



INDEPENDENT COMMISSION AGAINST CORRUPTION

# Best Practice Guide

Allocation of Stalls

by

Local Authorities

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## List of Abbreviations

<i>CHI</i>	<i>Chief Health Inspector</i>
<i>CPED</i>	<i>Corruption Prevention and Education Division</i>
<i>EOI</i>	<i>Expressions of Interest</i>
<i>ICAC</i>	<i>Independent Commission Against Corruption</i>
<i>LGA 2011</i>	<i>Local Government Act 2011, as amended</i>
<i>NIC</i>	<i>National Identity Card</i>
<i>PHD</i>	<i>Public Health Department</i>
<i>PoCA 2002</i>	<i>Prevention of Corruption Act 2002, as amended</i>
<i>PSACF</i>	<i>Public Sector Anti-Corruption Framework</i>
<i>ROC</i>	<i>Right of Occupation Contract</i>

## Definitions

- “Chief Executive” means the Chief Executive of a Municipal City Council, Municipal Town Council or District Council.
- “Council” means a Municipal City Council, a Municipal Town Council, or a District Council.
- “Councillor” means a Councillor of a local authority.
- “Local authority” means a Municipal City Council, Municipal Town Council or a District Council.

## Foreword

A clear schedule of mandated service responsibilities for local authorities is established in the Local Government Act 2011, as amended. Local authorities aim, amongst others, at ensuring that provision of services and facilities are accessible and equitably distributed within their respective areas of jurisdiction. The process of allocating stalls is one of the responsibilities of local authorities where the provision of a stall facility aims at enhancing economic activities, creating job opportunities and at the same time, providing valuable services to the community.

It cannot be denied that there have been gradual improvements in local authorities with respect to transparency in decision making, enhanced accountability and ownership of public investments. Despite the achievements, local authorities still face many challenges and one of them is the fight against malpractices/corruption. The negative consequences of corruption include rising expenditure for local authorities, inadequate enforcement of regulations, loss of revenue and potential endangerment of public health. The social costs comprise loss of public confidence, and an increased resentment by those who must continue to comply with the laws and rules while others are benefiting from special treatment.

Allocation of stalls is an area prone to corruption particularly when the demand for stalls exceeds the supply. The increasing demand for stalls has led to an unhealthy competition as well as opportunities for corruption. In fact, many complaints of alleged corruption in this area have been investigated and have led to conviction for corruption offences. It is important that local authorities allocate stalls on the basis of merit and equity and not for extraneous or improper reasons that would lead to corrupt practices. It is thus fundamental that robust but simple systems are implemented to render the process of allocation of stalls transparent, fair and accountable.

The Independent Commission Against Corruption (ICAC) has developed this Best Practice Guide on Allocation of Stalls by Local Authorities in close collaboration with both the Ministry of Local Government and local authorities to promote sound and corrupt-free practices. It is intended for reference to establish best management systems to fight corruption and promote fairness in the stall allocation process. This guide contains valuable tools, techniques and practical advice that Management and staff of local authorities can adopt in their daily work practices. It focusses on the legal and institutional framework regarding stall allocation, governance structure for effective allocation of stalls, the allocation of stalls by expressions of interest, the drawing of lots and transfer of stalls.

The ICAC expresses its deep appreciation to all those who have been directly or indirectly involved in the development of this guide.

## Chapter 1: Introduction

We will strive increasingly to quicken the public sense of public duty; that thus . . . we will transmit this city not only not less, but greater, better, and more beautiful than it was transmitted to us.

– *Oath of office required of Council members in the ancient city of Athens*

### 1.0 Allocation of Stalls

Local authorities have an important role to play in the provision of public services and development of rural and urban areas falling under their respective jurisdictions. Allocation of stalls to relevant members of the public is one of the core activities of local authorities which promotes trade and job creation and allows for public welfare. The underlying benefits of holding a stall may encourage possible risks of corruption in the stall allocation process. Both the perception of corruption and existence of corruption opportunities may cause potential damage to the reputation and image of local authorities.

Though no principle is sufficient on its own to recognise all morally relevant considerations, it is, however, important that local authorities be equipped with fundamental systems and strong corruption prevention tools to promote integrity and instil trust among the public at large. Poor control may lead to malpractices/corrupt practices whereby stalls may be allotted to ineligible applicants.

Policy makers have expressed their concerns and affirmed their strong commitments to:

- relentlessly fight fraud, corruption and financial crime
- significantly reduce misuse and wastage of public funds in all public institutions
- hold heads of public bodies accountable for abuse or misuse of public fund.

Local authorities are called upon to conduct their activities with high standards of professionalism and ethical behaviour. Management has an important role to play with regard to the implementation of sound practices for ensuring transparency, accountability and fairness. The right attitudes and values held by its subordinates, identification of possible areas of corruption, application of positive leadership and good governance principles are some of the expectations from Management to curtail any abusive practices in the allocation of stalls.

### 1.1 Local Authorities in Mauritius

Local authorities operate under the aegis of the Ministry of Local Government. As per Section 49 of the Local Government Act (LGA) 2011, as amended, they shall:

- (a) *promote the social, economic, environmental and cultural well-being of the local community;*

- (b) *improve the overall quality of life of people in the local community;*
- (c) *ensure that services and facilities provided by the Council are accessible and equitably distributed;*
- (d) *ensure that resources are used efficiently and effectively to best meet the needs of the local community;*
- (e) *ensure transparency and accountability in decision-making; and*
- (f) *provide for the prudent use and stewardship of local community resources.*

Every local authority should thus aim to be a leading organisation for promoting equality of opportunity towards the Mauritian citizen whilst constantly improving its service delivery with emphasis on high standard of professionalism.

The Council is entitled to take policy decisions regarding the allocation and administration of public markets and fairs. As a result, the Public Health Department (PHD) which is under the responsibility of the Chief Health Inspector (CHI), then executes assigned duties for the proper administration and management of public markets and fairs falling under the administrative areas of the local authority.

## **1.2 The Rationale**

As mentioned earlier, allocation of stalls is an area which may provide a fertile ground for corruption. The allocation process is more vulnerable to corruption risks especially when demand side exceeds supply side. The improper allocation of stalls and related public resources may constitute an offence as defined in the Prevention of Corruption Act (PoCA) 2002, as amended.

## **1.3 Scope of the Guide**

This guide covers the steps involved in the process of allocation of stalls by local authorities. It is also intended to provide a coherent framework for harmonising the process of allocating stalls in all Municipal and District Councils.

It is an opportunity for all stakeholders of local authorities to have a better understanding of the stall allocation process. The guide is expected to be a useful tool in meeting stakeholders' expectations, instilling trust, promoting integrity and contributing to local authorities' commitment to better serve the community.

## **1.4 Aims of the Guide**

The aims of the guide are to:

- effectively manage the stall application and approval processes in a manner consistent with the local council's agreed vision, mission and goals.

- promote fairness, integrity, transparency and accountability in the allocation process.
- give local authorities the opportunity to assess and reinforce their existing systems.
- communicate and share good practices for curbing corruption in local authorities and for replication in other governmental and parastatal areas.
- protect the community from the adverse impact of corruption and malpractices by adequately addressing potential corruption risk management issues regarding allocation of stalls.

## 1.5 Use of the Guide

This guide is intended for people with daily responsibility for managing and allocating stalls. But it will also be useful to many other users as well. These include, amongst others:

- The Ministry of Local Government
- Elected Councillors, top Management and other staff of local authorities
- Consulting practitioners who provide administrative and legal services to local authorities
- Citizens and business companies
- Stall occupiers and their employees
- The Mauritius Police Force
- The Ombudsman
- Association of Urban Authorities
- Association of District Councils
- Any other individuals or groups who consider themselves stakeholders in relation to the issue of stall allocation.

## 1.6 Methodology

This guide was developed in close collaboration with the Ministry of Local Government and local authorities through a structured approach. This include:

- examination of existing legal framework for management and allocation of stalls
- analysis of existing practices and procedures for allocation of stalls in different local authorities
- interactions and interviews with CHIs and staff of the PHD.

A committee comprising both senior staff of the PHD of certain local authorities and the Ministry of Local Government was also established. The committee met several times for the finalisation of the guide.



## 1.7 Monitoring Implementation and Expected Outcome

Management of every local authority is called upon to set up the necessary structures that will enable them take ownership for corruption prevention through strengthening of the system in place. Allocation of stalls in markets and fairs is a vital activity in any local authority. If not managed and controlled in a transparent manner, it may engender and fuel a perception of malpractice/corruption that can impact on the credibility of local authorities and compromise public trust.

Implementation of the principles and techniques contained in this guide is expected to contribute towards the following outcomes:

- Reduced opportunities for malpractices/corruption through corruption prevention exercises.
- Improved public trust/confidence in local authorities through greater transparency and accountability.
- Reduced financial losses through the suppression of subletting.
- Better scrutiny and oversight.
- Greater protection of public officials against disciplinary action and criminal charges.

## 1.8 Structure of the Guide

The guide is structured as follows:

Chapter 1 : Introduction

Chapter 2 : Legal and Institutional Framework Regarding Stall Allocation

Chapter 3 : Governance Structure for Effective Allocation of Stalls

Chapter 4 : Allocation of Stalls by Expressions of Interest

Chapter 5 : The Drawing of Lots

Chapter 6 : Transfer of Stalls

## 1.9 Disclaimer

*The aim of this document is to provide guidance to Management to enhance integrity in the allocation of stalls in local authorities. However, measures and areas covered in this guide should not be considered as exhaustive. It is the responsibility of Management under the guidance of the parent Ministry to ensure that appropriate measures are implemented in local authorities to effectively fight corruption. Moreover, this guide is neither a substitute for the law nor can it take the place of legal advice.*

## Chapter 2: Legal and Institutional Framework Regarding Stall Allocation

### 2.0 The Legal Framework

This chapter gives an overview of the legal and institutional framework regarding the process of stall allocation. It describes the relevant Sections of the LGA 2011 which relate to stall allocation. The LGA 2011 and regulations provide the legal framework for stall management.

### 2.1 Compliance with Laws, Regulations and Ethical Standards

Local authorities as public entities control and manage public resources for allocation to applicants based on their individual needs, characteristics or other predetermined criteria. As a measure to ensure transparency, it is important that they strictly adhere to laws and regulations as set in the:

- LGA 2011
- Market and Fairs Regulations.

Moreover, local authorities are required to actively promote ethical and responsible decision making. Thus, they should not only comply with their legal obligations, but also clarify the standards of ethical behaviour required from top Management and all employees. Top Management commitment is key towards ensuring full compliance with set rules, regulations and ethical standards.

### 2.2 The Basis for Markets and Fairs

Section 56 of the LGA 2011 provides that:

*No market or fair should be erected or opened in any administrative area of a local authority unless:*

- (a) it has been approved by the relevant local authority and complies with such terms and conditions as the Council may impose; and*
- (b) its site and layout plans have been approved by the Sanitary Authority and comply with such terms and conditions, including fire safety norms, as may be determined.*

As such, it is important that public health and safety is protected by ensuring that markets and fairs being erected are in accordance with statutory requirements.

### 2.3 Occupation of Stalls in Markets, Fairs or other Premises

As per Section 57 of the LGA 2011, allocation of stalls is done by expressions of interest (EOI). It stipulates that:

*Notwithstanding the Landlord and Tenant Act, a Municipal City Council, Municipal Town Council or District Council may -*

- (a) after inviting expressions of interest and by contract, authorise any person to occupy any stall, shop or other place inside any market or fair which it controls or manages, on such terms and conditions as may be prescribed;*
  - (b) after calling for tenders and by contract, authorise any person to occupy any other premises which it controls or manages, on such terms and conditions as it may determine.*
- (2) An authorisation under subsection (1) shall be for a period of not more than 3 years but may be expressly renewed for further periods not exceeding 3 years, on such terms and conditions, including a revision of any fee payable, as the Municipal City Council, Municipal Town Council or District Council may determine in each particular category.*
- (3) Except with the approval of the Minister, a local authority shall not –*
- (a) suspend, revoke, or fail to renew an authorisation granted under subsection (1);*
  - (b) where it has the option not to renew a contract entered under subsection (1), exercise that option; or*
  - (c) vary the terms and conditions of an authorisation granted under subsection (1).'*

The process of allocating stalls is one of the responsibilities of Councils where the provision of a stall facility aims at enhancing economic activities, creating job opportunities and at the same time, providing valuable services to the community at large.

## **2.4 Regulations Made by Local Authorities**

Section 163 (1) of the LGA 2011 provides that a local authority may make regulations as follows:

- (a) for the efficient discharge of its functions under the Act;*
- (b) generally for the good rule and good government of the whole or any part of the locality within its jurisdiction;*
- (c) for the efficient storage, collection and conveyance of waste to approved disposal sites or other waste management facilities;*
- (d) for the prevention and suppression of nuisance.*

This provision of the law enables local authorities to make regulations for the good administration and management of markets and fairs.

## Chapter 3: Governance Structure for Effective Allocation of Stalls

### 3.0 Roles and Responsibilities of Management and Staff

Responsibilities rest with both top Management and staff of the Council to promote sound management, control and allocation of stalls in all fairness and transparency with a view to minimise corruption risks. The following guiding principles are key to ensure effectiveness in this area:

- **Merit** - Practices reflecting just treatment for all applicants.
- **Equal opportunity** - Equal access to all citizens meeting the necessary requirements to apply for a stall.
- **Fairness** - Decisions are objective and free from bias and favouritism.
- **Transparency** - Open communication with all applicants on stall management, selection practices and decisions.

### 3.1 Corruption Risk Assessment

Corruption risk management is an integral part of any corruption prevention plan. Such an assessment enables Management to promptly identify risks of corruption in the core areas of the organisation. Monitoring and follow-up of actions are also important for continuous improvement and response to address new risks.

Thus, local authorities need to conduct corruption risk assessment to identify weaknesses which may present opportunities for corruption and ensure that their systems, procedures and practices are driven by the principles of transparency, accountability and probity. Local authorities that are not vigilant in preventing and deterring corruption practices are at risk of a number of adverse consequences including:

- *Damage to their reputation and image*
- *Loss of revenue and increased costs*
- *Reduced capacity to manage effectively*
- *Failure to meet the needs of good governance*
- *Loss of public confidence*
- *Wasted resources*
- *Public officers perpetrating corrupt practices*
- *Adverse effects on staff's morale.*

There can be a number of corruption risks associated with the allocation of stalls if appropriate measures and systems are not effectively implemented.

#### *Some examples of possible corruption risks*

- *A public official accepting or soliciting gratification to allocate a stall to an ineligible applicant*
- *A public official accepting or soliciting gratification by providing an unfair advantage to an applicant*
- *A public official turning a blind eye to false or fraudulent information with respect to applications received*
- *An applicant for a stall bypassing the official procedures to obtain a stall through the exchange of favours*
- *A public official favouring a particular applicant in the allocation of a stall owing to his/her delegated and discretionary powers*
- *A public official allocating a stall to his/her relatives without disclosing his/her interests*
- *A public official favouring ineligible stall applicants in the absence of proper application safeguards*
- *A public official turning a blind eye to fraudulent cases of stall sub-letting in exchange for gratification*
- *A public official abusing his/her office to allocate vacant stalls against gratification*
- *A public official divulging confidential information to a stall applicant against gratification.*

## **3.2 Corruption Offences**

The above-mentioned risks may lead to the following corruption offences under the PoCA 2002, amongst others:

- **Section 4**                      Bribery by public official
- **Section 5**                      Bribery of public official
- **Section 7**                      Public official using his office for gratification
- **Section 11**                     Public official taking gratification
- **Section 13**                     Conflict of interests
- **Section 15**                     Receiving gift for a corrupt purpose.

Everyone should be aware of the law. According to the legal principle *Ignorantia juris non excusat* (Ignorance of the law does not excuse), a person who is unaware of a law may not escape liability for violating that law merely because he or she was unaware of its content.

More information with regard to other Sections dealing with corruption offences is provided in *Appendix I* and in the PoCA 2002, available on the ICAC website [www.icac.mu](http://www.icac.mu)

### 3.3 Principles for Effective Allocation of Stalls

The ICAC recommends a proactive risk management approach to corruption prevention by identifying corruption risks and then developing appropriate strategies to address these risks. A risk management approach is the most appropriate way to ensure that these risks are identified and effectively managed.

Local authorities are called upon to implement the risk management strategies described below to promote fairness, accountability and transparency. These strategies are also meant to protect public officials against any influence.

#### 3.3.1 Documented Policy and Procedures

It is essential that local authorities develop written policy and procedures with regard to the allocation of stalls when it comes to processes and decision making. Policies and procedures which pertain to stall allocation management must be clearly written, consistent and unambiguous.

#### Some Tips for Good Policy and Procedures

Policy and procedures should:

- contain listed elements that would enhance integrity and impartiality amongst officers when allocating stalls
- provide clear guidance to staff, Councillors and relevant stakeholders
- include sanctions for any breach of the policy and procedures
- be readily accessible either in hard copy or via electronic means
- contain a section that clearly spells out the responsibility of designated officers in the allocation process
- be reviewed regularly to make sure that they are still appropriate and relevant.

#### 3.3.2 Code of Conduct

A Code of Conduct is intended to be a central guide and reference for staff of local authorities in support of day-to-day decision making. It is meant to clarify the organisation's mission, values and principles, linking them with standards of professional conduct.

Employees of local authorities perform a public duty when allocating stalls. They must therefore observe stringent ethical rules applicable to public officials.

Public officials, applicants, stakeholders and Councillors must also observe specific Codes of Conduct relating to allocation of stalls.

### **Some Tips to Ensure Effectiveness of the Code**

To be highly effective:

- top Management should lead by example and walk the talk to foster integrity in the organisation
- proper performance management and assessment systems should be in place
- all aspects of the stall allocation process should be addressed
- emphasis should be laid on ethical behaviour/conduct
- the meaning of public duty and conflict of interests should be clearly explained.

### **3.3.3 Training**

Training is an important element to inculcate ethical values in staff and ensure their applications to their daily assigned responsibilities. All relevant officers should continuously be reminded of the necessity to act with integrity and to resist any improper influence. The appropriate policies and procedures should be easily accessible for reference on an ongoing basis.

### **Some Tips to Ensure Effective Training and Development**

The local authority should:

- provide regular training on corruption prevention and ethical behaviour to all staff
- measure performance through staff assessments, performance evaluations and on the job monitoring of employee behaviour
- undertake regular surveys to check whether the ethical values of the organisation are known amongst staff
- take prompt remedial actions on ‘gaps’ identified.

### **3.3.4 Established Criteria**

Clearly defined and documented eligibility criteria remain one of the important guidelines that promote transparency, accountability, objectivity and consistency when allotting stalls. They create a benchmark

against which all applicants can be fairly assessed. Applicants need to fulfil the guiding conditions and targets set through broad principles outlined in the selection criteria so as to be eligible for a stall.

The Ministry of Local Government in consultation with local authorities needs to ensure that the same criteria are consistently used for assessing applications and when making recommendations or decisions.

### Some Tips to Ensure Effective and Efficient Criteria

The local authority should:

- have clear, standardised criteria for the assessment of eligibility
- ensure that the criteria are explicitly followed and recorded
- provide easily accessible information about the eligibility criteria to all concerned.

#### 3.3.5 Segregation of Duties

To provide adequate checks and balances, the duties and responsibilities of officers involved in the allocation of stalls must be properly segregated. The department responsible for allocating stalls should impose adequate supervision to limit discretionary powers of certain subordinate officers. Staff from different departments of the local authority should also be involved in the stall allocation process to ensure proper segregation of responsibilities. Segregating duties of officers should not be restricted only in preventing malpractices but in also detecting any forms thereof.

#### 3.3.6 Management of Conflict of Interests

Conflict of interests is a criminal offence, punishable under Section 13 of the PoCA 2002. Management of local authorities needs to understand that the issue of conflict of interests requires important attention in the allocation of stalls.

**An Extract of Section 13 of the PoCA 2002 reads as follows:**

(1) *Where -*

*(a) a public body in which a public official is a member, director or employee proposes to deal with a company, partnership or other undertaking in which that public official or a relative or associate of his has a direct or indirect interest; and*

*(b) that public official and/or his relative or associate hold more than 10 per cent of the total issued share capital or of the total equity participation in such company, partnership or other undertaking,*

*that public official shall forthwith disclose, in writing, to that public body the nature of such interest.*

(2) *Where a public official or a relative or associate of his has a personal interest in a decision which a public body is to take, that public official shall not vote or take part in any proceedings of that public body relating to such decision.*



### **Some Tips for Proper Management of Conflict of Interests**

The local authority should:

- make all its employees aware about conflict of interests and ensure that they strictly abide by procedures set in the handling of situations of conflict of interests
- inform staff to declare their interests in writing
- keep record of situations of conflict of interests
- issue to employees, periodic reminders on the importance to declare their conflict of interests and to abstain from participating in the decision-making process
- circulate departmental circulars setting out particular scenarios of conflict of interests for reference by staff.

#### **3.3.7 Job Rotation**

Periodically rotating employees responsible for the allocation of stalls is a good means to inhibit the development of inappropriate relationships with citizens, and exposure to bribery or improper influence.

To reduce opportunities for corruption and other malpractices, local authorities should formulate a policy on staff rotation. Staff involved in the allocation process should be rotated regularly as far as practicable.

#### **3.3.8 Appeal Procedure**

A proper appeal system is an important means to enable an unsuccessful applicant who is aggrieved regarding the way the allocation of stalls has been done, to appeal for reconsideration of the decision. The Ministry in consultation with local authorities needs to operate an effective appeal procedure which unsuccessful applicants of stalls may follow should they wish to have a grievance investigated.

### **3.4 The Internal Audit**

Internal Audit is an essential element of the corporate governance framework. It operates primarily to provide assurance that the internal control structure is effective. It is also expected to assist Management in meeting its corporate objectives.

The main responsibilities of the Internal Auditor are to conduct audit and financial verifications to ensure effective checks and balances. However, he/she should also have a prime responsibility in the conduct of the corruption risk assessment and implementation of the corruption prevention strategies in local authorities.

Corruption risk assessment combined with the existence and effective operation of internal control and an appropriate level of management oversight are major factors in determining the frequency and nature of audit coverage.

## 3.5 The Concept of Local Governance

Local governance is a broader concept derived from good governance. Local governance is not just about providing a range of local services but also about preserving the liberty of citizens, creating space for democratic participation and civic dialogue, supporting environmentally sustainable local development, and facilitating outcomes that enrich the quality of life of citizens.

### 3.5.1 Local Governance Assessments

From an anti-corruption perspective, Councils should adhere to local governance assessments and should aim at:

- analysing the institutional framework for promoting integrity and combating corruption
- diagnosing corruption and/or corruption risks within systems of local authorities
- providing reforms and remedies to those identified risks.

Such assessments aim towards the following benefits:

- Strengthening both the internal and public accountability of local authorities.
- Raising awareness among the public about local governance challenges at the level of local authorities.
- Creating space for dialogue between various Municipal and District Councils, as a means of deterring corrupt activities and improving their responsiveness and effectiveness through benchmarking.

## Chapter 4: Allocation of Stalls by Expressions of Interest

### 4.0 Overview

Local authorities aim to provide both business and job creation opportunities by ensuring support to both new and existing stall occupiers with emphasis on improving the services provided to the citizens. Allocation of stalls must be without prejudice and should be done in a manner that ensures transparency, integrity and fair competition.

### 4.1 Expressions of Interest

EOI can be considered an effective method to allocate stalls by local authorities, provided it is correctly implemented. Thus, as a matter of fairness, all applicants must be given the same information, guidance and instructions. Procedures, rules and evaluation criteria need to be applied consistently to prevent any actual or perceived discrimination or preferential treatment. Steps involved in the EOI are described in the sections which follow.

### 4.2 Steps Involved in Expressions of Interest

EOI involves three main steps, namely:

- **Step One** - Application.
- **Step Two** - Processing of application and shortlisting.
- **Step Three** - Drawing of lots.

### 4.3 Application

The Council must approve all vacant stalls that are available in different markets and fairs and give the green light to initiate the necessary procedures for allocation of these vacant stalls by way of EOI.

Prior to any application being formally submitted, the local authority must provide to both the applicant and the staff the opportunity to gain a clear understanding of the objectives of the stall allocation process.

The application process must ensure public awareness through advertisement and it must specify the following:

- Advertisement contents.
- Eligibility criteria.
- Application method.

### 4.3.1 Public Awareness Through Advertisement

The best way to inform the public and invite applications for securing available vacant stalls is through an effective advertisement system. In order to ensure that the public at large is informed, advertisements for EOI must be communicated through:

- the Council’s website
- newspapers
- notices placed in markets, fairs, municipal centres and any other conspicuous locations which are managed by local authorities.

Local authorities are also encouraged to choose other advertising methods to boost public awareness and to increase transparency and accountability.

### 4.3.2 Advertisement Contents

Contents of the advertisement must cover essential information such as:

- the market or fair location where the stall(s) will be allocated
- eligibility criteria
- the application and submission methods
- contact details of the local authority for any query
- deadline for applications.

### 4.3.3 Inclusion of Eligibility Criteria

Advertisements must include the criteria that define the requirements for eligibility. Dissemination of criteria ensures that applicants are aware that they will be selected on the basis of their relevant merits and also prevent any filing of unnecessary applications which would render the processing cumbersome.

### 4.3.4 Application Requirements

The application must provide appropriate and specific information important for the processing of the application and it must be supported with evidence.

#### Important information needed to justify eligibility

- General information on the applicant.
- Sections to be traded in.
- Referee’s general information (where applicable).
- Unemployment certificate of applicant (if unemployment is a criterion for eligibility).

## Documents to be submitted

- National Identity Card (NIC).
- Birth Certificate.
- Proof of residential address.
- Marriage Certificate (where applicable).

## 4.4 Processing of Application

Following the invitation for application exercise, the local authority must process the applications received. The steps involved in the processing of applications are described below.

### 4.4.1 Submission of Applications and Security

Receipt of applications and acknowledgement procedures must be established to maintain the security and confidentiality of all applications. To prevent leakage of information, precautionary measures would warrant that received applications be kept in a double locked application box with the keys controlled by senior staff members. The box must be effectively sealed after the specified date and time limit. Late applications should not be accepted.

### 4.4.2 Opening of the Application Box

An independent committee comprising senior staff from different departments of the local authority must open the box. The applications must then be referred to a Shortlisting Committee for examining the applications received.



*As a means to promote transparency, an external party such as a Court Usher could be invited to attend the process of the EOI.*

### 4.4.3 Acknowledgment Receipt

All applicants must receive an acknowledgment receipt from the Council with the reference number of the EOI application form written on it.



*Referencing the forms promotes transparency and discourages any officers to discard/ disregard a particular application by virtue of his/her delegated powers.*

### 4.4.4 Documentation of Applications

All serially referenced applications must be documented and be securely kept together with accurate records.

## 4.5 Shortlisting

A Shortlisting Committee comprising staff from different departments of the local authority must be set up. As a means to segregate duties, staff who were involved in the opening of the box must not be selected for shortlisting (as far as practicable).

The methodology used to allocate stalls must also take into account all relevant factors to shortlist the appropriate applicants. Established approved criteria and submission of relevant documents provide measures against which applicants can be fairly assessed throughout the shortlisting exercise prior to the drawing of lots.

### 4.5.1 Cross Verification of Existing Stall Occupiers

As defined by the policy and criteria set by the Council, an applicant already occupying a stall from any local authority in Mauritius should not apply. However, many existing stall occupiers may try to defraud the system by applying for stalls in other local authorities.

As such, local authorities should develop a central computerised database of all stall occupiers on a region wise basis. This will serve as an essential tool for equitable allocation of stalls by enabling easy verification of existing stall occupiers applying for additional stalls in other Councils' jurisdictions.

### 4.5.2 Applicant's Database

All applications need to be recorded in form of a database for traceability purposes. A second database listing all those who have been shortlisted must also be maintained. This should be approved by the Council prior to invitation for participation in the drawing of lots exercise.

### 4.5.3 Invitation for Participation in the Drawing of Lots Exercise

The Council will need to fix an appropriate date, time and place to invite all shortlisted applicants to participate in the drawing of lots exercise. They must come in person and must bring with them their NIC and invitation letters.



***Except under exceptional circumstances, failure to attend the drawing of lots should automatically disqualify the applicant.***

## Chapter 5: The Drawing of Lots

### 5.0 Why Choose Drawing of Lots?

Drawing of lots has several merits especially in respect of scarce stall availability. It is practical, quick and a good system to allocate many stalls at one go. Moreover, drawing of lots remains one of the best methods that:

- ensures transparency
- is highly resistant to corruption.

EOI should be backed up by drawing of lots to promote fairness, effectiveness, transparency and integrity in the exercise. An EOI without drawing of lots can be a leeway to corruption and other forms of malpractices.

### 5.1 Precautionary Measures Preceding the Drawing of Lots

The following measures must be applied to the process of drawing of lots so as to render the system transparent and impartial:

- As far as practicable, an external party (e.g. Court Usher) should be appointed to ensure the transparency and fairness of the exercise.
- The Internal Auditor of the local authority should play an active part in the drawing of lots exercise.
- In order to prevent any risk of favouritism, the lot numbers to be drawn should pertain to the stall reference numbers. Both the external party and the Internal Auditor should cross verify same prior to the drawing of lots.
- If the number of eligible applicants exceeds the number of available stalls, it is recommended that blank lot papers be also included to tally the number of shortlisted applicants.
- Prior to insertion in the Draw Box, all lot papers should contain the seal of the local authority, the signature of the Chief Executive (or his/her representative) and that of the Internal Auditor.
- The Chief Executive of the local authority should designate an officer (not necessarily limited to the concerned local authority) to manage the drawing of lots.
- The drawing of lots should be made known to all and conducted in public (as far as practicable).

## 5.2 The Drawing of Lots Exercise

The external party and staff delegated by the Chief Executive should demonstrate to all applicants present that the drawing of lots is done in a fair manner. The following techniques could be applied to enhance transparency:

- A visual illustration of the fair/market plan highlighting the stalls to be allocated can be shown to the applicants to enable them to follow the exercise. As soon as a stall number is drawn, it will be deleted automatically from the illustration.
- A simulation exercise prior to the drawing of lots should be performed in front of all shortlisted applicants to reassure them that all the numbers allotted to the vacant stalls are indeed contained in the Draw Box. This simulation exercise should be done on a sampling basis in order not to lengthen the exercise. Any number drawn should tally with the stalls represented on the visual illustration.

After the simulation exercise, the drawing of lots can be conducted. The applicant drawing a lot number is allotted the stall corresponding to that number.

### 5.2.1 Non Participation of Shortlisted Applicants

In case shortlisted applicants fail to attend the drawing of lots exercise, those applicants who have drawn blank lot papers should be given the chance to draw a second lot. This should be done as a means of fairness since there is always a probability that certain vacant stalls are still not allocated. More details are given in the example below.

#### Example 1

The example below depicts a situation where 5 shortlisted applicants did not attend the drawing of lots exercise.

Description	Quantity
Shortlisted applicants	100
Shortlisted applicants attending the drawing of lots	95
Shortlisted applicants not attending the drawing of lots	5
Stalls to be allotted	25

It is highly probable that all the 25 stalls will be allocated during the drawing of lots exercise. However, there is still the possibility that certain stalls will not be allocated due to the absence of the five shortlisted applicants. As a matter of transparency, a second round should be carried out on the same day as follows:

#### Second round of the exercise

Say, the number of stalls still not allocated is 3. Applicants who have drawn blank in the first exercise will be obviously 73. The second round will be conducted amongst them.




Similarly to the first round, the 3 lot numbers that have not been drawn will be inserted in the draw box together with the 70 blank papers. The three applicants drawing the lot numbers will be allocated the stalls.

This renders the system both efficient and effective since the local authority does not need to perform a new EOI.

### 5.3 Registration of Successful Applications

Applicants who have been successful in the drawing of lots should necessarily produce and submit the following information and documents for records prior to be registered as stall occupier:


- NIC and general information of successful applicant.
- Business Registration Card.
- Passport photos.
- Sworn affidavit certifying unemployment/ non owner of any formal business.

 ***The local authority should provide a format together with all necessary information pertaining to affidavits as a means to facilitate the task of the successful applicant when going to Court for obtaining his sworn affidavit.***

Local authorities must constantly remind applicants that the submission of false information contained in the affidavit is an offence severely punished by law. Moreover, failure to submit the appropriate documents within the prescribed dates will automatically disqualify the applicant and his/her application should no longer be considered.

### 5.4 Right of Occupation Contract

The successful applicant after having produced all documents should sign a Right of Occupation Contract (ROC) listing all conditions that the stall occupier needs to abide by and should pay all necessary fees to become a registered stall occupier.

 ***If the local authority decides to renew the contract after the expiry of the existing one, it should ensure that the stall occupier duly signs the new contract and a copy is kept for record. No tacit agreement should be permitted since it can easily lead to fraudulent practices.***

### 5.5 Provision of Information to Unsuccessful Applicants

Those who have been unsuccessful should be assured by the local authority that they can again apply for the next allocation exercise. To promote transparency in the system, the following are important:

- In order not to penalise unsuccessful applicants, the local authority should define a reasonable time frame for carrying out the next allocation exercise as per available vacant stalls.
- Names of applicants who have been successful during the drawing of lots should be posted on the website and notices placed in markets, fairs, municipal centres and any other locations which are managed by local authorities.
- The Council should encourage whistleblowing practices against applicants who have defrauded during the process.

A summary of the different steps involved in the allocation of stalls, as described in this guide is provided in form of a flowchart in *Appendix II*.

## 5.6 Drawing of Lots for New Fair

The construction of a new market and fair will necessitate stall occupiers from the former one to be moved to the new premises. With a view to prevent any confusion and to allocate stalls in all transparency, drawing of lots is again the best system to be chosen. The same techniques and precautionary measures, as described above must be applied. However, certain priorities and exceptions should be respected when applying the methodology described above. These are highlighted below.

### 5.6.1 Priority to Existing Stall Occupiers

As per established criteria and policy set by the local authority, existing stall occupiers will normally have priority over new applicants when allocating stalls in the new market and fair. When all existing stall occupiers have been allotted stalls, the remaining ones can then be distributed to new applicants by EOI followed by drawing of lots.

### 5.6.2 Ranking of Existing Stall Occupiers in Relation to the Number of Stalls Occupied


In the past, certain local authorities allotted several stalls to the same stall occupier since stalls were not scarce and not in great demand as is the case today for the majority of fairs. Fairness would warrant that these stall occupiers be allocated the same number of stalls in the new fair. However, this again depends on the policy and criteria of the local authority, as to determine whether it can afford to allot the same number of stalls to these existing stall occupiers for the new fair.

For the smooth running of the drawing of lots and not to distort any permutation, those who had the highest number of stalls would be prioritised and would have first choice in the drawing of lots exercise. The priority should be set in descending order as per example below.

**Example 2**

Stall occupier	A	B	C	D
No of stalls	4	3	2	1
Category	I	II	III	IV

Stall occupier A who has four stalls and falling in category I will draw first followed by B and so on.

 *If existing stall occupiers have been allocated several stalls in the new fair, it is essential that these are adjacent as a means to prevent any risk of sub-letting in the future.*

## Chapter 6: Transfer of Stalls

### 6.0 Overview

The allocation of any stall is the prerogative of the local authority and a stall occupier shall not assign, sublet or allow any other person to work in the stall or any part thereof.

Moreover, as described in chapter 4 of the guide, stalls need to be allocated by EOI. However, there are certain exceptions. Section 57(3) of the Act states that:

*‘Except with the approval of the Minister, a local authority shall not –*

- (a) suspend, revoke, or fail to renew an authorization granted under subsection (1);*
- (b) where it has the option not to renew a contract entered under subsection (1), exercise that option; or*
- (c) vary the terms and conditions of an authorisation granted under subsection (1).’*

The Minister of Local Government, under exceptional circumstances, may give his/her authorisation that an unoccupied stall be now transferred to another individual subject to certain conditions.

### 6.1 Fairness, Transparency and Accountability in the Transfer of Stalls

Councils should ensure that duties of staff involved in transfer of stalls are not compromised by participating in lobbying and partial practices that are outside the bounds of appropriate or lawful behaviour. The example below provides guidelines for taking fair decisions in the transfer of a stall.

#### Example 3

**Being a key staff to recommend the allocation of stalls to applicants, how can I justify that the stall was transferred appropriately?**

- The local authority has written policies and procedures in place for stall transfer.
- Documented criteria for transfer of stalls are well defined and established.
- There are detailed, clear and accurate records of transfer decisions.
- All supporting documents as per established criteria have been received from the applicant.
- The Council consistently uses the same procedures for assessing transfer applications and making recommendations or decisions, unless special circumstances apply.


## 6.2 Exceptional Circumstances that May Warrant Stall Transfer

As described above, exceptional circumstances may warrant that a stall be transferred. Only lineal descendants/ascendants (restricted to the child, father and mother) and spouse of the stall occupier are eligible to apply for the transfer. Other heirs (for example, brother, niece) are not.

Certain valid situations where the unoccupied stall may be transferred are when the stall occupier is:

- deceased
- old or inapt to continue working
- bedridden and incapable to work.

It must, however, be proven that the stall revenue is his/her only income and that this inability to trade will place undue hardship on his/her family. It is only under such conditions that transfer of stalls must be permissible. Permission will then be granted to one of his/her heirs to continue the stall trading activity.

 *Priority should be given to the spouse. If the spouse voluntarily renounces the stall through a formal statement, one of the (deceased) stall occupier's heirs should then be considered.*

### 6.2.1 Procedure to Ensure Transparency and Accountability in the Transfer of Stalls

The main stages in the transfer of stalls are as follows:

- Application for transfer of stalls by applicant.
- Processing of applications.
- Decision of the Council.
- Settlement of any arrears (optional) and payment of fees.
- Signature of the ROC.

If the stall occupier's family chooses not to make an application for special consideration as outlined above, or does not agree to pay any arrears left by the deceased stall occupier, the stall should be declared vacant by the Council as a means to promote transparency. It will then be allotted during the next stall allocation exercise.

### 6.2.2 Temporary Occupation of Stall

If a stall occupier is unable to use his/her stall temporarily for a short defined time period, the Council should be in a position to authorise the stall occupier to find his/her replacement for that period in a transparent and fair manner.

Temporary occupation of stalls should be performed in such a way to prevent sub-letting and any other fraudulent practices to crop up. The following must be requested to back up the decision of the Council:

- Written letter from the existing stall occupier mentioning the:
  - o substitute who will occupy the stall during his/her absence
  - o time period he/she will be absent.
- Documentary evidence justifying the stall occupier’s incapacity to use his/her stall.
- A copy of the substitute’s NIC.

After expiry of the incapacity period, the stall occupier must formally inform the local authority that he/she has resumed duty.



*The maximum time period for occupation of a stall on a temporary basis should be specified by the local authority in its established criteria.*

### 6.3 Exercising Vigilance in the Allocation of Stalls

Illegal traders operating in markets and fairs remain a matter of concern for all local authorities. For example, subletting of stalls is highly perceived as a common practice in many fairs and payment of “key money” by illegal traders to official stall occupiers is considerably higher than the monthly rental fees paid to the local authority.

The Health Inspectorate Cadre and other officers delegated by the Chief Executive to work in markets and fairs should thus be very vigilant and need to carry out regular attendance checks to ensure that registered stall occupiers and their employee(s)/agent(s) are occupying their respective stalls. The simultaneous presences of both the stall occupier and the employee during trading must be closely monitored as it is a useful means to prevent subletting.

Over and above close monitoring, Councils must continuously inform stall occupiers that they need to strictly abide by the terms and conditions set in the ROC. This can be done through:

- awareness sessions
- notices placed in markets and fairs
- the Council’s website
- any other methods of communication deemed appropriate by the Council.

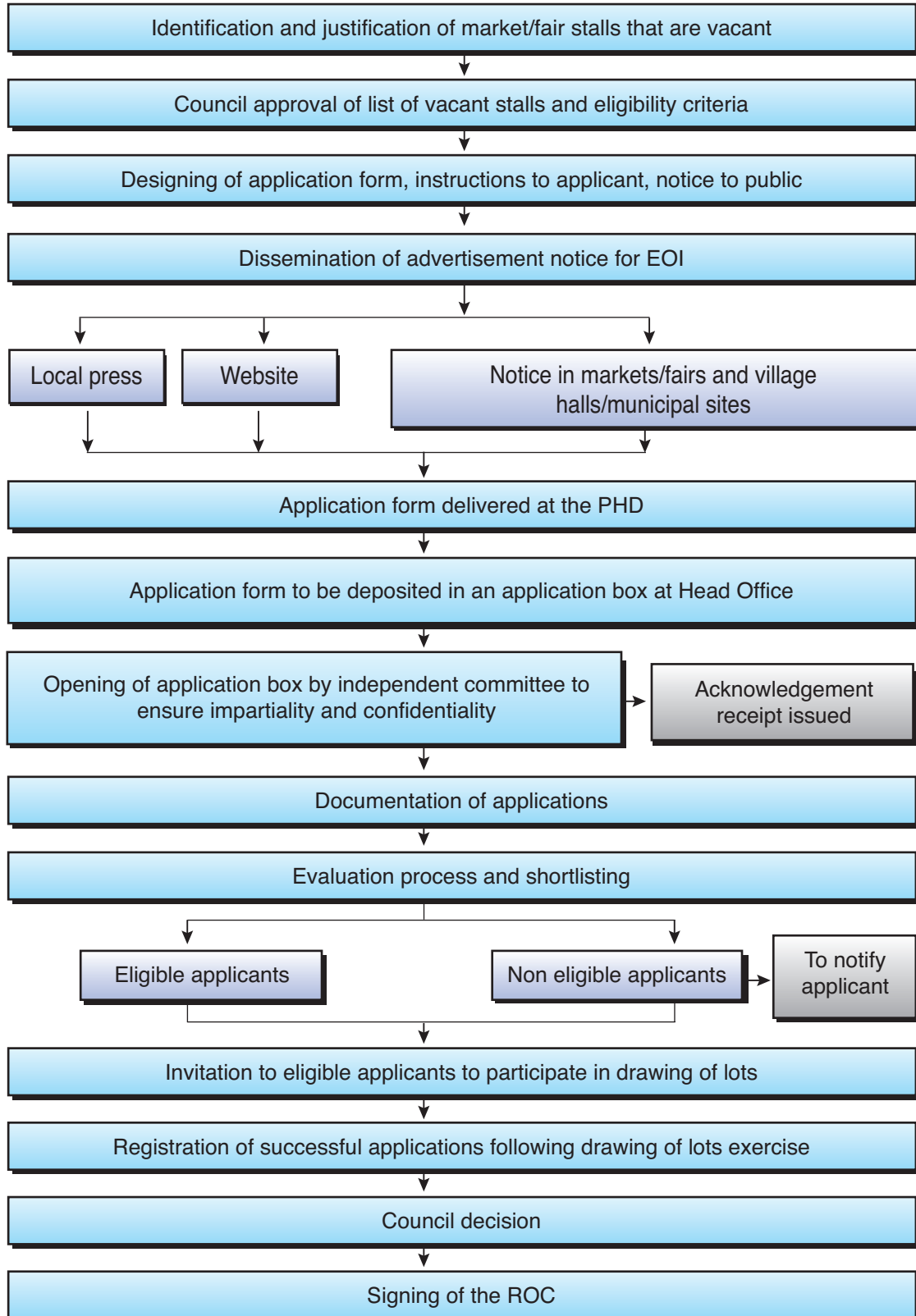
## Appendix I: Corruption Offences

If not addressed promptly, corruption risks as mentioned in Section 3.2 of the guide can result in breach of one or more Sections of the PoCA 2002. These are given below:

<b>Section 4</b>	Bribery by public official
<b>Section 5</b>	Bribery of public official
<b>Section 6</b>	Taking gratification to screen offender from punishment
<b>Section 7</b>	Public official using his office for gratification
<b>Section 8</b>	Bribery of or by a public official to influence the decision of a public body
<b>Section 10</b>	“Trafic d’influence”
<b>Section 11</b>	Public official taking gratification
<b>Section 13</b>	Conflict of interests
<b>Section 14</b>	Treating of public official
<b>Section 15</b>	Receiving gift for a corrupt purpose

Local authorities need to consult the PoCA 2002 and the ICAC website [www.icac.mu](http://www.icac.mu) for more information.

## Appendix II : Steps Involved in the Allocation of Stalls







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