



PROCUREMENT CODE OF ETHICS

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PROCUREMENT DIVISION MCMC

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INTRODUCTION

Procurement has been widely acknowledged as an activity that could easily expose us to corruption practices. The impact of a lack of good governance in conducting procurement activity is significant. Therefore, besides promoting integrity values in our daily activities, organizations are steadfast in strengthening the policies and procedures as well.

MCMC also takes part in ensuring all procurement processes are conducted with transparency, integrity, and good governance. To achieve this, all MCMC employees and the stakeholders have to play their roles actively.

MCMC is committed to processes that promote fair and open competition which, is to be undertaken in accordance with the highest ethical standards trusted among the stakeholders with MCMC.

Efforts toward ensuring good governance in MCMC have to be continuously enhanced and strengthened from time to time. Several initiatives have been initiated, such as implementing the E-Procurement Portal, providing procurement empowerment to MCMC State Offices, as well as revision of procurement policies. This includes the revision of the Procurement Code of Ethics.

It is hoped that publishing this revised Procurement Code of Ethics will benefit all parties and can be used as a reference when conducting procurement activities with MCMC. Adherence to this Code and other applicable laws will ensure that all parties practice and maintain a high standard of conduct.

It is also hoped that the suppliers involved will share these codes of ethics as highlighted in this Code with the staff or any other suppliers involved in conducting procurement activities with MCMC.

This Code is also an official commitment by MCMC to always act professionally and to ensure transparency and integrity with all stakeholders, in line with the requirement as stated in the Malaysian Anti-Corruption Commission Act 2009.

This Code has been revised in accordance with the industry's best practices.

PROCUREMENT CODE OF ETHICS

1 Professionalism

MCMC requires all procurement dealings to be conducted with the highest level of professionalism and ethical standards. It must also be implemented with honesty, integrity and fairness in order to achieve the agreed level of quality.

The suppliers are prohibited from offering any form of bribe, be it directly or indirectly, to the MCMC employees, and the MCMC employees are prohibited from soliciting and/or receiving it. All procurement activities must be conducted in an honest and transparent manner.

2 Accountability and Transparency

MCMC practices the principle of accountability and transparency in the procurement process and award of contracts by ensuring relevant information on request for quotation (RFQ) and tender are displayed in the MCMC E-Procurement Portal.

The suppliers must also act with honesty and accountability by ensuring that all information provided to MCMC for procurement purposes are accurate and genuine.

3 Conflict of Interest

All parties shall inform in writing of any conflict of interest arising from procurement activities. MCMC employees shall also inform in writing of any conflict of interest and abstain from being involved in any procurement process. This includes any action to obtain internal information and any effort to influence the procurement decision.

4 Integrity of Information

All parties including MCMC employees are responsible for ensuring the Integrity of Information before it is presented to the Commission, Tender Committee or MCMC Management for decision making.

5 Confidentiality

MCMC employees who are involved in procurement activity must protect the confidentiality of the information disclosed to them during work at all times and must not disclose the said information to third parties – be it vendors, other external parties or MCMC employees who are not privy to the said activities.

All internal information received by the supplier is confidential, and therefore the supplier must protect the confidentiality of that information.

PROCUREMENT CODE OF ETHICS

6 Competitive Practices

The suppliers shall practice healthy competition practices and are prohibited from getting involved in anti-competitive activities to win procurement projects from MCMC. Anti-competition includes collusion in any procurement activities.

7 Honouring Commitment

The suppliers shall ensure that they are capable of honouring every commitment made to MCMC. This includes the commitment made in quotation or tender documents submitted when participating in the procurement process.

MCMC'S INITIATIVES IN ENHANCING INTEGRITY

No Gift Policy

This policy was gazetted on 18 February 2015 as an initiative to cultivate integrity among MCMC employees as well as the stakeholders by promoting values of transparency, ethics and good governance.

The suppliers shall comply with the No Gift Policy by not giving any form of gift to MCMC employees that have any involvement be it directly or indirectly, with their official work.

Integrity Pact

The suppliers and MCMC employees involved in the procurement process must sign the Integrity Pact.

Integrity Pact for the suppliers is a declaration process to prevent them from offering or giving a bribe in exchange for a contract and expedite procurement dealings. In addition, the Integrity Pact also outlines the action to be taken against violations.

Awareness Programme on Compliance to Section 17A of MACC Act 2009

MCMC is organising awareness programmes on a regular basis for all suppliers involved in the procurement process with MCMC to ensure compliance with Section 17A of MACC Act 2009. This provision stipulates a corporate liability principle where a commercial organisation can be considered guilty if any of its employees and/or associates commit corruption for the organisation's benefit. The commercial organisation is also considered guilty if the upper management or its representatives know about the corrupt acts committed by its employees or associates.

If a commercial organisation is found guilty under Section 17A, the penalty under Section 17A (2) is a fine of not less than 10 times the value of the bribe or RM 1 million, whichever is higher, or imprisonment for up to 20 years, or both. However, the commercial organisations can defend themselves if they can show that they have implemented 'Adequate Procedure' in their operation.

Whistleblowing Policy

MCMC Whistleblowing Policy in general is a form of a statement or report voluntarily made by a person regarding any wrongdoings, corruption, violation of law, or offences that may have been committed, are being committed or have been committed by an individual, a group of individuals or organisation.

MCMC'S INITIATIVES IN ENHANCING INTEGRITY

The main objectives of the Whistleblowing Policy are as follows:

1. Encouraging MCMC employees and external parties to report any wrongdoings in an expedient manner in accordance with the procedure stated in the Whistleblowing Policy;
2. Ensuring MCMC employees are responsible and do not abuse power and position;
3. Provide appropriate protection to the whistleblower from any detrimental action resulting from the disclosure of information exercise to protect the confidentiality of the whistleblower; and
4. Promote open communication and transparent working culture as a check and balance mechanism within MCMC.

Alleged Wrongdoer	Complaint to	Email Address	Alternative Means
Employee	Whistleblowing Committee	wbc@mcmc.gov.my	Letter in a neatly sealed envelope with an indicative label as "To be opened by the "Whistleblower Committee" only and addressed it to: Whistleblowing Committee Malaysian Communications and Multimedia Commission, MCMC HQ, Tower 1, Jalan Impact, 63000 Cyberjaya, Selangor Darul Ehsan.
Commission Member other than the Chairman	Chairman	chairman@mcmc.gov.my	Letter in a neatly sealed envelope with an indicative label as "To be opened by the Chairman only" and addressed it to: Chairman Malaysian Communications and Multimedia Commission, MCMC HQ, Tower 1, Jalan Impact, 63000 Cyberjaya, Selangor Darul Ehsan.

MCMC'S INITIATIVES IN ENHANCING INTEGRITY

Alleged Wrongdoer	Complaint to	Email Address	Alternative Means
Chairman	Whistleblowing Committee	wbc@mcmc.gov.my	Letter in a neatly sealed envelope with an indicative label as "To be opened by the "Whistleblowing" Committee only and addressed to: Whistleblowing Committee Malaysian Communications and Multimedia Commission, MCMC HQ, Tower 1, Jalan Impact, 63000 Cyberjaya, Selangor Darul Ehsan.
Member of Whistleblowing Committee	Chairman	chairman@mcmc.gov.my	Letter in a neatly sealed envelope with an indicative label as "To be opened by the "Whistleblowing Committee" only, and addressed to: Chairman Malaysian Communications and Multimedia Commission, MCMC HQ, Tower 1, Jalan Impact, 63000 Cyberjaya, Selangor Darul Ehsan.

The whistleblower is encouraged to make disclosure of information via the "Pendedahan Kelakuan Tidak Wajar" Form. The whistleblower is free to disclose information regarding any improper conduct committed by any person to other enforcement agencies. Any investigation and / or action taken is subject to the relevant enforcement agency's procedure and independent of the procedure prescribed in this Whistleblowing Policy.

Further information on Whistleblowing Policy can be accessed at <http://mcmc.gov.my/integrity>.

FRAUD IN PROCUREMENT

Procurement Fraud is commonly precipitated by the following actions:

- An intentional misrepresentation of the truth, involving deception, which is designed to gain an unfair advantage over the competition; and
- A scheme attacking/influencing the purchasing and decision-making function.

Loss of money or value can also endanger personal safety, image and organisational capabilities.

Fraud Triangle

The perpetrators of fraud are drawn to committing it mainly due to the following factors:

Pressure

- Financial - inability to meet financial demands from lavish lifestyle, major bills, high level of debts or simple greed.
- Personal – addictions such as gambling, drinking, drug or other forms of addiction can drive one to commit fraud. Unrealistic life expectations may also be a contributing factor
- Work – temptation to commit fraud may be triggered due to excessive workload, low income and feeling unappreciated. Unrealistic work expectations may also compel individuals to cheat and commit fraud.

Opportunity

Incidences of fraud have been found to be more prevalent when either one of these conditions exists:

- Trust – when an individual(s) are given a high level of trust; and/or
- Weak or absence of internal control– Proper monitoring as well as check and balance controls need to be in place as a safeguard against fraud

Rationalization

Fraud can also happen when justifications are made to allow circumvention of rules and procedures, for example:

- “I am only borrowing the money. I will return it once my financial situation has improved.”
- “Everyone is doing it. Why should I be the exception?”

GENERAL OFFENCES IN PROCUREMENT

1 Conflict of Interest

Participating in procurement activities that will bring benefit to self, family and friends.

2 Fictitious Invoicing

Invoices are created without actual goods or services being delivered.

3 Supplying or Receiving Defective / Sub-standard Products

Products supplied or received are defective, of lower quality and do not meet the specifications ordered.

4 Splitting Orders

Orders or requests are split to avoid going to a higher authority for approval.

5 Submitting false or inaccurate information

Submitting false information, which can influence the decision-making process in MCMC.

6 Accepting and Giving Reward

Asking or receiving any form of gift or reward.

7 Fraud / Collusion in Bidding or Offering

Suppliers collude and submit mostly destined-to-fail bids so that the targeted bud can win or product/services specifications are tailored for a certain supplier..

8 Bribe

Graft given to someone who facilitates purchase transaction.

9 Personal Purchase

Colluding to include personal purchase as part of the quotation to MCMC.

RESPONSIBILITIES OF MCMC EMPLOYEES

Full adherence to the Procurement Code of Ethics

MCMC employees must understand the set limits of authorities in MCMC and always ensure that all dealings are approved by the right authority level.

MCMC employees are prohibited from making any commitment and/or entering into agreements on behalf of MCMC without appropriate written approval from the management.

MCMC employees shall report potential issues related to this Code to a superior officer or directly to the Integrity and Industrial Relations Department.

MCMC employees shall give full cooperation in the event of an investigation by the Integrity and Industrial Relations Department and other related enforcement agencies.

MCMC employees are prohibited from discussing any information pertaining to investigation privately or publicly, be it with internal or third parties.

MCMC employees are not encouraged to engage in direct one-to-one dealing with the suppliers.

MCMC employees are responsible for checking in detail on the work quality level / final product received from the supplier before signing the acceptance of delivery.

MCMC employees are prohibited from providing advice/information regarding any procurement activities to the interested suppliers or the suppliers who participate without using the right channel.

MCMC employees are prohibited from issuing any form of support letter to suppliers for any purposes including showing support for any product /services/brand from the supplier.

MCMC employees shall reject any form of corruption, which includes acceptance of a particular bribe or unethical activities in any procurement processes.

RESPONSIBILITIES OF THE SUPPLIERS

Understand this Code and conduct internal compliance self-checking and monitoring

Report violations of this Code such as a request for a gift by any MCMC employee through the available MCMC communication channels.

In the event of an investigation, the suppliers shall fully cooperate by providing all necessary documentation to MCMC and allowing MCMC's representative to visit and audit relevant documents and facilities.

The suppliers have a duty to report any change in the situation which may affect MCMC, including but not limited to a declaration of conflict of interest.

The suppliers shall have a business continuity plan to avoid disruption of services that need to be delivered to MCMC.

The suppliers shall protect the assets and properties entrusted by MCMC to them from any loss, damage, misuse and/or theft throughout the course of fulfilling their commitment to MCMC's premise.

The suppliers shall give cooperation and access to MCMC employees to inspect and check documents related to the procurement process with MCMC (if required).

The suppliers shall ensure the information submitted to MCMC is updated, clear and genuine.

The suppliers are not allowed to make any statement for and on behalf of MCMC and are prohibited from using MCMC's name and logo to show MCMC's implied support for their company's branding/products/services.

The suppliers are prohibited from engaging in any form of lobbying activities to win procurement projects in MCMC.

ACTIONS THAT MAY BE TAKEN ON THE OFFENCES

Against MCMC Employees

- Formal warning - multiple offences will lead to disciplinary actions
- Demotion or suspension
- Termination of employment
- Other actions as stipulated in the terms and conditions of employment as well as MCMC Disciplinary Regulations 2007

Against Suppliers

- Issuance of a formal warning to the suppliers
- Suspension/blacklisting of the supplier from participating in MCMC's future procurement activities.
- Termination of contract
- Liability for damages resulting from the termination of the contract
- Forfeiture of the bid
- Prosecution under criminal law.
- Cancellation of MCMC's registered supplier status
- Disqualification during the procurement evaluation stage.

SUPPLIER'S LETTER OF UNDERTAKING

Adherence to the principles, policy and rules stated in this Code is mandatory for all suppliers and they are required to sign the Supplier's Letter of Undertaking.

To:

Malaysian Communications and Multimedia Commission,
MCMC HQ, MCMC Tower 1
Jalan Impact
Cyber 6
63000 Cyberjaya
Selangor Darul Ehsan

Undertaking to Comply with the Procurement Code of Ethics Handbook ("Handbook") issued by the Malaysian Communications and Multimedia Commission ("Commission")

Reference is made to the above matter and the Handbook issued by the Commission, which has been duly issued to us, <name of Company> (Company Registration No.: XXXX) on <include the date when the Handbook was received>.

2. We have thoroughly read the Handbook and fully understand the contents of the same.
3. In view of the above, we voluntarily UNDERTAKE AND/OR AGREE to the following:
 - (a) We shall use our best endeavor to be updated with any revision to the Handbook and shall be bound by the contents of the Handbook, including the revisions made thereto;
 - (b) We shall uphold the principles specified in the Handbook and comply with all requirements specified in the same that are imposed on the suppliers;
 - (c) We shall abide by the responsibilities and/or obligations of the suppliers as specified in the Handbook;
 - (d) We shall be fully committed to:
 - (i) carry out the responsibilities and/or obligations of the suppliers as stipulated in the Handbook; and
 - (ii) carry out all the obligations and meet all the deliverables specified in all contract(s)/agreement(s) entered into with the Commission in respect of any procurement; and
 - (e) We shall protect the Commission's interest at all times in delivering the required deliverables in respect of all procurement activities of the Commission that we are involved in.

We further AGREE and UNDERTAKE to indemnify the Commission and keep the Commission indemnified from and against any cost or expense howsoever and whenever suffered or incurred by the Commission as a result of our breach or non-performance of any of our undertakings hereunder.

.....

Signed by :

Date :

COMMUNICATION CHANNELS

Communications such as queries, concerns and reporting of misconduct can be made through:



<http://mcmc.gov.my/integrity>



Ketua Jabatan (Head of Department),
Integriti Dan Perhubungan Pekerja (Integrity and Employee Relations),
MCMC HQ Tower 1,
Jalan Impact, Cyber 6,
63000 Cyberjaya,
Selangor.

All queries and feedback on procurement processes can be made through:



procurementdivision@cmc.gov.my



Ketua Bahagian Perolehan (Head of Procurement Division),
MCMC HQ Tower 1,
Jalan Impact, Cyber 6,
63000 Cyberjaya,
Selangor

FREQUENTLY ASKED QUESTIONS

1. **Q: I am an employee of MCMC while my spouse is working for a supplier for MCMC. I am involved in the procurement process for this supplier. Is there any conflict of interest here?**

A: There is a conflict of interest whenever you and any of your family members are directly or indirectly involved in the related procurement activity. In the event of such involvement, the relevant parties must declare the conflict of interest to their respective superiors and abstain from involvement in that procurement process.

2. **Q: A supplier sent its corporate gifts such as a desk calendar, mug, optical mouse and stationery items as a normal appreciation gesture to all customers. As an MCMC employee, am I violating MCMC's No Gift Policy if I accept these gifts?**

A: MCMC staff are not allowed to receive any gifts or prizes. MCMC does not encourage the acceptance of corporate gifts that are given by any companies and especially from suppliers that have official dealings with MCMC.

3. **Q: I won an iPad in a Lucky Draw during an event organized by an MCMC supplier. Can I accept the prize?**

A: The prize may be accepted at the event as a mark of respect but it has to be later declared in line with MCMC's No Gift Policy. In such situations, the staff is to receive directions from the supervisor or head of department on whether to accept or return the prize. Alternatively, given that it is a lucky draw, you may choose to politely decline the prize during the event and ask the organiser to redraw.

4. **Q: A supplier has offered to pay for my accommodation while I am on official duty. This would benefit MCMC in terms of cost savings. Is this acceptable?**

A: This is not acceptable as the accommodation offered is a gift and could be categorised as a bribe by the supplier, whether or not it has any existing dealings with MCMC.

5. **Q: I have become aware of a breach of a code of ethics listed in this procurement handbook. What should I do?**

A: The employee/supplier is encouraged to refer the matter to the MCMC Integrity and Risk Management Department through the designated reporting channels for further action.

FREQUENTLY ASKED QUESTIONS

6. **Q: As a supplier, can I offer to buy lunch for MCMC employees during a procurement process?**

A: This is not allowed as such action can be categorized as a bribe to influence the result of the procurement process.

7. **Q: I am currently supplying a product to MCMC, but my supplies are running low. Because of this, I have substituted a different item that meets MCMC's requirements. Did I do the right thing?**

A: No. The delivery shall be in accordance with the purchase documents. Any request for changes in agreed specifications must be made formally to MCMC, with acceptance at the sole discretion of MCMC.

8. **Q: I have recently completed a job that I was contracted for and I would like to thank the MCMC staff by sending them gifts. Is this allowed?**

A: Gifts to MCMC staff are not allowed so as to avoid any form of wrongdoing that could affect the processes and results of future procurement exercises.

9. **Q: I hired a consultant to assist me in getting a contract. Do the ethical considerations in this handbook apply to my consultant?**

A: Yes. Lawyers, consultants, agents and other representatives are also bound by the ethical considerations embodied in this handbook. In addition, they may be bound by other laws, rules, or industry standards.

10. **Q: If I want to do business with MCMC, is my firm required to develop its own internal code of ethics?**

A: All companies that wish to do business with MCMC must obey all terms and conditions of the code of ethics and integrity pact that has been set by MCMC. In addition, we encourage our suppliers to formulate their corresponding code of ethics to improve their operations.

11. **Q: If I am not MCMC's registered supplier, is the Procurement Code of Ethics applicable to me?**

A: Yes. All suppliers who want to participate in procurement activities with MCMC have to comply with the Procurement Code of Ethics and every relevant legal provision.

FREQUENTLY ASKED QUESTIONS

12. Q: As a supplier for MCMC, a representative from hotel, body corporate or stakeholders, am I allowed to offer any form of festivities hampers to MCMC employees? The hamper consists of food and drinks only.

A: No. MCMC staff are bound by the MCMC No Gift Policy and are prohibited from receiving all forms of gifts from external parties, be it hampers, fruits, cakes, soft drinks, dates and any other perishable goods.

If MCMC staff has received the gifts without being informed by the giver, it has to be declared through this link: <http://declare.mcmc.gov.my> and all perishable goods received will be shared among MCMC employees.

13. Q: I have been appointed to conduct a course/training services for MCMC employees, am I allowed to give free packages such as an additional number of participants, free tickets, free accommodation and so on?

A: No. MCMC's No Gift Policy is applicable at all times and situations. This includes a prohibition on accepting free gifts from training centres that provides service to MCMC.

