

MEMORANDUM OF UNDERSTANDING

BETWEEN

THE COMPETITION COMMISSION OF MAURITIUS

AND

THE PROCUREMENT POLICY OFFICE

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THE PROCUREMENT POLICY OFFICE (PPO)

The Aim and Coverage of the MoU

1. In certain aspects of public procurement, the Competition Commission of Mauritius (CCM) and the Procurement Policy Office (PPO) have overlapping powers. This is because collusion among bidders or between a bidder and a public official, which is prohibited under sections 52 (3) and 53 (1) of the Public Procurement Act 2006 ('the Procurement Act'), may also infringe the Competition Act 2007 ('the Competition Act').

2. The PPO has, inter alia, powers under the Procurement Act to suspend or debar a potential bidder or supplier from participating in public procurement exercises on the ground, inter alia, of collusion.

3. The CCM has the powers to investigate and take enforcement action against suspected breach of the prohibition of restrictive agreements which fall within sections 41 to 43 of the Competition Act and investigate any matter that is subject to review under sections 44 to 48 of the Competition Act. Section 42 covers one form of collusive agreements, namely bid rigging, which involves agreements among bidders

on the terms and conditions of bids or tenders. Sections 44 to 48 cover those agreements which have the effect of preventing, restricting or distorting competition or resulting in a substantial lessening of competition.

4. The CCM and the PPO have therefore agreed in this Memorandum of Understanding to:

- promote co-operation and coordination between the CCM and the PPO when dealing with bid rigging cases in public procurement ;
- facilitate the treatment of cases of bid rigging within the public sector;
- minimize the duplication of activity, wherever possible; and
- improve understanding of the respective roles of the CCM and the PPO.

5. The MoU includes:

- a description of the roles of the CCM and the PPO;
- arrangements between the CCM and PPO for the day-to-day handling of competition cases involving public procurement;
- provisions for dealing with cases involving bid rigging in public procurement; and
- arrangements for the implementation of the MoU and its review.

The Role of the CCM in relation to this MoU

6. The CCM is established as an independent body corporate under the Competition Act. Its goal is to make markets work well in the interests of consumers and the economy of Mauritius. To this end, the CCM has a number of powers under the Competition Act, which include power to

- keep the operation of markets in Mauritius and the conditions in those markets under constant review ;
- investigate collusive agreements, monopoly and mergers;

