

## Tool: Code of conduct for procurement practitioners

### Purpose

- To set out values and clear guidance on expected behaviour as well as conflict of interest and post-employment measures for procurement practitioners and other stakeholders.
- To support policy-makers in maintaining public trust in the integrity of the procurement process.

Public Procurement  
Principle: **Integrity, Capacity**

Procurement Stage:  
**All phases**

Audience: **Policy Maker,  
Procuring Entity, Private  
Sector, Civil Society**

### Description

A clear code of conduct may provide concrete examples of situations that officials may face in the course of their work. It must also give the contact details of person(s) that can provide advice and guidance to procurement practitioners.

Many countries have codes of conduct that set general rules by which all public officials are to govern themselves. These general rules are sometimes supplemented by more specific codes related to a high ranking and specific high risk positions, of which public procurement is one.

A generic code of conduct for public officials may include:

- **Serving the public interest.** Public officials are expected to maintain and strengthen the public's trust and confidence in public institutions, by demonstrating the highest standards of professional competence, efficiency and effectiveness, upholding the constitution and the laws, and seeking to advance the public good at all times.
- **Transparency and accountability.** Public officials are expected to use powers and resources for the public good, in accordance with the law and government policy. They should be prepared to be accountable for the decisions they make and to justify their official decisions and actions to a relevant authority, or publicly, as appropriate in the circumstances.
- **Integrity.** Public officials are expected to make decisions and act without consideration of their private interests. Public service being a public trust, the improper use of a public service position for private advantage is regarded as a serious breach of professional integrity.

- **Legitimacy.** Public officials are required to administer the laws and government policy, and to exercise legitimate administrative authority under delegation. That power and authority should be exercised impartially and without fear or favour, for its proper public purpose as determined by the legislature or the official's organisation as appropriate in the circumstances.
- **Fairness.** Public officials should make official decisions and take action in a fair and equitable manner, without being affected by bias or personal prejudice, taking into account only the merits of the matter, and respecting the rights of affected citizens.
- **Responsiveness.** As agents and employees of the elected government, public officials are required to serve the legitimate interests and needs of the government, public organisations, other civil servants, and citizens in a timely manner, with appropriate care, respect and courtesy.
- **Efficiency and effectiveness.** Public officials are required to obtain best value in expenditure of public funds, and efficient use of assets deployed in or through public management, and to avoid waste and extravagance in the use of resources in public programmes and official activities.

A code of conduct for procurement practitioners sets out values and clear guidance on expected behaviour. Clear and known rules of behaviour applicable to all will foster mutual respect and increase public confidence in procurement practitioners. It will place emphasis on the risks in different stages of the procurement cycle. These may be identified using checklists for identifying conflict of interest and **procurement risk indicators**.

In all cases, a code of conduct must be an integral part of the procurement practitioner's contract and must be signed as proof that it has been read and agreed. A clear system of enforcement and sanctions in case of breach of these rules is also necessary to avoid gaps in implementation.

**Box: Generic code of conduct for procurement practitioners**

**General conduct**

1. Procurement practitioners must ensure that they are never beholden to an economic operator.
2. Throughout the procurement cycle, procurement practitioners must exhibit responsible behaviour and strive for transparent and collegial decisions.
3. Information on the procurement process must not be disclosed to persons who have no need to know.

**Information and conduct during the pre-tendering phase**

4. Procurement practitioners, and in particular buyers, may need to establish contacts with the private sector. The procurement practitioners benefits from acquiring technical familiarity with the goods, services and works within his competence in order to more effectively draft tender requirements, evaluate offers received and assess whether a contract must undergo.
5. Buyers may accept requests from economic operators for meetings. They may also request a meeting, provided this will enhance their knowledge of the market. To improve their knowledge, beyond the Internet or the specialised press, buyers may attend exhibitions or fairs to obtain information on the characteristics of a competitive market.
6. Economic operators are interested to know the organisation and activity of the procurement services in their field. To encourage such exchanges, joint exhibitions or forums should be encouraged with the professional partners (local chambers of commerce, professional federations, labour unions etc.).
7. In this context, the information that may be exchanged or disclosed concerns:
  - a. information on completed procedures, when a contract has been awarded, subject to the protection of industrial and commercial confidential information; and
  - b. the description of the organisation and the activity of the procurement services and other administrations involved in the process.
8. In order to preserve equal treatment of suppliers/bidders, information on the estimated value of a project or the scheduled date of the consultation, etc., must not be disclosed.
9. Any communication or information on a draft contract may be disclosed only through the advertising or publication procedures defined in the procurement code.
10. The drafting of the statement of needs is the sole responsibility of the contract authority, in order to avoid gearing the requirements to a specific offer.

**Information and conduct during the tendering phase**

11. Except in the case of correction notices, the procurement code governs the conditions for achieving equality of treatment among candidates, and the transparency of procedures.
12. To avoid any risk of favouritism or suspicion, when private operators come to the office to obtain the consultation papers, those papers must be delivered by an officer not involved in the procurement process, or who has no information on the proposed contract.

**Information and conduct during the post-award phase**

13. All decisions taken by a procurement practitioner must be based exclusively on the provisions in the contract as previously agreed, particularly with regards to the definition and application of penalties.
14. Supervision and management of contract performance require collegiality and a paper trail of decisions, particularly with respect to penalties, certification of performance, and possible amendments to the contract.
15. Relations established with economic operators under public contracts may not serve as a pretext for any private contracting.

#### Information and conduct at all phases of the procurement cycle

16. Procurement practitioners must not solicit or accept gifts, favours or other advantages for themselves, their family their friends, or for persons with whom they have business or political dealings.
17. Regardless of the position occupied, and under all circumstances, procurement practitioners must exhibit good judgment and responsibility. They have the duty to inform their correspondents that they are subject to this code and cannot deviate from it.
18. Customs or usages may treat certain gifts and other advantages as acts of courtesy or hospitality that are appropriate in contacts between procurement officers and economic operators. This applies to minor gifts and conventional gestures of hospitality, in the form of modest invitations, calendars, and pens of low value, advertising materials, and minor office furnishings.

#### Gifts

19. Every procurement practitioner is advised to consider each of the following points before accepting any gift, which must be minor, of low value, not regularly provided, and neutral.
20. Regardless of the nature of the gift received, procurement practitioners must:
  - a. report them immediately to their hierarchical superior in order to avoid any suspicion;
  - b. mention them in a specific document, including the origin, nature and destination of the good delivered in order to guarantee traceability in case of subsequent challenge or audit;
  - c. use them, to the extent possible, for the benefit of the entire office (for example, passing a box of chocolates, sharing calendars or distributing pens); and
  - d. request their supervisor's advice in case of doubt, as to what is acceptable or not and on the steps to take.
21. Gifts or invitations that do not fall within the framework described above must also be recorded, with the name of the company concerned, and returned to the sender with a letter.
22. Invitations to receptions or promotional, cultural, sporting or charitable events are subject to the same rules. Being on holiday is no defence against the rules defined more broadly in this code. Procurement practitioners must in no case solicit such invitations from a supplier.
23. Any participation in an activity in the course of duty must be assessed in light of the context. In the case of participation at a professional seminar for one or more days, for example, the administration may pay the cost of registration and the officer will be placed on mission expenses.
24. Participation in visits or trips may only be justified on purely professional grounds. The costs of travel and accommodation must be covered by a mission order.

## Further Resources

OECD (2004), [\*Managing Conflict of Interest in the Public Service: OECD Guidelines and Country Experiences\*](#), OECD Publishing, Paris

OECD (2005), [\*Managing Conflict of Interest in the Public Sector: A Toolkit\*](#), OECD Publishing, Paris.

OECD (2005), "[\*Conflict of Interest Policies and Practices in Nine EU Member States: A Comparative Review\*](#)", SIGMA Paper, No. 36, GOV/SIGMA(2006)1/REV1, OECD, Paris.

Government of Canada (n.d.), [\*Code of Conduct for Procurement\*](#).