

Procurement and Supplies Professionals and Technicians Code of Ethics and Conduct

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THE PROCUREMENT AND SUPPLIES PROFESSIONALS
AND TECHNICIANS

CODE OF ETHICS AND CONDUCT, 2009

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THE PROCUREMENT AND SUPPLIES PROFESSIONALS
AND TECHNICIANS BOARD ACT

(CAP. 179)

CODE OF ETHICS AND CONDUCT

(Made under section 49)

THE PROCUREMENT AND SUPPLIES PROFESSIONALS AND TECHNICIANS CODE
OF ETHICS AND CONDUCT, 2009

PART I

PRELIMINARY PROVISIONS

Citation	1.—(1) This Code may be cited as the procurement and supplies Professionals and Technicians Code of Ethics and Conduct, 2009.
Applica- tion	2. This Code shall apply to all procurement and supplies professionals and technicians.
Interpre- tation Cap. 179	3.—(1) in this Code unless the context otherwise requires:- “Act” means the Procurement and Supplies Professionals and Technicians Board Act; “Board” means the Procurement and Supplies Professionals and Technicians Board established under section 4 of the Act; “Code” means the procurement and supplies professionals and technicians code of ethics and conduct, 2009; “committee” means Committee of the Board established under these Regulations; “conflict of interest” means a situation where:- (a) a procurement and supplies professional, procurement auditor, supplies and stock auditor or technician, as the case may be, has two or more duties or interests that are mutually incompatible; or (b) there is a clash between public and private or personal interests or any other interests of an individual concerned. “complainant” means a person making the complaint or allegation before the board; “complaint” means an allegation that some known or unknown person, has committed a violation of this code; “disciplinary committee” means the registration and disciplinary committee of the board established under these regulations; “ethical behaviour” includes the concepts of honesty, integrity, probity, diligence, fairness, trust, respect, consistence, avoiding conflicts of interest, and not making improper use of an individual’s position;

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“Executive Director” means the chief executive officer of the Procurement and Supplies Professionals and Technicians Board appointed in accordance with the provisions of the Act;

“corruption” means misuse or abuse of public office for private gain.

“corrupt transaction in procurement” means a situation where a person:-

(a) offers any advantage to another person as an inducement for or reward for or otherwise on account of the withdrawal of a tender or refraining from inviting a tender for any contract with a public or private body for the performance of any work, the supply of service, the doing of anything or the supplying of any article, material substance; or

(b) solicits or accepts any advantages as an inducement for or a reward for otherwise on account of the withdrawal of a tender or refraining from inviting a tender, or a contract;

“procurement and supplies professional and technician” means a person holding or having been registered as:-

(a) procurement and supplies professional;

(b) procurement and supplies firm or institution;

(c) an enrolled procurement and supplies technician; and

(d) an enlisted procurement and supplies technician assistant;

“Regulations” means the Procurement and Supplies Professionals and Technicians Board Regulations made under the Act;

“retaliation action” means the use of, or an attempt to use authority, threats, or other action including but not limited to demotion, suspension, harassment or any other discriminatory action by any employee or officer of the employer, a procurement and supplies professional, procurement auditor, supplies and stock auditor or technician, as the case may be, to influence or to interfere with the right of another procurement and supplies professional, procurement auditor, supplies and stock auditor or technicians as the case may be, to report any violation of this code or against a procurement and supplies professional, procurement auditor, supplies and stock auditor or technician, as the case may be, who has in good faith made or assisted in making a complaint;

“stock auditor” means a person trained, qualified. or holding himself out as trained, qualified, or experienced in the verification of stock of the business of any person or body of persons;

“supplies” means the stock or materials physically existing and available for use or for disposal for use and includes spare parts and animals.

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PART II

APPLICATION AND GENERAL PRINCIPLES OF THE CODE OF ETHICS AND CONDUCT

Applica-
tion and
enforce-
ment of
the Code

3.—(1) This Code applies to full-time, part-time and temporary procurement and supplies professionals and technicians who are registered in accordance with the provisions of the act and identified in this code as procurement and supplies professionals.

(2) This Code shall be enforced by the Board at all organizational level and its applicable to all registered procurement and supplies professionals and technicians, and corporate persons both in public and private sector.

(3) A chief executive officer and procurement and supplies professional or technicians of any entity shall be responsible to read and adhere to this Code and ensure that any other person in his entity others observe compliance of the same.

Perform-
ing
profes-
sional
duties

4.—(1) A procurement and supplies professional or technicians, shall faithfully carry out at all appropriately assigned duties striving at all times to perform the work diligently, efficiently, equitably, thoroughly, courteously, honestly, truthfully and with transparency.

(2) a procurement and supplies professional or technician shall carry out lawful issued orders and rules which do not exceeding his profession's authority.

PART III

COMPLIANCE WITH APPLICABLE LAWS, RULES AND REGULATIONS

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with
laws,
rules and
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tions

5.—(1) A procurement and supplies professional or technician shall uphold the Constitution, laws, rules and Regulations of the United Republic of Tanzania.

(2) The procurement and supplies professional or technician shall adhere to the standards and restrictions imposed by laws, rules and regulations.

Act
No. 13
of 1995

(3) Without prejudice to the Public Leadership Code of Ethics Act this Code shall apply to procurement and supplies professional or technician.

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(4) Every procurement and supplies professional or technician shall obtain a copy of the applicable Code at the time of his registration with the Board or when this Code comes into force.

(5) A violation of any applicable law, rules, or Regulations shall be reported to the relevant authority in accordance with the reporting procedures set out by the relevant law, rules or Regulations.

(6) Violations of any law, rules, or regulations shall result in disciplinary action, criminal or civil actions as the case may be.

6.—(1) A procurement and supplies professional or technician shall retain his right to vote and he is encouraged to exercise that right as a part of his citizenship.

Refrain-
ing from
inappro-
priate
political
activities

(2) A procurement and supplies professional or technician may engage in any political activity as a private citizen in accordance with the applicable law or rules.

(3) A procurement and supplies professional or technician shall:-

- (a) participate in political activities only during non-employer hours by, using non-employer resources;
- (b) non use his position or title within the procurement and supplies system to influence others;
- (c) not engage in political activities, and allow his personal political views to influence performance of his duties;
- (d) non seek political influence with a view to obtaining advancement on matters relating to appointment, promotion, transfer, discipline and cessation of employment.

(4) a procurement and supplies professional or technician, shall, unless he is elected to one of the procurement and supplies position, campaign during non-working hours or take an unpaid leave of absence upon declaring his intent to run for office and if elected, shall resign post with the employer unless is holding a political office that clearly does not hold a conflict of interest he does not interfere his one's ability from his perform on his procurement and supplies duties.

7.—(1) A procurement and supplies professional or technician shall:-

- (a) accept personal responsibility for all work or services rendered by him, under his supervision or direction, and take all reasonable steps to ensure that persons working under his authority are competent to carry out tasks assigned to them;

Obliga-
tions

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- (b) not engage himself in serious pecuniary embarrassment, from whatever cause in lending and borrowing of money at usurious rates of interest affecting both the respectability of the service of the organization or institution in which he is employed and his trustworthness;
- (c) not recklessly or maliciously injure or attempt to injure whether directly or indirectly, the professional reputation, prospects or business of another procurement and supplies professional or technician;
- (d) not assist, induce or be involved in the breach of this code but support those who seek to uphold it and report to the board or other relevant bodies any unethical procurement and supplies professional or technician.

(2) A procurement and supplies professional or technician whose professional advice is not accepted shall take all reasonable steps to ensure that persons overruling or neglecting the advice are aware of the dangers he believes may result from such overruling or neglect.

(3) Where a procurement or supplies activity is complex, of high value, sensitive or offerror's grievance are more likely, a procurement and supplies professional or technician, may advise a procuring entity or authority to engage a probity advisor or a probity auditor to provide opinions and guidance on probity risks and issues that may arise during the process and confirm in writing whether the process is consisted with the requirements outlined in a probity plan as well as general probity fundamentals.

(4) a probity advisor or probity auditor may be engaged to:-

- (a) provide advice during a procurement and supplies process on probity-related issues in order to establish procedures which meet recognized probity standards and ensure that any problems or questions are dealt with satisfactorily;
- (b) provide independent scrutiny of the procurement and supplies process to ensure that prescribed processes are actually adhered to; and
- (c) produce a report at the end of the process which records an independent professional view of the way in which the procurement and supplies process was managed from a probity perspective;

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PART IV

PROCUREMENT AND SUPPLIES PROFESSIONALS AND

TECHNICIANS RELATIONS WITH EMPLOYER

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| <p>8.—(1) A procurement and supplies professional or technician and employer’s right are governed by the laws of the country relating to employment, the work rules of the employer or individual written employment contracts.</p> <p>(2) Where laws pertaining to employment contain mandatory requirements that differ from the provisions of this Code, such laws shall prevail from an employee working under such conditions.</p> | <p>Professionals, technicians and employer’s rights</p> |
| <p>9. A procurement and supplies professional or technician, shall conduct his work without bias or prejudice based upon race, gender, skin color, religion, age, sexual orientation, national origin, language, marital status, socioeconomic status, physical or mental challenge, or any other factors</p> | <p>Fairness</p> |
| <p>10.—(1) the procurement and supplies professionals and technicians board shall not tolerate any forms of harassment, including inappropriate range, violence or any conduct in the workplace that creates an intimidating or otherwise hostile environment.</p> | <p>Harassment</p> |
| <p>11. This Code prohibits unequal treatment of a procurement and supplies professional or technician based on factors that do not lead to job performance.</p> | <p>Discrimination</p> |
| <p>12.—(1) a procurement and supplies professional or technician shall recruit, select, and advance personnel based on demonstrated knowledge, skills, abilities and bona fide work-related factors and not on favoritism.</p> <p>(2) A procurement and supplies professional or technician, shall offer services, advice, consultancy services or undertake assignments only in the areas of his competence, practice and category or class in which he is registered with the board, and shall do so in a careful and diligent manner.</p> <p>(3) A procurement and supplies professionals or technician shall avoid appointing assigning, or directly supervising a family member or attempting to influence the employment or advancement of a family member.</p> <p>(4) Where circumstances dictate that, the procurement and supplies professional or technician has to work directly with a family member, he shall report the circumstance to an appropriate authority, regularly assess the situation, and take remedial action at the earliest time as practicable.</p> | <p>Personal relationship</p> |

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(5) In this provision appropriate authority includes employer or management of the institution or organization concerned.

Types of
conflicts
of interest

13. A procurement and supplies professional or technician shall be aware of the following types of conflicts of interest:-

- (a) an actual conflict of interest where a procurement and supplies professional or technician is in a position to be influenced by his private interests when doing his job;
- (b) a perceived conflict of interest where a procurement and supplies professional or technician is in a position to appear to be influenced by his interests when doing his job; and
- (c) a potential conflict of interest where a procurement and supplies professional or technician is in a position where he may be influenced in the future, by his private interests in doing his job.

Conflict
of interest

14.—(1) A procurement and supplies professional or technician shall:-

- (a) act and perform his duties ethically and honestly, with the highest sense of integrity;
- (b) avoid actual, perceived or apparent conflicts of interest between personal and professional relationships; and
- (c) not have any undisclosed, unapproved financial or other business relationships with customers, vendors, suppliers, contractors, consultants, or potential customers, vendors, suppliers, contractors, or consultants, that may impair the independence of any judgement he may need to make on behalf of the organization or institution in which he is employed or its agent.

(2) Conflicts of interest may arise where a procurement and supplies professional or technician, a member of his family, or his company receives improper benefits as a result of his position in the organization or institution in which he is employed or its agent or as a result of privileged information within the organization or institution in which he is employed or its agent.

(3) A procurement and supplies professional or technician shall conduct his private business and person activities in a manner that avoids conflicts of interest.

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(4) Actual or potential conflicts of interest includes but not limited to:-

- (a) handling or processing of any aspect of procurement and supplies or audit that is the transaction of a procurement and supplies professional or technician, himself or that of a family member or related company;
- (b) having a direct or indirect financial interest including joint venture, partnership or directorship in or with a customer, vendor, supplier, contractor, or consultant, or prospective customer, vendor, supplier, contractor, or consultant, of the organization or institution in which he is employed or its agent;
- (c) making personal investments, joint ventures or participating in a customer's, supplier's, contractor's, consultant's business to avoid any unfair advantage gained from knowledge obtained by from information of the organization or institution in which he is employed or its agent;
- (d) selling or leasing goods or services to the organization or institution in which he is employed or its agent;
- (e) receiving discounts on purchases from customers, vendors, suppliers, contractors, or consultants, because of business relationships with the organization or institution in which he is employed or its agent;
- (f) giving preferential treatment to a customer, vendor, supplier, contractor, or consultant, or prospective customer, vendor, supplier, contractor, consultant, because of any favour, gratuity or outside business relationships with the organization or institution in which he is employed or its agent;
- (g) using position to benefit relatives or their business;
- (h) enjoying an advantage over the general public in the purchase of property of the organization or institution in which he is employed or its agent including real estate, motor vehicles, securities, or other property;
- (i) becoming involved in real estate projects or other ventures being financed by the organization or institution in which he is employed or its agent or agent or other companies on a reciprocal basis without disclosing full details;
- (j) having an outside directorship that may conflict with the organization or institution in which he is employed or its agent or failing to obtain from, not be physically present during negotiations, presentations, recommendations or approvals of

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any extension of contract or other business transaction involving the other company, even if the company is non-profit;

- (k) being engaged in outside activities or interest that impairs or affects his ability to discharge his duties properly;
- (i) being an owner of, employed by or having a substantial interest in a company which is competitor of the organization or institution in which he is employed or its agent, a vendor, supplier, contractor, or consultant, of the organization or institution in which he is employed or its agent;
- (m) making use information acquired by virtue of his position in the organization or institution in which he is employed or its agent to make a profit or gain an advantage;
- (n) engaging in a business transaction involving the organization or institution in which he is employed or its agent for personal profit or gain;
- (o) accepting or giving money or gifts, excessive hospitality, loans or other special treatment from or any competitor, vendor, supplier, contractor, or consultant, as the case may be, of the organization or institution in which he is employed or its agent; and
- (p) learning of a business opportunity through association with the organization or institution in which he is employed or its agent and disclosing it to a third party or investing in the opportunity without first offering it to the organization or institution in which he is employed or its agent.

Illegal or improper acts

15. This code prohibits a procurement and supplies professional or technician from engaging in illegal or improper acts including but not limited to:-

- (a) conviction, plea of guilty or no contest to any crime constituting a felony in the jurisdiction in which committed any crime involving moral turpitude or any violation of criminal law involving dishonesty or wilful misconduct;
- (b) repeated failure or refusal to perform duties in an acceptable manner or to follow the lawful and proper directives of the organization or institution in which he is employed, board of directors, supervisor or manager;
- (c) failure to disclose side agreements or undertakings with a customer, vendor, supplier, contractor, consultant, or partner, that are outside the terms of the contract; or
- (d) other misconduct that has or may discredit or damage the employer or its reputation.

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16.–(1) A procurement and supplies professional or technician shall be cognizant of fraud within the organization institution in which he is employed, if he is deshonesty, deception or intentional misrepresent or did any act which may result in false or misleading entries in its books and records.

Fraud and similar irregularities

(2) Any acts referred to under sub-code (1) shall if done be reported to the chief executive officer of the organization or institution in which the alleged offender is employed as soon as they become known by the procurement and supplies professional or technician.

17.–(1) A procurement and supplies professional or technician, shall expect fellow professionals to abide by the canons set out in this code.

Mis-conduct of others

(2) A procurement and supplies professional or technician shall report to the appropriate authority the behavior of any procurement and supplies professional or technician who violates this code including, but not limited to, potential conflies of interest involving his duties and attempts to inappropriately influence a person in performing his duties.

PART V

PUBLIC DISCLOSURE, ACCOUNTING CONTROLS, PROCEDURES AND RECORDS

18. A procurement and supplies professional or technician shall not inappropriately destroy, alter, falsify, mutilate, backdate or fail to make a required entries on any records within the organization or institution's control.

Proper maintenance of records

19. A procurement and supplies professional or technician shall–

Legal requirements

- (a) maintain the legally required confidentiality of the organization or institution in which he is employed or its agent by not disclosing confidential information to any unauthorized person, for any purpose; and
- (b) properly provide available confidential information to specific individuals authorized to receive such information by reason of statute, court rule or administrative policy.

Discretion

20. A procurement and supplies professional or technician shall–

- (a) disregard information that legally cannot or should not be considered;
- (b) use good judgement in weighing the credibility of Internet data

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Principles of disclosure and certification to be inspected by public

and be cautious about verifying identities; and
(c) treat personal or sensitive information with the same discretion that one would wish others to have if one were involved in a similar case.

21. A procurement and supplies professional or technician, shall adhere strictly to the following non-exhaustive principles–

- (a) all business transactions shall be properly authorized in accordance with the procedures and policies and be fairly, completely and accurately recorded in the books and records;
- (b) all procurement and supplies records together with reports produced from these records shall be kept and presented in accordance with all applicable laws and regulations and must not contain any false or intentionally misleading entries;
- (c) a procurement and supplies professional or technician, shall comply fully and accurately with all audits requested for special record keeping, retention of documents or any information;
- (d) from the employer’s management or its internal external auditors; and no information is to be interntionally withheld from or misrepresented to the employer’s internal external auditors.

23. All disclosures and certifications provided for in this Code and made in accordance with its provisions shall be made in writing and, unless otherwise specifically provided in this Code be kept open to inspection by the public by the official with whom such disclosure has been filed.

Where records do not conform

24. Any procurement and supplies professional or technician who reasonably believes that the employer’s books and records are not in conformity with the requirements of section 20 of this Code shall immediately report the matter to the appropriate party within the employer’s institution or organization.

PART VI

DEALING WITH BUSINESS PARTNERS, VENDORS AND CUSTOMERS

Procurement of goods, works and services

25.–(1) A procurement and supplies professional or technician, shall emphasize on fair competition in a competitive evaluation process to determine the best supplier, contractor or consultant, without discrimination or deception in a manner consistent with the Public Procurement Act.

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(2) A procurement and supplies professional or technician shall not attempt to exert influence to obtain special treatment for a particular supplier, contractor or consultant that may jeopardize competitive selection procedures.

(3) A procurement and supplies professional or technician shall protect the confidentiality of pricing and product information submitted by suppliers, contractors, consultants, or potential supplier, contractor, or consultant.

(4) Agreements for procurement or purchase of goods, works, or services, shall be properly documented and clearly identify the products of services to be provided, the basis for earning payment, and the applicable rate or fee.

(5) The amount of payment shall commensurate with the services or products provided.

26.-(1) A procurement and supplies professional or technician shall treat all suppliers, contractors or consultants, with whom their employers have business relationships, fairly and impartially.

Gifts,
bribe and
entertain-
ment

(2) A procurement and supplies professional or technician, or a member of his families shall not accept gifts, services, travel or entertainment that may affect or be reasonably perceived to affect his judgment or actions in the performance of his duties.

(3) A procurement and supplies professional or technician shall use his reasonable judgment to determine whether a gift is improper and be politely to refuse immediately to prevent embarrassment to everyone and to avoid what may be an unintentional violation of this Code.

(4) A procurement and supplies professional or technician shall ensure that proper declaration and acknowledgment procedures for all gifts that are received are adhered to.

(5) The recipient shall report without delay any receipt of gifts with a value exceeding fifty thousand shillings by completing the Form titled.

“Declaration of Gifts Received” provided in the Second Schedule to this Code and seek clearance from the chief executive officer of the firm or institution in which he is employed.

(6) Gifts which may be accepted and retained without declaration are corporate mementos or souvenirs which have no commercial value such as pens, diaries, calendars, memo pads or year planner.

Act No.
13 of
1995

Procurement and Supplies Professionals and Technicians Code of Ethics and Conduct

GN. No. 365 (contd.)

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Provided that a person may disclose confidential information under this code after obtaining a written permission or consent from his employer.

29. A procurement and supplies professional or technician shall use the resources, property and funds under one's official control judiciously and solely in accordance with prescribed procedures.

Proper
use of
resources

30.-(1) A procurement and supplies professional or technician, has a responsibility to protect the employer's or clients' assets entrusted to him from loss, damage, misuse or theft.

Protect-
ing
employer's
or clients'
property

(2) In this Code assets includes, but not limited to proprietary information, technology data, software, information system, resources, land, buildings, equipment, documents and cash money.

(3) A procurement and supplies professional or technician, who is stepping down or leaving the employer shall return all property including documents or media containing proprietary information.

(4) All information and intellectual property accessed and developed by any procurement and supplies professional or technician in the course of service with the employer shall be considered the property of the employer and deemed and treated as confidential proprietary information of the employer and left at its offices and shall not be removed at all times even upon the termination of contract of the procurement professional or technician, with the employer.

31. A procurement and supplies professional or technician shall not communicate with the media without prior consultation with and approval of the chief executive officer of the employer, regardless of whether it is on or off the record.

Media
relations

PART VIII

REPORTING VIOLATIONS OF THE CODE AND NON-RETALIATION POLICY

32-(1) Where procurement and supplies professional or technician, considers that a statement in the press or through other public media alleges, directly or by implication, that he has breached the Code, he may report the particulars of the breach or breaches alleged in writing to the Executive Director and request that matter be referred to the Board.

Reporting
violations

(2) Any person who, becomes aware of any violation of this Code or is reasonably concerned that a violation might develop has a duty to disclose such violation immediately to—

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- (a) the chief executive officer of the organization or institution where the complaint is made against any procurement and supplies professional or technician who is employed by the organization or institution;
- (b) the Disciplinary Committee where the complaint is made by any procurement and supplies professional or technician against any procurement and supplies professional or technician who is employed by another organization or institution.

(3) The complaint shall include as much information as possible on the subject matter of the complaint so that the information is sufficient to enable a full and proper investigation to be conducted for purposes of ascertaining where and when the incident occurred; the names and titles of the individuals involved and all other relevant details as the reporting procurement and supplies professional or technician, is able to provide.

Preliminary investigation by the Executive Director

33. The Executive Director shall, upon receipt of a complaint or allegation against any procurement and supplies professional or technician in relation to compliance with the Code, cause a thorough preliminary investigation to be carried out into the complaint or allegation and if he is satisfied that the investigation discloses a prima facie case for which a procurement and supplies professional or technician may be justly required to give a public explanation of his conduct or property, he shall—

- (a) where the complaint or allegation relates to the Chairman of the Board, submit it to the Chairman of the Board and to the Minister, who shall submit the allegation to the President of the United Republic for appropriate action;
- (b) where the complaint or allegation relates to the Executive Director, submit it to the Chairman of the Board and the Minister who shall take appropriate action; and
- (c) where the complaint or allegation relates to any other procurement and supplies professional or technician, notify the Chairman of the Board and submit it to the Disciplinary Committee.

Investigation by the Disciplinary Committee
Cap. 398

34.–(1) The Disciplinary Committee shall, subject to the Public Leadership Code of Ethics Act and this Code, have a duty to—

- (a) receive complaints or allegation and notifications of breach of the Code from the Executive Director, any procurement and supplies professional or technician and the public; and

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- (a) the chief executive officer of the organization or institution where the complaint is made against any procurement and supplies professional or technician who is employed by the organization or institution;
- (b) the Disciplinary Committee where the complaint is made by any procurement and supplies professional or technician against any procurement and supplies professional or technician who is employed by another organization or institution.

(3) The complaint shall include as much information as possible on the subject matter of the complaint so that the information is sufficient to enable a full and proper investigation to be conducted for purposes of ascertaining where and when the incident occurred; the names and titles of the individuals involved and all other relevant details as the reporting procurement and supplies professional or technician, is able to provide.

Preliminary investigation by the Executive Director

33. The Executive Director shall, upon receipt of a complaint or allegation against any procurement and supplies professional or technician in relation to compliance with the Code, cause a thorough preliminary investigation to be carried out into the complaint or allegation and if he is satisfied that the investigation discloses a prima facie case for which a procurement and supplies professional or technician may be justly required to give a public explanation of his conduct or property, he shall—

- (a) where the complaint or allegation relates to the Chairman of the Board, submit it to the Chairman of the Board and to the Minister, who shall submit the allegation to the President of the United Republic for appropriate action;
- (b) where the complaint or allegation relates to the Executive Director, submit it to the Chairman of the Board and the Minister who shall take appropriate action; and
- (c) where the complaint or allegation relates to any other procurement and supplies professional or technician, notify the Chairman of the Board and submit it to the Disciplinary Committee.

Investigation by the Disciplinary Committee
Cap. 398

34.—(1) The Disciplinary Committee shall, subject to the Public Leadership Code of Ethics Act and this Code, have a duty to—

- (a) receive complaints or allegation and notifications of breach of the Code from the Executive Director, any procurement and supplies professional or technician and the public; and

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- (a) it is, in the opinion of the Board or the Disciplinary Committee, material to any investigation;
- (b) it is required by law, order or direction of any court, regulatory body; or
- (c) the Board or the Disciplinary Committee, is of the opinion that it would be in the best interests of the employer to disclosed it.

(2) The Complainant will receive information about the outcome of any investigation concluded regarding his compliants.

(3) Failure to report actual or suspected violation shall be in it self violation of this Code.

(4) All complaints of violation of this Code shall be made in good faith with reasonable grounds for believing that a violation has taken place.

Determi-
nation of
complaint

37.–(1) The Board or the Disciplinary Committee, may upon determination of the complaint, take any action against any procurement and supplies professional or technician who has made a complaint frivolously, maliciously, in bad faith or otherwise abuse the policies and procesures.

(2) The Procurement and Supplies Professionals and Technicians Board reserves the right to take action as the Disciplinary Committee deems appropriate against any procurement and supplies professional or technician.

Non-
retaliation
policy

38.–(1) No procurement and supplies professional or technician, shall be subject to any retaliation action by the employer, Procurement and Supplies Professional and Technicians Board, any other procurement and supplies professional or technician, because of any complaint made in good faith.

(2) Any procurement and supplies professional or technician, who in good faith reports an actual or suspected violation of the Code, laws and Regulations shall not be discharged, demoted, suspended, harassed or in any manner discriminated against with respect to good faith reporting of any concerns or complaints.

(3) Any complaints alleging retaliatory action shall be dealt with in the same manner as any complaints alleging a violation of the Code as set out under this Part.

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PART IX

ADMINISTRATION AND ENFORCEMENT OF THE CODE OF ETHICS AND CONDUCT

39. No member of the Board or its committee shall be eligible for appointment by the members of the Board or committee to any officer or position under the supervision of the Board or committee.

Prohibited appointments to other positions

40. A procurement and supplies professional or technician who failed to comply with the standards contained in this Code shall be subjected to appropriate discipline measures including deregistration, referral for criminal prosecution, and restitution for any losses or damages resulting from the violation.

Failure to comply with the Code

41.-(1) Disciplinary action may be taken-

Disciplinary action to be taken

- (a) where a procurement and supplies professional or technician, authorize, condones, participates in or conceals directly actions which are a violation of the Code;
- (b) where a procurement and supplies professional or technician deliberately fails to report a violation concerning a violation of the Code;
- (c) against a supervisor of a procurement and supplies professional or technician, who disregards or approves a violation or who fails to prevent or report violations;
- (d) against supervisors who retaliate directly or indirectly or encourage others to retaliate against a procurement and supplies professional or technician, who reports a violation of this code;
- (e) against a procurement and supplies or technician who knowingly falsely accuses another procurement and supplies professional or technician, of a violation of policy, law, rule, Regulation or code of ethics or raises any ethics or compliance issue under false pretences;
- (f) against any procurement and supplies professional or technician who retaliates directly or indirectly or encourages others to do so against a person or a procurement and supplies professional or technician who reports a violation of the Code.

(2) The registration and disciplinary committee shall before making decision on any allegation or complaint, accord the procurement and supplies professional or technician, the right to-

- (a) be informed of the allegation or complaint;

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GN. No. 365 (contd.)

- (b) receive ample previous notice of proceedings;
- (c) submit evidence;
- (d) have independent hearing officers to the exclusion of investigating or prosecuting officers;
- (e) a decision based solely on the testimony and papers actually entered in the proceedings;
- (f) be given a full and fair opportunity to be heard before being found guilty;
- (g) be informed of the decision of the Disciplinary Committee on the allegation or complaint; and
- (h) appeal.

(3) Where the offence does not warrant to subject the offender before a court of law, and the Disciplinary Committee and the Board decide on de-registration, withdrawal of registration certificate or demotion, the procurement and supplies professional or technician shall, not later than thirty days after the date when notification of the decision of the Disciplinary Committee or Board is posted to him, submit an appeal in writing to the Appeal Board.

Financial
interest in
contracts

42. A procurement and supplies professional or technician who has a financial interest, directly or indirectly in a contract made by a customer, vendor, supplier, contractor or consultant on which the commonwealth or a state agency is an interested party, of which interest he has knowledge or has reason to know, shall be liable to a fine not exceeding three million shillings or to imprisonment for a term two years, or to both.

Declara-
tion of
interest

43. A procurement and supplies professional or technician who participates as procurement and supplies professional or technician, in a particular matter in which to his knowledge his immediate family member or partner, a business organization on which he is serving as officer, director, trustee, partner or employee, or any person or organization with whom he is negotiating or has any arrangement concerning prospective employment, has a financial interest, shall, except as permitted by this Code or other written law in force, be liable to a fine not exceeding three million shillings or to imprisonment for a term two years, or to both.

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44. A procurement and supplies professional or technician who has a directly or indirectly, financial interest, in a contract made by his organization or institution of the same organization or institution in which he is employed, in or an agency of the organization or institution in which he is employed is an interested party of which financial interest he has knowledge or has reason to know, commits an offence and shall on conviction be liable to a fine not exceeding one million shillings or to imprisonment for a term not exceeding three years, or to both fine and imprisonment.

Professionals or technician having financial interest in contracts of employer

45.-(1) Without prejudice to any other remedies provided by law, any violation of this Code, which has substantially influenced the action taken by any employer or state agency in any particular matter, shall be a ground for avoiding, rescinding or canceling the action on such terms as the interests of the commonwealth and innocent third persons require.

Additional remedies for violation of conflicts of interests

(2) The state ethics commission secretariat may bring a civil action against any person who has acted to his economic advantage in violation of this Code, and may recover on behalf of the commonwealth, damages in the amount of the economic advantage or five million shillings, whichever is greater.

46.-(1) A former procurement and supplies professional or technician, who-

Former professional or technician acting or receiving compensation from employer

- (a) knowingly acts as agent or procurement and supplies professional or technical, and receives directly or indirectly compensation, from anyone other than the organization or institution in which he is employed or agency of the organization or institution in which he is employed in connection with any particular matter in which the organization or institution or agency of the organization or institution in which he is employed is a party;
- (b) has a direct and substantial interest in which he participated as a procurement and supplies professional or technician, of the organization or institution in which he is employed while so employed, or
- (c) within one year after his last employment has ceased, appears personally before any agency of the organization or institution in which he was employed or organization or institution in which he has employed as an agent for anyone other than the organization or institution in which he was employed or agency of the organization

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or institution in which he was employed in connection with any particular matter in which the organization or institution in which he was employed or agency of the organization or institution in which he was employed is a party or has a direct and substantial interest and which was under his official responsibility as a procurement and supplies professional or technician at any time within a period of two years prior to the termination of his employment, commits an offence and on conviction is liable to a fine not exceeding three million shillings or to imprisonment for a term not exceeding one year or to both.

(2) A partner of a former procurement and supplies professional or technician of the employer who-

(a) knowingly engages, during a period of one year following the termination of the latter's employment by the employer or agency of the employer, in any activity in which the former procurement and supplies professional or technician, is himself prohibited from engaging by this provision;

(b) knowingly acts as agent for anyone other than the organization or institution in which he is employed or agency of the organization or institution in which he is employed in connection with any particular matter in which the same organization or institution or agency of the organization or institution in which he is employed is a party or has a direct and substantial interest and in which the procurement and supplies professional or technician, participates or has participated as a procurement and supplies professional or technician of the organization or institution in which he is employed or which is the subject of his official responsibility, commits an offence and on conviction shall be liable to a fine not exceeding three million shillings or to imprisonment for a term not exceeding one year, or to both fine and imprisonment.

PART X

MISCELLANEOUS PROVISIONS

This code
and other
laws Cap.
329, 16
Cap. 398

47. Nothing in this Code shall have effect of limiting or derogating from the Prevention and Combating of Corruption Act, the Penal Code, the Public Leadership Code of Ethics Act or any other written law, and the conclusion of proceedings under this Code shall not prevent the institution of criminal or other proceedings under any law in respect of a procurement and supplies professional or technician.

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GN. No. 365 (contd.)

48. The Code of Conduct for registered materials management professionals made under the repealed National Board for Materials Management Act is hereby revoked. Revoca-
tion Cap.
179

49. Notwithstanding section 48 the revocation of the Code of Conduct for registered materials management made under the repealed National Board for Materials Management Act, shall not-

- (a) affect the previous operation of that Code of Conduct, order and rules or anything duly done or suffered under it;
- (b) revive anything not in force or existing at the time immediately before the commencement of this Code of Ethics and Conduct;
- (c) affect any right privilege or obligation or liability acquired, accrued or incurred under the revoked Code of Conduct.

Conse-
quential
and
transi-
tional
provisions
Cap. 179

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—————
FIRST SCHEDULE
—————

COMPLAINT FORM

(Made under Regulation 3)

Part I: Particulars

1. Name of Complainant
- Address
- Occupation

2. Name of Respondent
- Address
- Occupation

Part II: Nature/facts of the complaint [State the facts disclosing the cause of action precisely and concisely]

- (1)
- (2)
- (3)
- (4)
- (5)

Part III: Relief(s) being sought

- (1)
- (2)
- (3)
- (4)

Part IV: Verification

.....
.....
.....

Signature of the Complainant

Presented for filing this day of 20

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SECOND SCHEDULE

DECLARATION OF GIFTS RECEIVED

(Made under Regulation 25(5))

To be completed by the procurement and supplies professionals and technicians making the declaration (Part I).

Part I

(a) Particulars of procurement and supplies professionals and technician.

Name Designation/Department

(b) Declaration of Gifts Received

S/No.	Qty.	Description of Gifts	Inscriptions Yes/No.	Estimated value TShs. where possible	Presented by company/relationship/circumstances
(c) Preference of procurement and supplies professional and technical.				Indicates the corresponding gift(s) S/No.: (i. e. 1, 2, 3,).	
(i) I wish to retain the Gift(s). (ii) I do not wish to retain the Gift(s) regardless of value. Signature date of procurement and supplies professional and technician.				Note by Head of Department Indicates the corresponding gift(s) S/No. (i. e. 1, 2, 3, ...).	

Part II: Clearance for accepting of gifts

(For Official Use only)

Approved/Not approved:

Date/Signature of approving authority:

Dar es Salaam,
30th September, 2009

SHUKURU J. KAWAMBWA (MP),
Minister for Infrastructure Development