



# The Integrity Commission of Jamaica

# Anti-Corruption and Good Governance Sensitization Workshop Series

**Specially Developed by the Integrity  
Commission for the Cabinet of the Government  
of Jamaica**

# Good Governance and Anti-Corruption Workshop

## “Public Procurement Overview”

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# List of Workshop Modules

- Overview of Jamaica's Anti-Corruption Framework
- The Problem of Corruption
- Principles of Good Governance and Integrity in Public Life
- Public Procurement Overview
- Other Critical Areas Involving Integrity Commission Oversight
- IC Process - Filing of Statutory Declarations
- IC Process - Protected Disclosures Act - Whistleblowing
- IC Process - Reporting Allegations of Corruption
- IC Process - Investigating Allegations of Corruption
- IC Process - Prosecuting Allegations of Corruption
- IC Process - Overview of Corruption Offences in Jamaica
- International Best Practices in Anti-Corruption and Anti-Bribery

# Good Governance and Anti-Corruption Workshop

- a) Role and Core Functions of the IC- Oversight;
- b) Role of the Office of Public Procurement Policy;
- c) Role of the Public Procurement Commission;
- d) Role of the Accounting and Accountable Officers;
- e) Role of MPs, Parish Councillors and Ministers
- f) Government of Jamaica Contract Award Process;
- g) Procurement Methodologies;
- h) The Problem of Corruption in Public Procurement; and
- i) Avoiding culpability and public criticism.

# Players in the Public Procurement process

- Cabinet
- The Ministry of Finance and the Public Service
- Public Procurement Commission
- Integrity Commission
- Auditor General's Department
- Financial Services Commission (FSC)
- Accounting Officer
- Procuring Entity Audit Committee
- Procurement Review Board

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## **Role of the Integrity Commission**

# Role of the Integrity Commission

- The IC is mandated to promote and enhance standards of ethical conduct for parliamentarians, public officials and other persons by consolidating laws relating to the prevention of corruption and the award, monitoring and investigating of the government contracts and prescribed licences.

## How is this manifested?

- Self-reporting (QCA, CCOV)
- Site visits;
- Requisitions; and
- Advice.

The list is not closed



# Role of the Integrity Commission

- Fundamental to the establishment of the IC, was the need to strengthen the measures for the prevention, detection, investigation and prosecution of acts of corruption in Jamaica.

*(Investigations, monitoring, research and recommendations)*

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## Role of the Office of Public Procurement Policy

# Role of the Office of Public Procurement Policy

- Pursuant to Section 6(1) of the Public Procurement Act (2015), the Office of the Public Procurement Policy was established to operate under the Direction of the Financial Secretary.
- Section 7(1) of the referenced Act states that the Office is responsible for the development of public procurement policy, providing policy implementation guidance, training and advice to persons participating in public procurement.

# Role of the Office of Public Procurement Policy

- Specific Functions of the OPPP - Section 7 (1) of the Public Procurement Act further outlined fourteen (14) functions which the OPPP are mandated to perform. These functions include, but are not limited to the following:
  - Monitor the operation of the public procurement process and compliance with the provisions of the PPA and regulations.

# Role of the Office of Public Procurement Policy

- Specific Functions of the OPPP cont'd:
  - Review the methods, procedures and processes used in the public procurement and recommend any modifications; as appropriate (Handbook out of step with PPA...new Handbook/Regulations required)
  - Develop code of conduct for procuring entities, their offices and employees , specifying standard of conduct.
  - Develop standard forms of contracts, bidding documents, pre-qualification documents and any other public procurement related documents.
  - Develop and undertake research and statistical analysis to inform policy development in relation to public procurement etc.

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## Role of the Public Procurement Commission

# Role of the Public Procurement Commission



THE PUBLIC PROCUREMENT COMMISSION (PPC) IS A COMMISSION ESTABLISHED UNDER THE PUBLIC PROCUREMENT ACT, WHICH CAME INTO EFFECT IN 2015.



ACCORDING TO SECTION 10 OF THE PUBLIC PROCUREMENT ACT, THE PRINCIPAL OBJECTS OF THE PPC ARE TO:



ENSURE PRUDENCE IN THE USE OF PUBLIC FUNDS;

# Role of the Public Procurement Commission

- Promote efficiency and integrity in the public procurement process; and
- Ensure transparency, fairness and equity in the registration of persons, firms and entities under this Act and the award of procurement contracts.



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## **Role of Accounting and Accountable Officers**

# Role of Accounting and Accountable Officers

In accordance with Section 16 of the FAA Act, An Accountable Officer is any Public Officer, including an Accounting Officer, concerned with or responsible for the collection, receipt, custody, issue or payment of public moneys or other public property.

Section 16 of the FAA Act also defines an Accounting Officer as anyone person designated as such by the Minister and charged with the duty of accounting for expenditure on any service in respect of which moneys have been appropriated.

# Role of Accounting Officers



Accounting Officers are accountable to the Minister of Finance for the propriety of procurement expenditure made by their portfolio entities.



Must ensure that there is strict compliance with the strictures of GoJ Procurement Policies.

# Role of Accountable Officers

An Accountable Officer is concerned with or responsible for the collection, receipt, custody, issuing or payment of 'public moneys; or other public property.

Must ensure that appropriate safeguards are in place to guarantee that the requirements set out in requisite GoJ policies are adhered to at all times.

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## **Role of Ministers, MPs and Parish Councillors**

# Role of the Ministers

- The Cabinet is responsible for setting the national policy for public procurement and directives that govern the procurement process.
- There exists the Infrastructure Committee of the Cabinet, a sub-committee of Cabinet, established to:
  - a. recommend contracts for approval by Cabinet;
  - b. Ensure compliance of proposed infrastructure-related contracts submitted for Cabinet's approval within the existing policy framework; and
  - c. Make recommendations to Cabinet for improving the efficiency and effectiveness of the contract's award system.

# Role of the Ministers

- **Ministerial involvement in the procurement process is strongly discouraged as at no time should any Minister become involved in the procurement process, other than that outlined previously or contained in any Regulations or Rules.**

# Role of Members of Parliament (MPs)

- The Constituency Development Fund (CDF) is a fund established to provide members of Parliament with financial resources to execute approved social and economic programs within their constituency.
- MPs along with Constituency Development Fund Programme Management Unit (CDF – PMU) are responsible for the planning of constituency/community consultation.
- “These meetings shall be held in each constituency at least once every two years to ensure that constituents have a forum to articulate development needs and to participate in the identification and prioritization of plans and projects”



# Role of Members of Parliament (MPs)

- Constituency representatives attending the meeting shall identify projects to be undertaken, areas of pressing concerns need to be addressed; and individuals requesting special assistance.
- Once projects have been approved, they are forwarded to the implementing agency for implementation.
- The revised Constituency Development Fund (CDF) Operational Procedures, March 2019 fully outlines the role of MPs

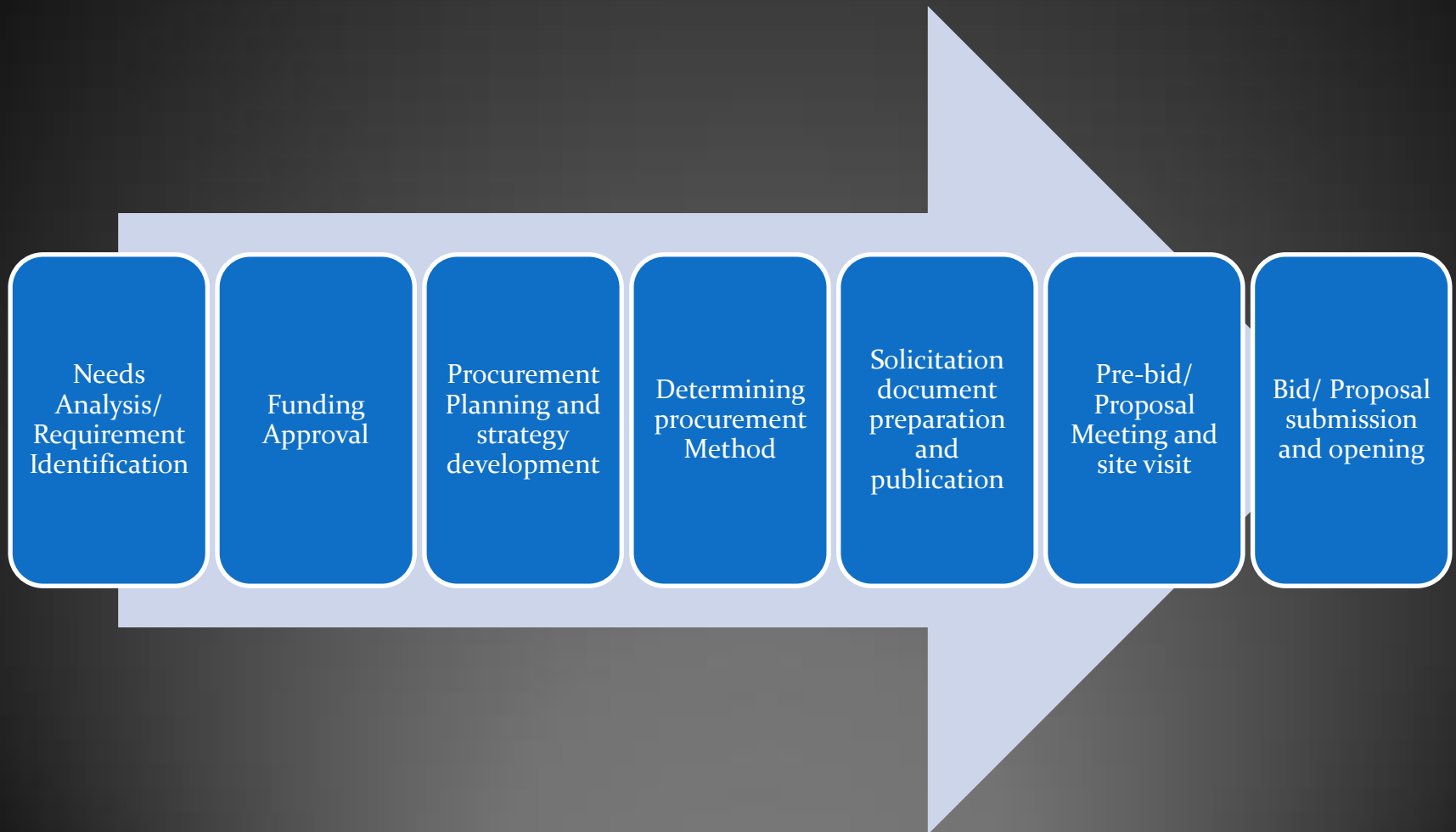
# Role of the Parish Councillors

- Councillors may sit on the Procurement Committee, provided that the Conflict of Interest provisions in the Parish Council Act is not contravened.
- Councillors shall not chair the Procurement Committee and shall not comprise more than 40% of the Committee's membership.

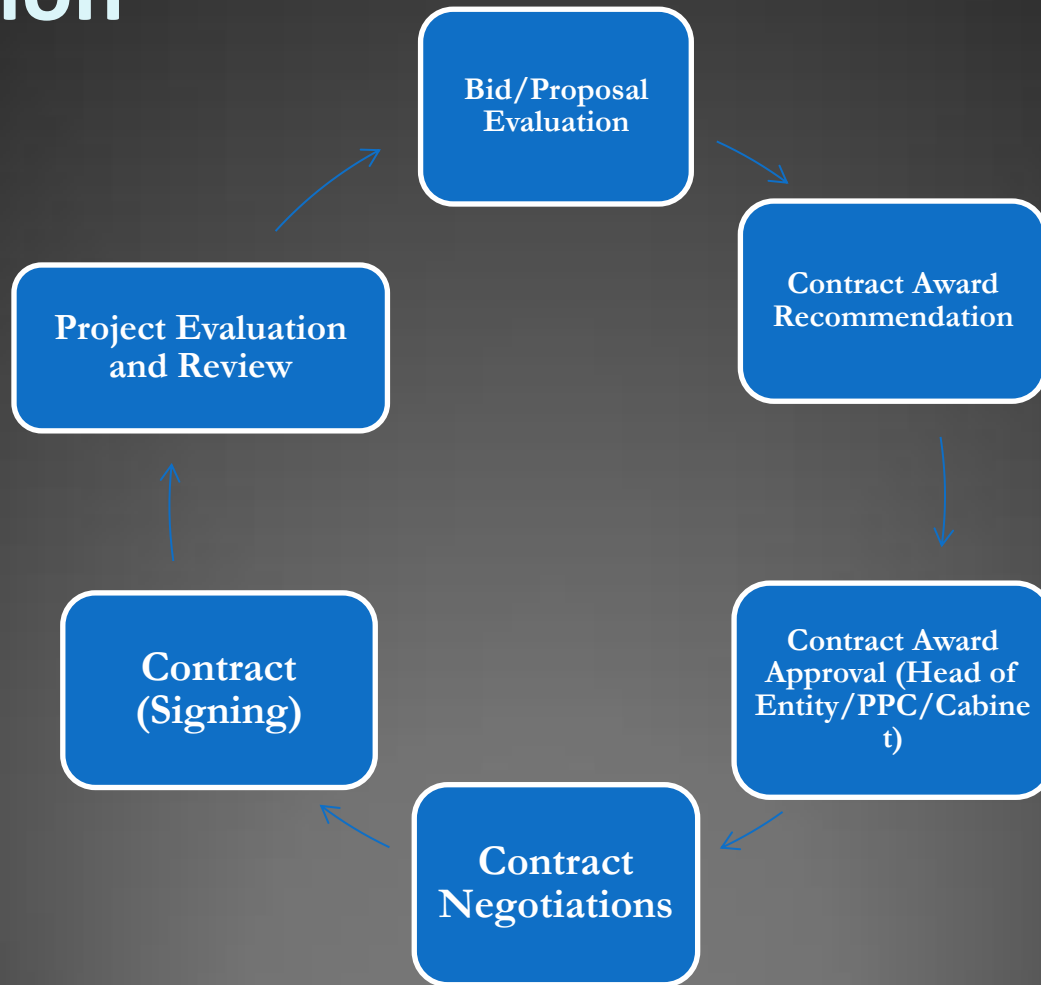
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## GOJ Contract Award Process

# GoJ Contract Award Process: Up to Bid Submission (Pre-submission)



# GoJ Contract Award Process: Post-submission



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**Public Procurement  
Methodologies:  
Competitive**

**Non-competitive** (Single-Source Contracting)

# Public Procurement Methodologies

Sections 23, 24 and 25 of the Public Procurement Act details the numerous procurement methods which may be engaged in by Public Bodies

The Public Procurement Regulations 2018:

First Schedule (Regulation 8) – “Procurement Method Threshold”.

Second Schedule (Regulations 13, 33 and 34) – “Procurement Contract Approval Limit”.

Third Schedule (Regulation 39) – “Time-Frames for Prior Notification of Public Procurement”.

# Public Procurement Methodologies

- **Non-competitive (Single-Source Contracting):**
  - Procurement of goods, works or services from a specific supplier or specific approved unregistered supplier pursuant to the invitation of a bid.
- **Competitive Methods**
  - Restrictive Bidding,
  - National Competitive Bidding (NCB),
  - International Competitive Bidding (ICB),



# Public Procurement Methodologies

- Restrictive Bidding:
  - A procurement method that is only opened to a specific number of selected bidders.
- National Competitive Bidding (NCB):
  - A procurement method that is only opened to national bidders.
- International Competitive Bidding:
  - A procurement method that is not limited to national bidders.

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## **Emergency Contracting**

# Circumstances under which Emergency Contracting is Permitted

- According to the Handbook of Public Sector Procurement Procedures (2014) emergency contracting is permitted under the following circumstances:
  - For the repairs or remedial action necessary to preserve public safety or property; or to avoid great social harm or significant public inconvenience.
  - For the procurement of goods, services or works in any extenuating circumstances in which the Procuring Entity is likely to incur or suffer financial loss.

# Emergency Contracting

- For the procurement of goods, services or works in any circumstance in which the national interest and/or national security considerations demand that the procurement be undertaken immediately.
- For business-sensitive procurement of goods, services or works in any extenuating circumstances in which the operating functions or business objectives of a Procuring Entity are likely to be significantly impeded.

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## Unsolicited Proposal

# Unsolicited Proposals

- An unsolicited proposal may be defined as a written proposal for a **new** or **innovative idea** that is submitted to an agency on the initiative of the offeror for the purpose of obtaining a contract with the Government and that is not in response to a request for proposals (Federal and Department of Defense Regulations).

# Unsolicited Proposals

According to the GoJ Handbook of Public Sector Procurement Procedures (HPSPP), an unsolicited proposal may be considered by the Procuring Entity if it:

1. Demonstrates a unique and innovative concept;
2. Offers a concept or service not otherwise available to the Government; and
3. Does not resemble the substance of a recent, current or pending Competitive Tender.

# Treatment of Unsolicited Proposals

- Upon receipt of an Unsolicited Proposal, the Procuring Entity has three (3) options:
  - To elect not to consider it and, therefore, to return it immediately;
  - To engage the Competitive Bidding process by means of a price test; or
  - To enter into direct negotiation with the proponent (HPSPP, 2014).



# Procurement Contract Approval Limit

Second Schedule (Regulations 13, 33 and 34)

- Tier 1 Limit – a value not exceeding \$30,000,000. Approvals is required from the Head of Entity. In the case of Ministries, the Permanent Secretary, as the Accountable Officer would be the Head of Entity.
- Tier 2 Limit – a value exceeding the Tier 1 Limit but not exceeding \$60,000,000.00. Approval from the Public Procurement Commission is required.
- Tier 3 Limit – a value exceeding the Tier 2 Limit. Approval from the Cabinet is required.

# Procurement Contract Approval Limit

- The use of Sole Source and Selective Tendering above their respective thresholds MUST be approved by the Head of the Procuring Entity.
- Works (2m) vs. goods and services (1.5m)

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## **The Problem of Corruption and other issues in Public Procurement**

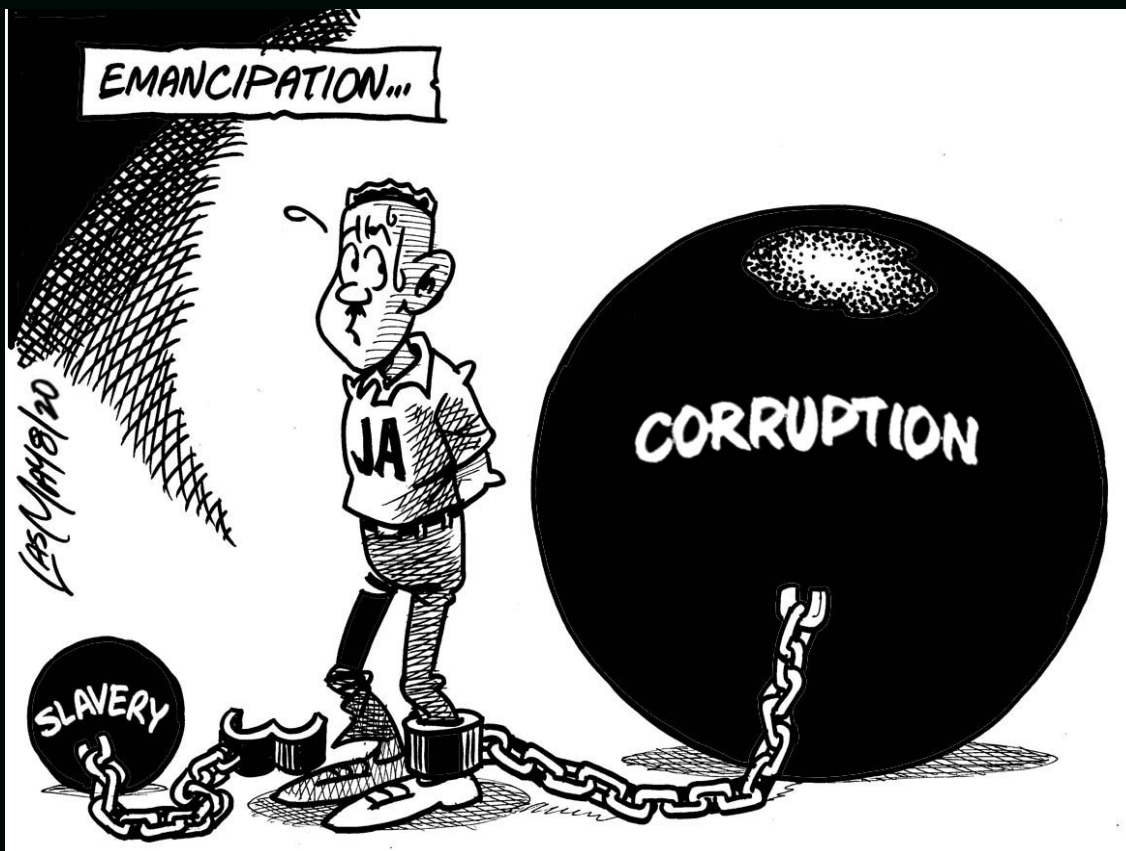
# Corruption and other issues: Public Procurement

- Public procurement refers to all kinds of acquisitions of public goods and services.
- Public procurement is particularly susceptible to corruption (Williams-Elegbe, 2012).
- Corruption in public procurement prevents the attainment of value for money.
- Governments spend vast sums to procure goods and services for public projects. Such procurement accounts for up to 30% of GDP in developing countries

# Corruption and other issues: Public Procurement

- Collusion, cartels, subversion of competitive processes, price-fixing, bribes, intimidation, etc.
- **Conflict of Interest**: Another corruption related issue in procurement is conflict of interest – a conflict between an entrusted duty on the one hand, and the private interest of the duty-bearer on the other hand (discussed in module 3).

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*What Must  
Parliamentarians and  
Cabinet Ministers do  
to Avoid Becoming  
Culpable of Criticism  
in the Public Domain?*

# What must Parliamentarians and Ministers do to avoid Becoming Culpable?

- Knowledge of the relevant laws, rules and procedures.
- Request, and follow when prudent to do so, the opinion and expert advise of Technocrats.
- Do not insert yourself into the procurement/contract award process.
- Ensure that there are no conflicts of interest – declare any potential conflict of interest situation and recuse yourself.
- When in doubt, request the opinion and advice of other persons/entities which possess expertise such as the Office of Public Procurement Policy in the Ministry of Finance, the Public Procurement Commission and the Integrity Commission.

# What must Parliamentarians and Ministers do to avoid Becoming Culpable?

- Ministers/Public Officials are strongly encouraged not to:
  - “Walk” an application through any established system;
  - Exert influence in the approval process to ensure a “favourable” outcome (in their own interest);
  - Seek to have an application expedited (jump the queue) above other applications currently within the particular system.
  - Dissuade the IPB’s from carrying out proper due diligence to shorten the processing time.



# Thank you!



END OF  
PRESENTATION



QUESTIONS