

DRAFTING NOTE

PUBLIC PROCUREMENT ACT 2026

1. Status and purpose of this note

This drafting note is explanatory and is not part of the proposed Assembly Act. It identifies the legislative need, the relationship with earlier Eritrean law, the principal matters retained, the modernization choices made and the place of the draft within the emerging constitutional statute book. The instrument remains a consultation draft and should be finalized only after legal, institutional, fiscal and public review.

2. Legislative need and prior law

Earlier procurement practice is dispersed among finance, corporation and sector instruments and does not provide a complete transparent system for modern public purchasing.

3. What the draft retains

The draft retains competitive tendering, specifications, evaluation, contract administration, records and remedies against fraud and non-performance.

4. What the draft updates and modernizes

It adds open electronic procurement, beneficial-ownership and conflict disclosure, independent review, framework and emergency safeguards, lifecycle value, sustainable procurement, contract publication, debarment due process and audit-ready data.

5. Constitutional, code and treaty fit

The draft is framed under the Constitution of Eritrea 1997 and must be read with the Civil Code, Penal Code, Civil Procedure Code and Criminal Procedure Code of Eritrea 2015 where those Codes govern. It is also coordinated with the other institutional, financial, commercial, land, labour, administrative and sectoral drafts in this collection. References to international or regional standards guide compatibility and implementation; they do not bypass the Treaty-Making Act or convert an unincorporated instrument into domestic law.

6. Scope and organization

The principal divisions address preliminary provisions; institutional framework; planning and preparation; procurement methods; solicitation and participation; evaluation and award; contract administration; special procurement; integrity and exclusion; review and remedies; transparency, data and oversight; disposal and final provisions.

7. Transition, implementation and consultation

The draft preserves lawful accrued rights, completed transactions, pending proceedings and institutional continuity where appropriate, while preventing temporary savings from preserving unconstitutional coercion or indefinite executive discretion. Before enactment or issuance, authentic predecessor instruments and amendments should be verified, cross-references and fiscal capacity confirmed, implementing regulations and digital systems prepared, and affected institutions, professions, communities and the public given a practical opportunity to comment.

CONSULTATION DRAFT — NOT ENACTED LAW

ACT NO. ____ OF 2026

PUBLIC PROCUREMENT ACT 2026

(ACT)

AN ACT TO GOVERN THE PROCUREMENT OF GOODS, WORKS AND SERVICES, THE DISPOSAL OF PUBLIC PROPERTY AND THE ADMINISTRATION OF PUBLIC CONTRACTS; TO ESTABLISH OPEN, COMPETITIVE, FAIR, SUSTAINABLE AND DIGITAL PROCUREMENT; TO PROVIDE FOR PROCUREMENT PLANNING, METHODS, AWARD, REVIEW, CONTRACT MANAGEMENT, INTEGRITY, PROFESSIONALIZATION AND OVERSIGHT; AND TO PROVIDE FOR RELATED MATTERS.

PREAMBLE

WHEREAS the Constitution of Eritrea requires government to be democratic, lawful, accountable and directed to national development and the welfare of the people;

WHEREAS public procurement converts a substantial part of the national budget into infrastructure, medicines, education, technology, security and other public services and must therefore obtain public value through fair competition and integrity;

WHEREAS the Public Finance Management Act preserves legislative authorization and financial control, and the Auditor General Act provides independent external audit, while procurement requires a distinct operational and review framework;

WHEREAS modern procurement should use transparent electronic systems, disclose beneficial ownership and contract performance, support legitimate development objectives and remain consistent with Eritrea's international obligations;

NOW, THEREFORE, be it enacted by the National Assembly of Eritrea, acting under Article 32 of the Constitution, as follows:

CHAPTER I
PRELIMINARY PROVISIONS

Article 1 — Short title

1. This Act may be cited as the “Public Procurement Act 2026”.
2. It applies throughout Eritrea.

Article 2 — Purposes

1. to obtain value for money and reliable public performance;
2. to ensure competition, fairness, transparency and integrity;
3. to expand access for capable Eritrean and smaller suppliers without arbitrary protection;
4. to provide effective review and remedies; and

5. to professionalize and digitalize procurement.

Article 3 — Interpretation

1. “bidder” means a person participating or seeking to participate in procurement;
2. “contracting authority” means a public entity conducting procurement;
3. “procurement” means acquisition by purchase, lease, licence, concession or other contract of goods, works or services;
4. “procurement officer” means a person assigned procurement responsibility;
5. “supplier” includes a contractor, consultant and service provider; and
6. “Tribunal” means the Public Procurement Review Tribunal.

Article 4 — Scope

1. This Act binds every national and local public entity, constitutional institution, public fund and public enterprise except as expressly provided by an Assembly Act.
2. It applies where public money, property, credit, guarantee or risk is used.
3. A donor, financing or commercial agreement cannot displace constitutional minimums.
4. Mixed funding is covered to the extent lawful and practicable.

Article 5 — Principles

1. Procurement shall be lawful, competitive, impartial, transparent, proportionate, efficient, sustainable and accountable.
2. Requirements shall not be designed to favor or exclude a person improperly.
3. Decisions shall rely on disclosed criteria and documented evidence.
4. Public value includes quality, lifecycle cost, timely delivery, resilience and legitimate social and environmental effects.

Article 6 — Non-discrimination and international obligations

1. Bidders shall receive equal treatment subject to lawful, disclosed and proportionate development measures.
2. Nationality or origin restrictions require an Assembly Act, treaty obligation or justified regulation under this Act.
3. Applicable ratified trade and procurement commitments shall be observed according to domestic law.
4. A preference shall not excuse incompetence, corruption or material non-performance.

CHAPTER II INSTITUTIONAL FRAMEWORK

Article 7 — Procurement Regulatory Authority

1. An independent Public Procurement Regulatory Authority is established.

2. It shall regulate systems and standards but shall not select winners or approve ordinary transactions.
3. It has legal personality and administrative autonomy.
4. Its decisions are subject to judicial review.

Article 8 — Functions of Authority

1. The Authority shall issue standards, administer the portal, monitor compliance, professionalize staff, maintain debarment records and publish performance data.
2. It may inspect systems and require corrective plans.
3. It shall advise on legislation and international cooperation.
4. It shall not displace the Auditor General, courts, Advocate General or accounting officers.

Article 9 — Governing Board

1. The Authority shall have a merit-selected Board with procurement, law, finance, engineering, business, technology and public-interest expertise.
2. A majority shall be independent of current executive employment.
3. Serving party, military, police and intelligence officers are ineligible.
4. Interests and reasons for appointment shall be published.

Article 10 — Director-General and staff

1. The Board shall appoint a Director-General through open competition for a five-year term renewable once.
2. Staff shall be professionally recruited and politically impartial.
3. Removal requires lawful cause and fair procedure.
4. Operational and review functions shall be institutionally separated.

Article 11 — Contracting authorities

1. Each accounting officer is responsible for procurement legality, planning, controls and performance.
2. A professional procurement unit shall conduct procedures.
3. Technical units define legitimate needs and verify delivery without controlling competition improperly.
4. No minister or councillor may direct award to a named bidder.

Article 12 — Procurement committees

1. A contracting authority shall establish appropriately qualified evaluation and disposal committees.
2. Membership, conflicts, deliberations and recommendations shall be recorded.
3. Members shall assess independently under predetermined criteria.
4. The accounting officer remains responsible for lawful award.

Article 13 — Independent institutions

1. Courts, the National Assembly, Auditor General and other independent institutions administer their procurement independently under this Act.
2. The Authority may regulate and monitor without interfering in protected constitutional functions.
3. Sensitive judicial or audit information shall receive secure handling.
4. Their contracts and expenditure remain auditable.

Article 14 — Professionalization

1. Procurement positions shall have published competency and certification standards.
2. Officials shall receive continuing training and reasonable career protection.
3. Rotation may manage risk but shall not destroy expertise.
4. An officer shall refuse and report an unlawful instruction.

CHAPTER III PLANNING AND PREPARATION

Article 15 — Annual procurement plan

1. Each authority shall prepare an annual plan aligned with its lawful functions and approved budget.
2. The plan shall identify description, estimate, method, timetable, packaging and responsible unit.
3. Non-sensitive plans and updates shall be published.
4. Unplanned procurement requires written justification and available funds.

Article 16 — Needs assessment

1. Before procurement, the authority shall establish the public need, intended outcome and reasonable alternatives.
2. It shall avoid unnecessary specification, duplication and premature technology.
3. Users, maintenance and accessibility shall be considered.
4. A supplier shall not define need to secure an unfair advantage.

Article 17 — Market analysis and consultation

1. The authority may research price, capacity, innovation, risk and supply conditions.
2. Open preliminary consultation may occur with equal information and recorded safeguards.
3. A consulted supplier shall not be excluded automatically but its advantage shall be neutralized.
4. Confidential commercial information shall be protected lawfully.

Article 18 — Cost estimate and budget

1. A confidential but auditable estimate shall use reasonable market and lifecycle information.
2. Procurement shall not commence without credible funding authority except permitted planning.
3. Artificially dividing contracts to avoid thresholds is prohibited.
4. Related requirements shall be aggregated where economically sensible.

Article 19 — Procurement strategy

1. Complex or high-value procurement shall have a documented strategy addressing method, competition, allocation, sustainability, integrity, contract form and management.
2. The strategy shall identify delivery and corruption risks.
3. Approvals shall occur before solicitation.
4. Material change requires updated reasons.

Article 20 — Specifications

1. Specifications shall be clear, functional and non-discriminatory and use recognized standards where suitable.
2. A brand, source, patent or origin shall not be required unless objectively necessary and accompanied by “or equivalent” where possible.
3. Accessibility, safety, interoperability and cybersecurity shall be included where relevant.
4. Excessive qualification or experience requirements are prohibited.

Article 21 — Sustainable and strategic procurement

1. Whole-life environmental cost, climate resilience, labour standards, accessibility and social value may be included where connected and measurable.
2. A national development or small-business measure shall be authorized, transparent and periodically evaluated.
3. Forced labour, trafficking and grave environmental abuse shall be excluded through proportionate due diligence.
4. Strategic criteria shall not disguise patronage.

CHAPTER IV PROCUREMENT METHODS

Article 22 — Open competitive tendering

1. Open competitive tendering is the default method.
2. Any qualified bidder may submit within a reasonable period.
3. Departure requires a method expressly authorized by this Act and recorded justification.
4. Thresholds shall be prescribed and published.

Article 23 — Restricted tendering

1. Restricted tendering may be used where only a limited number of suppliers can meet objectively specialized requirements or prequalification is efficient.
2. All capable suppliers identified through fair process shall be invited.
3. A shortlist shall not be repeatedly closed to new entrants.
4. Reasons and invited names shall be recorded.

Article 24 — Request for quotations

1. A request for quotations may be used for low-value, standard and readily available requirements.
2. Quotes shall ordinarily be sought from at least three capable independent suppliers.
3. Rotation and electronic marketplaces shall prevent favoritism.
4. Contract splitting and fabricated quotations are prohibited.

Article 25 — Request for proposals

1. A request for proposals may be used for consulting, technology, design or solutions where quality and methodology require evaluation.
2. Technical and financial criteria and weights shall be disclosed.
3. Technical assessment shall ordinarily precede price opening.
4. Negotiation shall not alter competition unfairly.

Article 26 — Two-stage and competitive dialogue

1. Two-stage tendering or competitive dialogue may be used for complex needs not capable of precise initial specification.
2. Participation, confidentiality and progressive clarification shall be fair.
3. Final requirements and award criteria shall be common to remaining bidders.
4. Dialogue shall not reveal another bidder's solution without consent.

Article 27 — Framework agreements

1. A framework may establish terms for recurring procurement after competition.
2. Duration, users, ceilings, call-off method and admission shall be stated.
3. Call-offs shall follow disclosed objective rules or secondary competition.
4. A framework shall not close a market longer than reasonably necessary.

Article 28 — Electronic auction and catalogue

1. An electronic auction may determine quantifiable award factors after initial qualification.
2. Rules, algorithms, increments, identity protection and closing conditions shall be disclosed.
3. Abnormally low bids and collusion shall be addressed.

4. An auction shall not be used where quality cannot be reduced responsibly to quantifiable factors.

Article 29 — Direct procurement

1. Direct procurement is permitted only for genuine sole source, exclusive right, extreme urgency not caused by the authority, compatible extension within limits, or another narrow ground prescribed by Act.
2. The authority shall verify price reasonableness and conflict status.
3. A notice and contract shall be published promptly unless a lawful security exception applies.
4. Repeated direct awards require enhanced review.

Article 30 — Emergency procurement

1. Emergency procurement may respond to an imminent threat to life, health, safety, essential service or major property.
2. It is limited in scope and duration to immediate need.
3. Competition shall be used to the extent practicable and price, supplier and reasons recorded.
4. Publication, independent review and audit shall follow promptly.

Article 31 — Community participation procurement

1. Local labour or community participation may be used for suitable small works and services under transparent rules.
2. Selection, rates, materials and supervision shall be documented.
3. Participation shall be voluntary and comply with labour law.
4. Community method shall not conceal forced or unpaid work.

CHAPTER V SOLICITATION AND PARTICIPATION

Article 32 — Procurement notice

1. An open opportunity shall be published on the procurement portal and through other accessible means.
2. Notice shall identify authority, requirement, eligibility, method, deadline and access to documents.
3. Publication periods shall be proportionate to complexity and cross-border participation.
4. A correction shall receive adequate extension.

Article 33 — Solicitation documents

1. Documents shall state specifications, contract terms, qualification, criteria, methodology, currency, taxes, security and review rights.

2. All bidders shall receive identical material information.
3. Ambiguity shall be clarified before deadline.
4. Undisclosed criteria shall not be used.

Article 34 — Clarification and amendment

1. Questions and answers shall be shared without identifying the questioner unnecessarily.
2. A material amendment shall be issued formally and extend time.
3. Oral assurance does not amend documents.
4. A pre-bid meeting shall be recorded and accessible.

Article 35 — Qualification

1. Qualification may concern legal capacity, financial capacity, experience, personnel, equipment, integrity and performance relevant to the contract.
2. Requirements shall be proportionate and permit new firms to demonstrate equivalent capacity.
3. Consortium and subcontractor capacity may be considered under disclosed rules.
4. Political or personal endorsement is prohibited.

Article 36 — Exclusion grounds

1. A bidder may be excluded for corruption, fraud, collusion, grave professional misconduct, serious tax or labour breach, insolvency or persistent material non-performance after due process.
2. Mandatory and discretionary grounds shall be prescribed clearly.
3. Self-cleaning, rehabilitation and proportionality shall be considered where appropriate.
4. A pending allegation alone is not final proof.

Article 37 — Beneficial ownership

1. Every bidder shall disclose natural persons who ultimately own or control it and relevant politically exposed interests.
2. The authority shall verify material information.
3. Nominee or shell arrangements used to conceal conflict are prohibited.
4. Public disclosure shall follow law and legitimate privacy safeguards.

Article 38 — Bid security and performance security

1. Security may be required only where proportionate to actual risk.
2. Form and amount shall not obstruct smaller capable bidders unnecessarily.
3. Forfeiture requires stated grounds and fair process.
4. Performance security shall be released promptly when obligations are met.

Article 39 — Submission and opening

1. Bids shall be received through secure electronic or physical methods preserving confidentiality and deadline integrity.
2. Late bids shall be handled under disclosed narrow rules.
3. Opening shall be recorded and essential information published.
4. No person may alter a bid after submission except lawful clarification.

CHAPTER VI EVALUATION AND AWARD

Article 40 — Evaluation committee

1. The accounting officer shall appoint qualified, impartial evaluators before opening.
2. Evaluators shall sign confidentiality and conflict declarations.
3. Technical advice may assist but shall not vote unless appointed.
4. Undue contact shall be reported.

Article 41 — Responsiveness and clarification

1. A bid shall be evaluated as submitted against disclosed requirements.
2. Clarification may resolve ambiguity but shall not permit material substitution or unfair improvement.
3. Minor nonconformity may be waived where immaterial and equally treated.
4. Reasons shall be documented.

Article 42 — Award criteria

1. Award shall be based on lowest evaluated cost or best value using disclosed criteria and weights.
2. Lifecycle cost, quality, delivery, sustainability, risk and performance may be considered.
3. A subjective factor shall have structured evidence and scoring.
4. Criteria shall not change after deadline.

Article 43 — Abnormally low bids

1. The authority shall seek explanation where a bid appears unsustainably low.
2. It shall examine productivity, technical solution, labour, subsidy, error and compliance.
3. Rejection requires evidence and reasons.
4. Low price alone is not misconduct.

Article 44 — Correction and arithmetic

1. Arithmetic and transcription errors may be corrected under disclosed rules with notice to the bidder.
2. Correction shall not change the intended substantive offer.

3. Refusal to accept a lawful correction may lead to rejection under stated conditions.
4. The audit trail shall preserve the original.

Article 45 — Evaluation report

1. The committee shall prepare a signed report stating process, bids, exclusions, scores, due diligence, conflicts and recommendation.
2. Dissent may be recorded.
3. The accounting officer shall approve, return for lawful reconsideration or reject with reasons.
4. A political direction cannot replace evaluation.

Article 46 — Notice of intention to award

1. Before contract, the authority shall notify participating bidders of intended award, price, material reasons and review procedure.
2. A standstill of at least ten working days shall ordinarily apply.
3. Sensitive information may be redacted narrowly.
4. No contract shall be signed during a valid suspension.

Article 47 — Contract award and publication

1. After standstill and resolution of suspension, the contract shall be awarded to the successful bidder.
2. The award notice and contract shall be published, including price, scope, duration, beneficial owner and material performance terms.
3. Legitimate trade secrets may be redacted with reasons.
4. Unpublished side agreements are prohibited.

Article 48 — Cancellation

1. Procurement may be cancelled for loss of need or funding, material defect, insufficient competition, unacceptable bids or public interest established by evidence.
2. Cancellation shall not avoid awarding to a disfavored lawful winner.
3. Bidders shall receive reasons.
4. Reprocurement shall correct the cause.

CHAPTER VII CONTRACT ADMINISTRATION

Article 49 — Contract manager

1. Every contract shall have a qualified manager responsible for performance, records, change, payment and closure.
2. Duties shall be separated from supplier and conflict interests.
3. The manager shall report material breach and risk.

4. Contract administration shall use the procurement portal where practicable.

Article 50 — Performance monitoring

1. Deliverables shall be inspected and measured against contract.
2. Acceptance shall be documented by competent personnel.
3. Key milestones, payments and performance shall be published for material contracts.
4. False certification is serious misconduct.

Article 51 — Payment

1. A valid invoice for accepted performance shall be paid within the contractual and statutory period.
2. Payment shall not be withheld for a bribe, favor or unrelated dispute.
3. Interest or remedies for unjustified delay may be prescribed.
4. Advance and milestone payments require safeguards proportionate to risk.

Article 52 — Contract amendment

1. An amendment requires authority, funding, reasons, price analysis and publication.
2. It shall not materially change the contract so as to defeat the original competition.
3. Cumulative thresholds and foreseeable extensions shall be regulated.
4. A material unlawful change requires new procurement.

Article 53 — Subcontracting and assignment

1. Material subcontractors and beneficial owners shall be disclosed and approved under contract.
2. The prime supplier remains responsible.
3. Assignment or change of control shall not evade qualification or exclusion.
4. Payment protections for lawful small subcontractors may be prescribed.

Article 54 — Price adjustment

1. Price adjustment is allowed only under a disclosed formula or justified exceptional amendment.
2. Indices and base dates shall be objective.
3. Exchange and inflation risk shall not be shifted arbitrarily after award.
4. Calculation shall be auditable.

Article 55 — Breach, termination and remedies

1. The authority shall enforce delay, defect, warranty and performance obligations proportionately.
2. Termination requires contract and legal grounds, notice and opportunity to cure unless urgent.

3. Public continuity and replacement shall be planned.
4. The State may seek damages, security, restitution and other lawful remedies.

Article 56 — Contract completion

1. Completion requires final inspection, accounts, asset handover, warranties and record closure.
2. Retention and security shall be released promptly when justified.
3. A performance assessment shall be shared with the supplier and challenge permitted.
4. Lessons shall inform future procurement.

CHAPTER VIII SPECIAL PROCUREMENT

Article 57 — Consulting services

1. Consultants shall be selected primarily on competence, methodology, independence and reasonable price.
2. Terms shall define outputs, intellectual property, conflicts and knowledge transfer.
3. A consultant preparing specifications shall not compete for implementation where unfair advantage or conflict cannot be cured.
4. Individual consultants require transparent selection.

Article 58 — Infrastructure and works

1. Works procurement shall have adequate design, land access, environmental approval, cost estimate and supervision before award.
2. Uncertain scope shall be allocated through suitable contract strategy, not concealed.
3. Variations, delays, safety and quality shall be monitored publicly.
4. Independent engineering judgment shall be protected.

Article 59 — Medicines and health procurement

1. Health procurement shall prioritize quality, safety, continuity, authentic supply and lifecycle value.
2. Regulatory approval and quality assurance shall not be sacrificed for price.
3. Emergency and pooled procurement may be used lawfully.
4. Supplier influence over clinical choice shall be controlled.

Article 60 — Information technology

1. Technology procurement shall address interoperability, open standards, cybersecurity, privacy, data portability, accessibility, source-code or escrow needs and vendor lock-in.
2. Requirements shall remain technology-neutral where practicable.
3. Algorithms affecting rights require testing and auditability.
4. Public data shall not become vendor property without lawful justification.

Article 61 — Concessions and public-private partnerships

1. Concessions and public-private partnerships are subject to this Act and public-finance law, with additional appraisal and approval prescribed by Assembly Act.
2. Competition, risk allocation, tariff, fiscal commitment and beneficial ownership shall be disclosed.
3. Renegotiation shall not defeat competition.
4. Natural-resource concessions remain subject to sector law.

Article 62 — Defence and security procurement

1. Defence and security procurement is covered by this Act.
2. A specific lawful secrecy need may limit publication or competition only to the necessary extent.
3. Cleared competition, protected records, independent review and full audit shall remain.
4. Classification shall not conceal corruption, personal benefit or aggregate expenditure.

Article 63 — Public enterprises and utilities

1. A public enterprise or utility shall comply where it uses public resources, monopoly privilege or State risk.
2. Commercial flexibility may be prescribed for genuine market operations subject to transparency and audit.
3. Related-party procurement requires enhanced approval and disclosure.
4. Subsidiary or intermediary use shall not avoid this Act.

Article 64 — Development-partner procurement

1. Externally financed procurement may use agreed procedures where consistent with the Constitution and substantially equivalent integrity, competition and review.
2. Differences shall be disclosed in the budget and plan.
3. The Auditor General retains lawful access.
4. A donor condition shall not authorize discrimination or secrecy contrary to law.

CHAPTER IX INTEGRITY AND EXCLUSION

Article 65 — Conflict of interest

1. Every participant shall disclose actual, potential and apparent conflicts and recuse where required.
2. A bidder shall disclose relationships with decision-makers and advisers.
3. A conflict may be managed only where integrity and fair competition can be protected.
4. Concealment may justify exclusion and sanction.

Article 66 — Prohibited conduct

1. Bribery, kickback, fraud, collusion, coercion, obstruction, insider dealing, bid rigging and falsification are prohibited.
2. A request or offer shall be reported and evidence preserved.
3. Corporate and individual responsibility shall follow law.
4. A facilitation payment is not excused by custom.

Article 67 — Debarment

1. The Authority may debar a supplier for proved serious procurement misconduct after notice and hearing.
2. Duration and scope shall be proportionate and consider self-cleaning.
3. A national register and reasons shall be published.
4. Debarment is appealable to the Tribunal.

Article 68 — Suspension pending proceedings

1. Temporary suspension may protect urgent public interest where strong evidence and continuing risk exist.
2. It shall be narrow, reasoned and reviewed promptly.
3. Suspension is not final guilt.
4. Contract continuity and innocent employees shall be considered.

Article 69 — Integrity agreements and monitors

1. A high-risk procurement may use an integrity pact and independent monitor.
2. The monitor shall have access and publish reports subject to lawful protection.
3. Monitoring does not transfer official responsibility.
4. The monitor shall be selected free of bidder control.

Article 70 — Whistleblowers and witnesses

1. Good-faith reporting and cooperation are protected from retaliation.
2. Confidential and anonymous channels shall be available.
3. The Authority may refer witness-protection needs.
4. Knowingly false malicious reports may be addressed without chilling good faith.

CHAPTER X REVIEW AND REMEDIES

Article 71 — Right to challenge

1. A bidder or prospective bidder whose interests are affected may challenge a breach.
2. Standing shall not depend on winning certainty.
3. A challenge shall be filed promptly under accessible rules.

4. Fees shall not obstruct review.

Article 72 — Review by contracting authority

1. A bidder may first request rapid reconsideration by an officer independent of the disputed decision.
2. The authority shall preserve records and give reasons.
3. Urgent review shall occur before contract where possible.
4. This process shall not bar Tribunal access where delay would prejudice.

Article 73 — Public Procurement Review Tribunal

1. An independent Public Procurement Review Tribunal is established.
2. Members shall possess legal, procurement, technical and public-interest expertise and be selected transparently.
3. No member may be under direction of the Authority, Minister or contracting authority.
4. The Tribunal shall have secure administration and budget.

Article 74 — Tribunal procedure

1. The Tribunal shall provide notice, disclosure, hearing, record and reasoned decision through expedited procedure.
2. Confidential information shall be protected without defeating fairness.
3. Proceedings may be electronic and shall be public where appropriate.
4. The burden shall follow the nature of the alleged breach and official record.

Article 75 — Automatic suspension

1. A timely pre-award challenge suspends award unless the Tribunal permits continuation for compelling public interest after balancing harm.
2. Urgent interim orders may preserve competition and evidence.
3. A frivolous challenge may be dismissed promptly.
4. Continuation does not immunize an unlawful award.

Article 76 — Tribunal remedies

1. The Tribunal may correct documents, require reevaluation, set aside a decision, order a lawful procedure, award bid-preparation cost or recommend discipline.
2. After contract, it may declare ineffectiveness where law permits or grant proportionate alternative relief.
3. It shall not award the contract by substituting its commercial preference.
4. Decisions are binding subject to judicial review.

Article 77 — Judicial review

1. A directly affected party may seek judicial review of a final Tribunal decision.

2. Review shall be expedited and may include interim relief.
3. The court shall respect lawful technical findings while correcting legal and material evidentiary error.
4. Public-interest standing may be recognized for systemic illegality under general law.

Article 78 — No retaliation

1. A contracting authority shall not blacklist, disadvantage or threaten a person for a good-faith challenge.
2. Future evaluation shall disregard protected complaint activity.
3. Retaliation is misconduct and may support remedy.
4. Legitimate performance history remains relevant.

CHAPTER XI TRANSPARENCY, DATA AND OVERSIGHT

Article 79 — Electronic procurement system

1. The Authority shall maintain a secure national e-procurement system for planning, notices, documents, submissions, evaluation records, awards, contracts and performance.
2. Identity, encryption, timestamps, access control and audit logs shall be reliable.
3. A non-digital assisted route shall prevent exclusion during transition.
4. System failure shall preserve rights and deadlines.

Article 80 — Open contracting data

1. Procurement information shall be published in reusable standardized data with stable identifiers from plan through completion.
2. Corrections and amendments shall preserve history.
3. Lawful redactions shall state grounds.
4. Aggregate and entity dashboards shall reveal competition, delays, changes and concentration.

Article 81 — Artificial intelligence

1. Artificial intelligence may assist classification, drafting, anomaly detection and evaluation support.
2. No system shall make a final exclusion or award without accountable human decision.
3. Models shall be tested for bias, accuracy, security and explainability.
4. Use and material limitations shall be recorded.

Article 82 — Monitoring and inspections

1. The Authority may conduct risk-based compliance reviews and require records and corrective plans.
2. It shall not approve transactions in advance routinely.

3. Systemic findings shall be published.
4. Evidence of crime shall be referred to the competent independent authority.

Article 83 — Auditor General and Assembly

1. The Auditor General has full mandate under the Auditor General Act.
2. The National Assembly may examine policy, expenditure and performance without selecting suppliers.
3. Accounting officers shall respond to findings.
4. Oversight bodies shall coordinate to avoid gaps and unnecessary duplication.

Article 84 — Annual procurement report

1. The Authority shall publish annual data on value, methods, competition, participation, preferences, challenges, debarment, performance and savings.
2. The report shall identify concentration and integrity risk.
3. It shall recommend reform and capacity investment.
4. Underlying non-protected data shall be accessible.

CHAPTER XII DISPOSAL AND FINAL PROVISIONS

Article 85 — Disposal principles

1. Disposal of public property shall be authorized, planned, valued, competitive and transparent.
2. Methods may include auction, tender, transfer, recycling, donation or destruction where justified.
3. Officials and related persons shall not receive preferential access.
4. Proceeds shall be paid into the proper public fund.

Article 86 — Disposal procedure

1. A disposal committee shall verify ownership, condition, valuation, method and result.
2. Strategic, cultural, environmental and data-bearing assets require special safeguards.
3. Destruction shall be witnessed and recorded.
4. The asset register shall be updated.

Article 87 — Transition and procurement census

1. Within ninety days, every authority shall disclose ongoing tenders, contracts, arrears, supplier disputes and procurement staff.
2. High-risk direct and emergency contracts shall receive independent review.
3. Essential lawful contracts continue while records and authority are verified.
4. Renewal shall comply with this Act.

Article 88 — Capacity and phased e-procurement

1. The Authority shall publish a two-year implementation plan and provide training and standard documents.
2. Electronic procurement shall begin with national high-value procurement and expand by capacity.
3. Core competition, integrity, record and review duties apply immediately.
4. Phasing shall not justify secret award.

Article 89 — Regulations

1. The President may issue regulations on recommendation of the Authority for thresholds, methods, procedures, securities, preferences, contracts, review and implementation.
2. Regulations shall not create offences, taxes or exemptions beyond this Act.
3. Draft regulations shall receive public consultation.
4. The Authority may issue standard documents and technical instructions consistently with law.

Article 90 — Review of prior instruments

1. The Authority, Minister and Advocate General shall review prior procurement, supplies, contracts and disposal instruments within twelve months.
2. Verified repeal and savings shall be proposed.
3. Authentic enacted text shall not be silently changed.
4. Unpublished procurement privilege has no effect.

Article 91 — Repeal and savings

1. Prior procurement instruments are repealed only when identified by verified number, year and title in the statute-law revision schedule.
2. Lawful contracts, bids, claims and proceedings continue subject to transitional rules.
3. Political allocation, secret commissions and unreviewable award authority are not preserved.
4. Existing subordinate procedures expire within eighteen months unless lawfully remade.

Article 92 — Commencement

1. This Act enters into force ninety days after publication in the Gazette.
2. Articles 5, 15, 18, 20, 29, 30, 37, 45 to 47, 65 to 70, 79 and 87 apply immediately.
3. The Tribunal shall become operational within six months, and courts retain review jurisdiction in the interim.

Made at Asmara, this ____ day of _____ 2026.

THE NATIONAL ASSEMBLY OF ERITREA