacity as Procurement Regulator will apply .

Subsistence Allowance

The Terms and Conditions applicable in the capacity as Procurement Regulator will apply .

Deputy Chairman of the Board

The salary and allowances for the Deputy Chairman of the Board were bench-marked against the part-time salary for the Deputy Chairman of the Public Service Commission. The Deputy Chairman of the Board of the Office of Procurement Regulation is appointed by the President after consultation with the Prime Minister and Leader of the Opposition. The Deputy Chairman will preside over the Board of the Office of Procurement Regulation in the absence of the Chairman of the Board.

Recommendations

Salary

\$13,000 per month.

Transport Facilities

A Transportation Allowance of \$1,140 per month. Where the office holder resides beyond a radius of twenty (20) kilometres from Port of Spain, \$1,560 per month to be paid instead.

Subsistence Allowance

- (i) \$200 per day when travelling on official business beyond a radius of sixteen (16) kilometres from official headquarters.
- (ii) For travel to and from Trinidad/Tobago on official business: Where an office holder who resides in Trinidad travels to Tobago or vice versa, the cost of airfare, ground transportation, accommodation and meals, as necessary, to be met by the Office of Procurement Regulation (OPR).
- (iii) For travel abroad on official business, the provisions of Minister of Finance Circular No. 2 dated March 17, 2017 or other relevant Circular to apply.

Members of the Board**Recommendations****Salary**

\$9,830 per month

Transport Facilities

A Transportation Allowance of \$1,140 per month. Where the office holder resides beyond a radius of twenty (20) kilometres from Port of Spain, \$1,560 per month to be paid instead.

Subsistence Allowance

- (i) \$200 per day when travelling on official business beyond a radius of sixteen (16) kilometres from official headquarters.
- (ii) For travel to and from Trinidad/Tobago on official business: Where an office holder who resides in Trinidad travels to Tobago or vice versa, the cost of airfare, ground transportation, accommodation and meals, as necessary, to be met by the Office of Procurement Regulation (OPR).
- (iii) For travel abroad on official business, the provisions of Minister of Finance Circular No. 2 dated March 17, 2017 or other relevant Circular to apply.

Annual Cost of Salaries and Allowances

Section 11(10) of the Act specifies that all expenses incurred by the Office for the purpose of this Act shall be a charge on the Consolidated Fund.

The Annual cost to the OPR estimated at \$2.4 Mn, disaggregated as follows:

			TT\$ Mn
Designation	Salary	Allowances	Total
Regulator	0.6	0.4	1.0
Deputy Chairman	0.2	-	0.2
Other Members	1.2	-	1.2
			2.4

END OF REPORT