



THE UNITED REPUBLIC OF TANZANIA
MINISTRY OF FINANCE AND PLANNING



PUBLIC PROCUREMENT REGULATORY AUTHORITY

PUBLIC PROCUREMENT WHISTLEBLOWING GUIDELINES, 2021

(Made under Section 106)

Public Procurement Act, CAP 410

First Edition

Issued by PPRA

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CAP 410

PREAMBLE

The Public Procurement Regulatory Authority (PPRA) is a regulatory body established under the Public Procurement Act, CAP 410. The Authority is charged with regulatory functions, vested with oversight powers and responsibilities on all public procurement activities carried out by all public bodies in Tanzania Mainland. PPRA was established to set standards for the public procurement system of Tanzania Mainland, monitor compliance of Procuring Entities, provide Advisory Services to the Government, Build Capacity of Procuring Entities, and manage Public Procurement electronic system.

These Guidelines have been issued in accordance with Section 106 of the Public Procurement Act, CAP 410 that mandates the Authority to issue guidelines from time to time for the better carrying out of its functions. Accordingly, the Authority has prepared the Public Procurement Whistleblowing Guidelines which outlines ways in which public procurement stakeholders can submit to the Authority, concerns about wrongdoings in public procurement and encourage members of public to raise the same in line with these Guidelines.

In preparing these Guidelines, the Authority took into consideration the applicable laws including the Public Procurement Act, CAP 410 and the Whistleblower and Witness Protection Act, No.20 of 2015.

The Guidelines are primarily for concerns where, due to wrongdoings, the public interests in respect of public procurement may be at risk, thus requiring disclosure of information to the Authority for appropriate action. These Guidelines are designated to provide commitment to whistleblowers that their concerns in respect of public procurement shall be taken seriously and in confidence, hence the Authority encourages them to communicate their concerns through the appropriate channels stipulated under these Guidelines. For disclosures made in good faith, a whistleblower shall have protection as provided under the Whistleblower and Witness Protection Act, 2015.



PART I

INTRODUCTION

1. Short title

These Guidelines may be cited as the Public Procurement Whistleblowing Guidelines, 2021.

2. Application of the Guidelines

These Guidelines shall apply to disclosure of wrongdoings that have occurred, are ongoing or are about to occur in relation to public procurement. As such, this will include:

- (a) Disclosures made by public procurement stakeholders (members of public; and
- (b) Disclosures made by Board members and staff of the Authority regarding internal and external public procurement matters:

Provided that, disclosures by Board members and staff regarding Authority's internal matters not related to public procurement shall be handled according to the existing Authority's internal policies and procedures.

3. Definition

In these Guidelines unless the context requires otherwise, the words below shall have the following meaning:

"abuse of office" means the commission of an unlawful act done in an official capacity;

"officer" means a person working with a procuring entity as an employee, intern, temporary staff, or consultant;

"Authority" means the Public Procurement Regulatory Authority;

"Board" means the Board of Directors of the Authority;

"Board member" means a member of the Board of Directors of the Authority;

"coercive"- means use of force or threats;

"competent authority" means a person, body of persons, organs or an agency competent to take actions as may be referred to or directed to it;

"corrupt practices" means the offering, giving, receiving or soliciting of anything of value to influence the action of a public officer in the procurement process or contract execution;

“disclosure” means an act of making information or wrongdoing known;

“fraudulent” means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of the Government or a public body and includes collusive practices among tenderers, prior to or after submission designed to establish tender prices at artificial, non-competitive levels and to deprive the Government or public body of the benefits of free and open competition;

“Guidelines” means the Public Procurement Whistleblowing Guidelines;

“illiterate” means a person who is unable to read or write;

“malpractice” means improper, illegal or negligent professional behaviour;

“misappropriation or misuse of public resources” means intentional and illegal use of property done by a public officer;

“obstructive” means causing deliberate difficulties and delays;

“procurement process” means the successive stages in the procurement cycle, including planning, choice of procedures, measures to solicit offers from tenderers, examination and evaluation of those offers, award of contract and contract management;

“public procurement stakeholders”- means any person who has interest in public procurement, it includes procuring entities, staff of PEs, bidders, non state actors (non-governmental organizations, civil societies, faith based organisations, community based organisations and media) and the general public;

“responsible officer” means an authorised personnel of the Authority who is responsible to receive disclosures and bring them to the attention of the Authority;

“Register” means a list of all wrongdoings reported by whistleblowers and registered by the Authority;

“Form” means the Whistleblower Disclosure Record Form;

“whistleblower” means any person who makes disclosure of a wrongdoing;

“wrongdoing” means any of the matters specified under Part II of these Guidelines.

4. Duties of the Whistleblower

The following are the duties of the whistleblower:

- (1) The whistleblower has a duty to report to the Authority, wrongdoings under the Public Procurement Act, CAP 410 and its Regulations.
- (2) Any person who makes disclosure under these Guidelines has an obligation to make it in good faith.
- (3) Where any person makes the disclosure in good faith and the same is not confirmed by subsequent investigation, no action shall be taken against that individual.
- (4) A person making disclosure under the Guidelines is required to exercise reasonable care to ensure accuracy of the information that he provides.
- (5) Any person may make a disclosure before the Authority, if that person is of reasonable belief that a wrongdoing has occurred, is about to occur or is likely to occur.



5. Considerations prior to whistleblowing

- (1) A whistleblower is required to be certain that the conduct about which he is making the disclosure is a wrongdoing related to public procurement; and
- (2) A whistleblower is assured that the law is designed to protect him if he acts in good faith.

6. Objectives of the Guidelines

The objectives of the Guidelines are:

- (a) to provide a platform to whistleblowers for reporting wrongdoings related to public procurement;
- (b) to enable the Authority to timely take appropriate actions on the reported wrongdoings;
- (c) to enable the Authority, bring the culprits to the attention of competent authorities for appropriate action; and
- (d) to enable the Authority continue exercising its mandate of ensuring value for money procurement standards and practices.

PART II

DISCLOSURE PROCESS AND INVESTIGATION

7. Wrongdoings to be reported under these Guidelines are as follows;

- (1) A whistleblower has a right to report to the Authority any wrongdoings in Public Procurement that he finds inappropriate for public interest.
- (2) Subject to sub item (1), conducts that will be reported under these Guidelines shall include but not be limited to the following:
 - (a) when a person has not complied with, or is in the process of breaching or is likely to breach the Public Procurement Act, CAP 410 and its Regulations, which imposes an obligation on that person. Examples of such non-compliance include the following:

- (i) failure by an Officer of a procuring entity or bidder to comply with requirements of the Law during Tender preparation, advertisement, opening, evaluation, negotiation and award of contract;
- (ii) failure by an Officer of a Procuring Entity, Contractor, Supplier, Service Provider or Consultant to comply with terms and Conditions of Contract during implementation;
- (iii) misrepresentation of qualification by a Bidder during the Tendering process;
- (iv) award of Contract to an unqualified Bidder;
- (v) award of Contract to a bidder other than the lowest evaluated, or in case of revenue collection, the highest evaluated;
- (vi) supply or acceptance of goods that don't conform to approved specifications or implementing projects below standards;
- (vii) payment for non rendered services, non supplies or non existing works;
- (viii) procurement processes with corruption or likelihood of corruption;
- (ix) issuance of Tender documents with discriminatory information to bidders;
- (x) seeking retrospective approval from the Paymaster General for Non Procured goods, Works or Services;
- (xi) submission of forged Performance Securities or advance payment Guarantees by Contractors, Suppliers or Service Providers;
- (xii) failure by a Procuring Entity to terminate a Contract or take necessary action against a Contractor, Supplier or Service Provider despite breach of terms and conditions of the Contract;
- (xiii) unusual advertisement of Tenders in Tanzania National Electronic Procurement System (TANePS) e.g. a Tender is advertised at night while the following morning is the deadline for submission of bids;
- (xiv) processing of Tenders outside the Tanzania National Electronic Procurement System (TANePS);
- (xv) failure by a PE to apply Preference Schemes in line with the Public Procurement Act, CAP 410 and its Regulations;



- (xvi) acceptance or solicitation of bribes by Authority's Officer, Procurement Auditor, Consultant, Board member or any other person acting on its behalf; and
- (xvii) any other acts that amount or may amount to non-compliance under the Public Procurement Act, CAP 410 and its Regulations.

(3) A crime under the Public Procurement Act, CAP 410 and its Regulations which has been committed or is about to be committed or is likely to be committed. Examples of such crimes include the following:

- (a) involvement in corrupt, fraudulent, collusive, coercive, or obstructive practices by an Officer of a Procuring Entity, Bidder, Contractor, Supplier, Service Provider or Consultant in Procurement process; and
- (b) an officer of a Procuring Entity, Bidder, Contractor, Supplier, Service Provider or Consultant has committed, is about to commit or is likely to commit an act which is an offence under the Public Procurement Act, CAP 410.

(4) If in a procuring entity there has been or there is likely to be waste, misappropriation or mismanagement of resources or abuse of office in relation to Public Procurement. Examples of such acts include the following:

- (a) Employee of a Procuring Entity has caused or is likely to cause loss of public resources;
- (b) Employee of a Procuring Entity is likely to receive or has received money or anything from a Bidder participating in the procurement process as a gift with intent of gaining advantage in the process;
- (c) Employee of a Procuring Entity who is directly or indirectly involved in the Tendering process, is likely to be approached or has been approached by a Bidder, with intent of gaining advantage in respect of a matter to be decided upon;
- (d) a Procuring Entity has procured or is likely to procure goods or services which were or will not be needed;
- (e) a Procuring Entity procures from a member of its Staff or a person who has direct influence in the decision of a Procuring Entity, acting in a private capacity;
- (f) Employee of a Procuring Entity or a member of the Tender Board fails to declare an interest he has against a Bidder and such a Bidder is likely to be awarded or has been awarded a contract; and
- (g) any other acts, which amount to wastage, misappropriation or mismanagement of public resources or abuse of Office.



(5) Without prejudice to what is stated in sub items 7 (1) to (4) a whistleblower may, in good faith, report to the Authority, any other wrongdoing in public procurement.

(6) The Authority shall maintain a Register for reported wrongdoings and the Register shall be kept in a confidential manner.

8. Options for making disclosure

A whistleblower may report wrongdoings in Public Procurement with clear information to the Authority on whether he would wish his identity to be open or confidential, or anonymous, as follows:

- (a) open reporting; this is where a whistleblower openly reports a wrongdoing to the Authority and allows disclosure of his identity:
- (b) confidential reporting; this is where a whistleblower reports a wrongdoing to the Authority and prefers his identity not to be disclosed without his prior consent: and
- (c) anonymous reporting; this is where a whistleblower reports a wrongdoing without disclosing his identity to the Authority.

9. Ways for making disclosure

(1) Disclosure of a wrongdoing in Public Procurement may be made by the whistleblower either orally, in writing or by sign language. The oral or written disclosure may be submitted to the Authority through:

- (a) e-mail;
- (b) phone call;
- (c) text message;
- (d) mail or letter; and
- (e) physical visit to Authority's offices.

(2) Subject to the available ways for disclosure of wrongdoings, the Authority shall have a duty to obtain and record disclosures made in relation to Public Procurement by way of print, electronic media, public meetings and rallies.

(3) When a disclosure is made orally, the Authority shall put it in writing and ensure that it contains all the necessary information from the whistleblower in line with the Annexure.



(4) After putting the said information in writing, the responsible officer shall read out what he has recorded to the whistleblower to confirm if he has noted every detail correctly.

(5) A whistleblower may disclose a wrongdoing in Swahili, English or by sign language.

10. Contents of disclosure

(1) In making a disclosure, the whistleblower's information and personal details shall be recorded in the Annexure in so doing, the whistleblower may disclose his full name, address and his occupation.

(2) Every disclosure of a wrongdoing that has been committed, is being committed, or is likely to be committed, shall contain:

- (a) nature of the wrongdoing for which disclosure is made;
- (b) details of a person or institution alleged for the wrongdoing;
- (c) time, date and place/area of the wrongdoing;
- (d) signature or mark at the end; and
- (e) any other important information related to the wrongdoing.

11. Where to report

All wrongdoings falling under these Guidelines, shall be reported to the Authority via the following ways;

- (a) text message - +255 745 971995/ +255 733543198
- (b) phone call - +255 745 971995/ +255 733543198
- (c) Email address - disclosure@ppra.go.tz;
- (d) Physical address - (i) Kambarage Tower, 9th Floor, PSPF Road, Dodoma
or
- (ii) GPSA Clearing and Forwarding Building Road,
Dar es Salaam,
- (e) Postal Address - P.O. Box 2865
41104 Dodoma, Tanzania.

12. Disclosure by illiterate or physically challenged (impaired) persons

(1) An illiterate or physically challenged (impaired) person is allowed to make disclosure under these Guidelines.

(2) An illiterate or physically challenged (impaired) person may submit his disclosure to the Authority verbally or using sign language and the responsible officer shall write down the disclosure containing the same particulars as provided in the Annexure.

(3) After writing down the disclosure, the responsible officer shall read out, interpret and explain in a language the illiterate or physically challenged (impaired) person understands, before such person approves it by using a signature, mark or finger print.

(4) Disclosure made by an illiterate or physically challenged (impaired) person shall contain a certificate indicating that the information was read out, interpreted and explained to the illiterate or physically challenged (impaired) person in a language that he understood, and that he accepted the contents as accurately reflecting what he had reported to the Authority.

13. Investigation process

The Authority's process of investigating disclosure of a wrongdoing shall be as follows:

- (a) after receiving a disclosure from a whistleblower, the responsible officer shall record the time, date and place where the disclosure was made, sign and cause the Form to be countersigned or marked by the whistleblower if he is present;
- (b) the Authority shall acknowledge to the whistleblower, receipt of his concern if he is known. acknowledgement will not be required for anonymous disclosures;
- (c) the Authority shall keep the disclosure confidential pending investigation of the alleged wrongdoing;
- (d) after receipt of the disclosure, the responsible officer shall conduct a preliminary review to establish if the matter warrants an investigation. If it does, an investigation will be conducted in line with the Public Procurement Act, CAP 410 and subsequently, appropriate action will be taken, depending on the results; and
- (e) where the Authority finds that it is not competent to handle the reported wrongdoing, it shall immediately refer the matter to an institution vested with the powers to handle it.

PART III

PROTECTION OF WHISTLEBLOWERS

14. Protection of whistleblowers

(1) A whistleblower shall be protected upon request to the Authority, or on the basis of information gathered, the Authority is of a reasonable belief that as a result of the disclosure:

- (a) the whistleblower may be subjected to dismissal, suspension, harassment, discrimination, intimidation or any other form of victimisation; or
- (b) his life or property or the life or property of a person of close or interpersonal relationship, is endangered or is likely to be endangered.

(2) Subject to sub item (1) the Authority shall protect the whistleblower in the following circumstances, where:

- (a) a disclosure is made in good faith;
- (b) the whistleblower reasonably believes that the disclosure is substantially valid; and
- (c) the disclosure is made in accordance with these Guidelines.

(3) Subject to the provisions of sub item (1) and (2), where the Authority is satisfied that the whistleblower needs protection, it shall refer the matter to an Institution capable of providing protection so as to protect the whistleblower.

PART IV

KEY ROLES AND RESPONSIBILITIES

15. Roles and responsibilities of the Authority

(1) The Authority shall have a sole responsibility to oversee the general application of these Guidelines.

(2) The Authority shall receive and keep record of all wrongdoings reported by whistleblowers.

(3) The Authority shall receive, create and keep a Register of all reported wrong doings in a confidential manner.

(4) The Authority shall ensure that, the responsible officer handling disclosed wrongdoings signs a covenant form as a commitment to maintain confidentiality of all received information.

(5) Where appropriate, the Authority shall conduct investigation of the reported wrongdoing and take necessary action.



PART V

COMING INTO OPERATION, REVIEW AND AMENDMENTS OF THE GUIDELINES

16. Coming into operation

These Guidelines shall come into operation on the date approved by the PPRA Board of Directors.

17. Review and amendment

The Board may review and amend these Guidelines from time to time as it deems necessary.

Approved by the Board on 20th May, 2021

Signed by:



Chief Executive Officer

SCHEDULE



THE UNITED REPUBLIC OF TANZANIA
MINISTRY OF FINANCE AND PLANNING
PUBLIC PROCUREMENT REGULATORY AUTHORITY



Annexure – Whistleblower Disclosure Record Form

PART - A: Whistleblower Information

- Note:**
- (a) To be completed by a whistleblower in reporting a wrongdoing to the Authority;
 - (b) To be completed by the responsible officer when recording a disclosure from an illiterate or physically challenged (impaired) person, or from media, public meetings or rallies, phone calls; and
 - (c) Where the whistleblower wishes to remain anonymous, he will neither fill Item No.1 **under Part A** nor sign the Form

No.	Item	Particulars
1.	Whistleblower's Details	
	(i) Full name	
	(ii) Age (optional)	
	(iii) Position or title and office location	
	(iv) Telephone Number and e-mail address.	
	(v) Name of immediate Supervisor (If any)	
2.	Nature of the wrongdoing for which disclosure is made	
3.	Details of a person or institution alleged for the wrongdoing	
4.	Time and date of the wrongdoing	

5.	Place of the wrongdoing	
6.	Over what period of time has the Suspected activity occurred?	
7.	Names of people involved in the wrongdoing	
8.	Do you have any supporting evidence? If yes, attach the evidence	
9.	If no evidence is attached, indicate where it is located.	
10.	How did you come to know about the wrongdoing?	
11.	Who else knows about this matter?	
12.	Any other important information relating to the wrongdoing	

NB: Feel free to attach as many pages / documents as possible to capture details of your reporting.

Signed by:

.....

Whistleblower

.....

Responsible Officer

Date:

Date:.....

PART - B: For Internal Use by the Authority

Acknowledgement for Receipt of the Form

Signed by:

.....

Responsible Officer

Date:.....

