

**ASSOCIATION
OF PROCUREMENT
PROFESSIONALS (APP)**

CODE OF CONDUCT

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PREAMBLE

The overall mission of APPR is to coordinate, monitor and promote procurement professionals in Rwanda, through improving and maintaining the standards of ethics of procurement professionals, facilitate transfer of procurement knowledge to professionals and other stakeholder as well as protecting and safe guarding the procurement profession. (As proposed in the draft strategic plan)

In the pursuit of this mission, APP has developed Standard Code of Conduct for its members. This Code of Conduct establishes ethical requirements and defines behaviors and actions which APP members must commit to maintain as long as they are APP members. Members' conduct will be judged against this code and any breach will be addressed in accordance with disciplinary procedures set out in the Rules of Procedures of the association.

Procurement professionals freely perform their professional activities without partiality and discrimination for optimum satisfaction of the client respecting the laws, regulations and contracts relating to procurement.

Article One: Definitions

“Association” refers to the Association of Procurement professionals (APP in short) established by the law N° 011/2016 of 02/05/2016 establishing the Association of Procurement Professionals and determining its organization and functioning.

“Professional”: Qualified person, registered and authorized to practice procurement profession according to the law N° 011/2016 of 02/05/2016 establishing the Association of Procurement Professionals and determining its organization and functioning.

“Corrupt practices”: Promising to offer, giving, receiving, or soliciting, directly or indirectly, anything of value to influence improperly a professional, or a client.

“Obstructive practices”: Destroying, falsifying, altering, or concealing material evidence to the investigation or making false statements to investigators deliberately in order to materially impede investigation into allegations of a corrupt, coercive or fraudulent practice, and threatening, slandering or intimidating any party to prevent it from disclosing its information about matters relevant to the investigation or from pursuing the investigation.

“Collusive practices”: An arrangement between two or more parties designed to achieve an illegal purpose, including influencing improperly the acts of another party or a professional.

“Fraudulent practices”: Any legal violation, including acts of deliberate misrepresentation, intentional recklessness, misleading or attempting to mislead a civil servant to obtain financial or other benefit.

“Client”: Any potential participant or participant in procurement proceedings, with intention of providing services, goods or works to the procuring entity. It can be an individual person(s) or legal entity;

“Procuring entity”: an individual, a public body, a private company, a non-governmental organization, or any other organization that needs to buy, lease goods, or use services.

“Coercion”: The practice of compelling a person or manipulating them to behave in an involuntary way (whether through action or inaction) by use of threats, intimidation or some other form of pressure or force in order to influence their participation in the procurement process or affect the execution of a contract.

“Conflict of interest”: It is a real, obvious or potential situation in which a professional is in a position to exploit a professional or official capacity in some way for his or her personal benefit and compromise his or her independence and impartiality necessary for the assumption of a procurement professional; it also refers to the occasion whereby a professional is involved in multiple interests, one of which could possibly corrupt the motivation for an act in the other during the procurement process;

“Entertainment”: Providing any kind of enjoyment but not limited to food, drink, games, or convenience such as transport, accommodation.

“Gift”: Anything that has monetary value, received without the need for compensation.

“Integrity”: Use of funds, resources, assets, and authority, according to the intended official purposes, to be used in line with employer’s interest. In principle, integrity imposes an obligation to be straightforward and honest in professional and business relationships including fair dealing and truthfulness.

“Laundering” refers to the fact of facilitating by whatever means, the justification of the source of property and revenue as well as profit obtained by the author of an offence provided for by laws. Equally constituting "laundering" is the fact of lending support by safe guarding, concealing or converting by direct or indirect means, a product that is a result of an offence provided for by this code;

Article 2: Scope of Application

This code of conduct shall apply to all members of the Association of procurement professionals.

Article 3: Interpretation of this code of conduct

For the right interpretation of this code of conduct, provisions must be understood in the spirit of the law N°011/2016 of 02/05/2016 establishing the Association of procurement professionals and determining its organization and functioning, and the Rules of Procedures of the association adopted by the General assembly of 02nd February 2018.

Article 4: Guiding principles

During the exercise of the profession, the professional shall among others:

- 1° Act with respect of laws, regulations and client needs;
- 2° Act with respect of the client property;
- 3° Prevent and resist against corruptive proposals;
- 4° Be respectful of stakeholders in procurement process;
- 5° act with transparency in making decision and
- 6° Act with accountability in the management of client resources;
- 7° Act with honesty;
- 8° Act with diligence and uprightness in the exercise of his/her duties;
- 9° Put client interest before personal interests.

Article 5: Ethical Values

The ethical values include among others that:

- 1° Procurement professionals shall always act in a way to uphold the trust of stakeholders;
- 2° Procurement professionals shall arrange their private affairs so that they cannot affect the confidence and trust of the public in their clients;
- 3° Procurement professionals, when fulfilling their professional duties, shall make decisions in an accountable manner;
- 4° Procurement professionals shall seek for assistance and advice from qualified individuals before making decisions, if necessary;
- 5° Procurement professionals shall look for help and seek advice of a senior professional before making decisions if necessary;

Article 6: Prevention of fraud and other malpractices

When performing their duties, procurement professionals shall avoid to:

- 1°. Act in a manner preventing the client from getting benefits of free and open competition;
- 2°. Enter into business arrangements that might prevent the effective operation of fair competition;
- 3°. Engage in deceptive financial practices, such as bribery, double billing or other improper financial practices;
- 4°. Engage in misrepresentation of facts in order to influence a procurement process or the execution of a contract to the loss of the client.

- 5°. Give or receive bribes and other related crimes;
- 6°. Accept to serve conflicting interests at the same time or period;
- 7°. Create misunderstanding between client and supplier;
- 8°. Say anything that may hurt the honor or reputation of a member of Association;
- 9°. Accept from an intermediary, an assignment of a party without being in direct communication with that party;
- 10°. Disclose secrets known in the course of their profession or take advantage of it for personal gain;
- 11°. Do anything or behave in any manner likely to jeopardize their integrity or their professional ethics;
- 12°. Practice the profession at the same time as a consultant and an employee governed by the general statutes for public service or under contract;
- 13°. Be influenced by other people in decision making.

In performing their duties, procurement professionals shall abstain from any conduct which could be interpreted as bribery or act of corruption.

Article 7: Entertainment and Hospitality

Clients shall not offer entertainment or hospitality directly or indirectly, to procurement professionals of a procuring entity that might be viewed by others as having an influence on the entity's procurement decisions. Professionals shall always report such acts of offers of entertainment or hospitality to their superiors regardless of the level of their significance.

Article 8: Gifts

A procurement professional must not solicit or accept gifts from clients, prospective clients, or through their employees, or any other person. During the procurement proceedings, the professionals involved must reject, without any exception, any kind of gift or other benefit from a participating client, and must take all necessary steps to prevent leakage of any information which might give an advantage to a potential supplier participating in the bidding.

Article 9: Conflict of interest

In carrying out their duties, procurement professionals involved in procurement proceedings should arrange their private affairs in a manner that will prevent real, apparent or potential conflicts of interest from arising. Actual or potential conflict of interest occurs when a professional is in a position to influence a decision that may result in a personal gain or gain for a relative or friend.

Professionals involved in procurement proceedings also have the following specific duties:

- i. They should not step out of their roles to assist clients or persons in their dealings with the procuring entity, where this would result in preferential treatment to those entities or persons.
- ii. They should not knowingly take advantage of, or benefit from, information that is obtained in the course of their official duties and that is not generally available to the public.
- iii. They should not directly or indirectly use, or allow the use of procuring entity's property of any kind, including property leased to the procuring entity's, for anything other than officially approved activities.
- iv. They should not perform any other incompatible activity as defined by the Law N° n°011/2016 of 02/05/2016 establishing the Association of Procurement Professionals and determining its organization and functioning

These prohibitions also cover the financial interests of working with:

- (a) An organization in which the professional serves as an employee, officer, director, member of board of Directors, or partner; and
- (b) A person with whom the professional is seeking or has an arrangement for future employment.

The Professional is requested to declare in writing on a conflict of interest situation, when he/she notices that his/her interests are conflicting with procuring entity's interests.

Article 10: Confidentiality

Without prejudice to pertinent provisions regarding transparency of decisions or recommendations, it shall be prohibited for members of organs of the Association and members of staff to transmit confidential information to any person other than the person to whom this information is intended, unless authorized or required by law.

They shall be bound by confidentiality of information identified as such even after leaving the Association. They shall have the diligence and discretion to prevent any use of information which would violate confidentiality.

They shall take appropriate measures to secure preservation of all documents in print or electronic containing confidential information; avoid any discussion or conversation with others about confidential matters, to avoid any transfer of confidential information unsecured.

It is forbidden to communicate to anyone an information directed to the public before the official publication of that information.

Article 11: Obligations of members of the Association to the profession

Without prejudice to other provisions of this code, every procurement professional shall:

- i. Respect the timeframe to respond to his/her attributions;
- ii. Exhibit Professional Competence and Due Care
- iii. Respect the confidentiality of information acquired as a result of professional and business relationships, and should not disclose any such information to third parties without proper and specific authority, unless there is a legal or professional right or duty to disclose
- iv. Not discriminate against any person or bidder based on race, color, religion, sex, marital status, nepotism, political affiliation etc. unless if prescribed by the law.
- v. Be honest and accurate in representing their professional affiliations and qualifications, including such matters as knowledge, skill, training, education, and experience.
- vi. Integrate ethical considerations into their professional practices as an element of continuing professional development.
- vii. Abstain from expressing in public an opinion on a professional subject unless they have sufficient informed on the facts relating to the subject.
- viii. Not associate in work with a professional who does not conform to the ethical practices laid down in this code of conduct
- ix. Be able to justify their actions on ethical grounds
- x. Be committed to the requirements of this code of conduct and its regulations

Article 12: Obligations of the Association to its members

Without prejudice to the mission of the association described in Law N° n°011/2016 of 02/05/2016 establishing the Association of Procurement Professionals and determining its organization and functioning, the Association of Procurement Professionals should:

- i. Maintain its members informed of regulations and training opportunities,
- ii. Create capacity building and professional development framework for its members
- iii. Protect and safeguard the procurement profession,
- iv. Advocate for professional benefits and welfare of its members ,
- v. Conduct and/or avail results from research and publications findings relevant to procurement profession,
- vi. Provide Fair treatment to all its members

Article 13: Whistle-blowing:

In order to promote and protect the reputation of the procurement profession, members of the APP are obliged to report any unethical behavior performed by a member to the disciplinary committee. The disciplinary committee shall not to disclose the identity of the whistle blower and will in good time recognize his contribution to the profession.

Article 14: Sanction for breach of this code of conduct

Any breach by a member of the Association of his/her duties and obligations prescribed by this code of code of conduct, the Law establishing the Association of Procurement Professionals and determining its organization and functioning or by these rules of procedure, shall constitute professional transgression and, depending on circumstances and the magnitude of consequences on the profession, the Association or on a client shall lead to a sanctions defined in the Rules of Procedures of the association.

Article 15: Final provision and effectiveness of this code of conduct

This code of conduct was drafted, considered and adopted in English and will come in force on the date of its adoption by the General Assembly of the Association.

Form to be signed by every member and retained by respective procurement entity and the secretariat of the association.

My signature indicates that I have read and fully understood the contents of the Code of Conduct and my obligations under the Code.

Signed _____

Name _____

Position _____

Procuring Entity _____

Telephone _____

E-mail _____

Date _____

