



**CENTRAL PROCUREMENT OFFICE**  
MINISTRY OF FINANCE & ECONOMIC DEVELOPMENT  
CAYMAN ISLANDS GOVERNMENT

# Guide to Procurement Changes

February 2018





# Introduction

**New procurement regime effective 1 May 2018**

- **This presentation will answer:**
  - **Who is affected:**
    - **Every Chief Officer/Head of Department**
    - **Suppliers to Government**
  - **What are the rules and roles**
  - **Where you can get more information**
  - **When change takes place**
  - **Why change is necessary**



# CI-G- Definition of Procurement

Procurement is the whole process of acquisition from third parties and covers goods and services

Spans the whole life cycle from **initial concept** through to the **end of the useful life of an asset or end of services contract.**



# Introduction

## Procurement **IS** a **core function of government**

- CIG spends over \$200M annually procuring goods and services
- **The Central Procurement Office (CPO)** is establishing sound practices
- The **new Law & Regulations** allows a more strategic approach
- **Strategic procurement** supports a wide corporate approach
- **Tools and Training** will be key to the success of this initiative.



# Introduction

- Lack of procurement expertise in the Cayman Islands Government
- Procurement of goods, works and services is a **major component** of the Government's expenditure it is the second-largest category of **expenditure** after human resources.
  - **\$204.7 million – Supplies and Consumables - 27% of total expenditure**
  - **\$377 million – Personnel Costs - 49% of total expenditure**
- There were two reports issued by the Office of the **Auditor General** in July and August 2011 that were **critical of the management of procurement**.
- A group was set up, (Procurement Law Committee) and the first meeting was held on the **4<sup>th</sup> September 2014**.



# Current Situation

- No specific law that covers procurement
- The present procurement process for CI G is in:
  - Part IX of the Financial Regulations (2010 Revision) under the Public Management and Finance Law
  - Policy and procedure manuals issued by the Central Tenders Committee
- These regulations and policies apply to all public authorities.



# Auditor General Observations

## Two reports from Office of Auditor General in 2011 cited:

- Value for Money not realized
- Lack of transparency
- No procurement expertise
- Political interference
- Risk of Fraud and corruption
- Board involvement in procurement
- Lack of corporate procurement information
- No fundamental principles for procurement
- No policy for local business development
- No business cases for procurement
- No code of conduct for persons involved in procurement
- Only one procurement method (open tendering)



# Objectives of the new Law and Regulations

## **To address the AG's concerns by:**

- Improving Governance
- Increasing Transparency
- Improving Reporting
- Limiting political involvement to the policy level
- Improving Value for money
- Providing different procurement methods
- Improving procurement management information
- Developing a Procurement Code of Conduct
- Developing a Local business development strategy



# Background

- Working Group set up by Deputy Governor & reps from:
  - Water Authority, Ministry of Finance,
  - Ministry Planning, Cabinet Office
  - AG Chambers, CTC, PWD, CSPL, ODG
- Draft Report produced, endorsed by Jersey Consultants
- Cabinet agreed to report
- Development of a law and regulations to reflect that report
- Procurement Law Committee formed



# The Procurement Law Working Group (Sept 2014)

## Members:

Mr. Peter Gough - Deputy Governors Office (Chairman)

Mr. Nick Freeland - Central Tenders Committee

Mr. Alan Jones - Chief Officer

Mr. Max Jones - PWD

Mr. Alastair Swarbrick – Auditor General (Advisor)

Mr. Craig Milley- Director, Central Procurement

Delores Gordon, - Director, Internal Audit

Maureen Benjamin- Legal Drafting



# New Central Procurement Office

- Establishment of a three person Central Procurement Office (CPO)
- A qualified and experienced Director of Procurement was recruited by the Ministry of Finance in February 2015
- A Deputy Director of the CPO was added in Nov 2016
- A third person to be added



# Why Change Necessary

- Rules and responsibilities pertaining to government procurement can be complex and unclear
- Incidents of fraud, personal benefit and conflict of interest leads to loss of public confidence
- The policy has been written as a guidance document for Public Officials in Procurement



# 12 Principles of Procurement

- Accountability
- Competitive Supply
- Consistency
- Effectiveness
- Value for Money
- Fair-dealing
- Integration
- Integrity
- Informed decision-making
- Legality
- Responsiveness
- Transparency



# Procurement Exceptions to New Law

- Procurement between entities;
- Procurement by entities during emergency situations;
- Contracting for employment;
- Contracting with public sector employees to carry out services under a cooperative or mutualisation arrangement.
- Acquisition or disposition of land
- Purchasing original works of art or artefacts;
- Medallions and insignias for the National Honours and Awards;
- Remittances relating to insurance premiums, pensions and benefits;
- Education, accreditation or conferences
- Postage and subscriptions for newspapers, magazines and periodicals
- Purchases from regulated utilities including electricity, water and sewage
- Purchase agreements with groups supplying outputs to government



# Role of the Cabinet

The role of Cabinet is to **formulate and implement procurement policy** that **promotes the government's economic and social objectives**, encourages trade and investment in the economy and expands employment opportunities in the Cayman Islands.



# Role of the Ministry of Finance

The **Financial Secretary/Chief Officer** in the Ministry of Finance responsibilities:

- **Implementation & monitoring compliance with Law**
- **Management** of the Central Procurement Office (CPO)
- Providing resources & oversight of the CPO
- Providing **resources** & oversight of a Public Procurement Committee;
- Ensure **centralized procurement delivers value for money.**
- **Establishes** the Public Sector Investment Committee



# Role of the Central Procurement Office

- **Developing** public procurement regulations, policy and procedures
- **Training and guiding** all Public Officials involved in Procurement
- **Implementing and maintaining** the regs, policies and procedures
- **Ensuring** laws, regs, policies & procedures are accessible
- **Developing** public procurement related documents
- **Monitoring** compliance with law, regs, policies and procedures



# Role of the Central Procurement Office

- Implementing a **Code of Conduct**, for suppliers & public officials in procurement
- **Advising Chief Officers** on the procurement of Major Projects
- Establishing **Public Reporting of solicitations and awards**
- Conducting **training and education**
- Establishing **government wide contracts for commonly used goods and services**
- Introducing **e-procurement tools** to replace manual procurement processes
- **Compiling statistics** on government wide procurement and reporting them
- **Advising** the Public Procurement and the Entity Procurement Committees



# Role of the Chief Officer

The Chief Officer of each Ministry will be responsible for:

- directing its employees to **develop requirements/ specifications**
- **authorising a documented business case** where required
- Ensuring **available and approved funding** prior to soliciting bids
- **Authorising the awarding of contracts**
- Ensuring **appropriate related education and training** received
- **Ensuring compliance** with law, regs, policies & procedures
- Contract management of procurement **documents**
- Reporting **publicly award of contracts**
- Providing debriefing opportunities for suppliers
- In the event that the Chief **does not accept the assessment of the Public Procurement Committee or the Entity Procurement Committee** informing the Director of Procurement of reasons for departure from recommendation



# Public Procurement Committee (PPC)

## Eight members

- **Governor** appoints **Chair + three members**
  - not be public servants ( one to be attorney at law)
- **Leader of the Opposition** recommends **one member**
  - not public servant
- **Deputy Governor** recommends **three civil service members**
- **Committee members to have:**
  - skills, knowledge, (procurement, legal & financial) integrity and politically neutral manner; and
  - no financial or other interest likely to affect prejudicially the exercise of his functions as a committee member



# Entity Procurement Committee (EPC)

**Chief Officer appoints a chairman and minimum of 2 persons**

- **Committee members to have :**
  - **skills, knowledge, (procurement, legal & financial) integrity and politically neutral manner; and**
  - **no financial or other interest likely to affect prejudicially the exercise of his functions as a committee member**
- **The Chief Officer, a member of the Legislative Assembly or Judiciary shall not be eligible for appointment.**
- **Public Reporting of awards & report annual procurement activities to the CPO**



# Role of Public Procurement Committee

Provides **external oversight of the public procurement process**

- thresholds \$250K +
- **Reviews business case**
- Reviews solicitation **documents** to business case
- **Receives and receipts bid submissions \$250K +**
- **Ensures fairness, impartiality and confidentiality** in the treatment of bid submissions in its possession



# Role of the Entity Procurement Committee

Supports Chief Officer in the public procurement process

- thresholds \$100K to < \$250K
- **Reviews business case where required**
- Reviews solicitation **documents** to business case
- **Receives and receipts bid submissions** \$100 K to < \$250K
- **Ensures fairness, impartiality and confidentiality** in the treatment of bid submissions in its possession



# Procurement Valuation

- An **accurate estimate** of the total value of the procurement project is **required prior to the start** of procurement
- **Inclusive of all the costs linked to the acquisition** including, delivery, installation, training, maintenance etc
- **Splitting contracts** to reduce value to avoid the requirements under law, regulations or policy **is not permissible**



# Procurement Code of Conduct

CPO will issue a **Code of Conduct** that:

- Addresses **conflict of interest**;
  - **Defines** what constitutes a conflict
  - **Governs the conduct** of Public Officials involved in procurement
  - **Governs the conduct** of suppliers seeking to do business with government
  - Specifies record-keeping, confidentiality and disclosure requirements;
- 
- A **breach** of the code of conduct by any public official will constitute **grounds for disciplinary action**
  - A **breach** of the code of conduct by a supplier will constitute grounds for sanctions to be applied which **may preclude them from future government bidding opportunities**



# Project Appraisal and Business Case Requirement

- An **approved business case** shall at a minimum:
  - Demonstrate the **economic need** for the project
  - Include a fully argued, **costed, risk and impact assessment** taking into consideration the broader socio-economic impact
  - Provide a **breakdown** of all anticipated procurement projects within a larger project
  - Recommend the **procurement method** to be utilized
  - Specify the **benefits** the project is designed to deliver
  - **Consider options** for incorporation in solicitation to promote positive economic development of the Cayman Islands
  - Ensure that an **informed decision** can be made on whether or not to proceed to the procurement stage.



# Project Appraisal and Business Case Requirement

- At a value of **< \$100K** no formal business case is required
  - At a value of **\$100K to < \$250K** a written business case is to be submitted in the format specified by the **Chief Officer** and submitted to **EPC** for review
  - At a value of **\$250K or greater** a written business case is to be submitted in the format specified by the **PMFL** and a local impact assessment is required
- At a value of **\$10M +** a written business case, local impact assessment and industry consultation is required and is submitted for review to the **Public Sector Investment Committee (PSIC)** by the **Chief Officer**
- The PSIC will make recommendations to **Cabinet** as to overall project viability



# Direct Award Process

- A Direct Award process, is where the contract is awarded without using a competitive process to a pre-identified supplier
- **It must be documented and justified**
- **Approval** for commencing the Direct Award process must be obtained **by the PPC or EPC** dependent on threshold after endorsement **by the Chief Officer**
- **Over \$100K** requires the **approval by the PPC or EPC** dependent on threshold
- **Must be publicly reported**



# Direct Award Process

## Exceptions to competitive process:

- **valued less than \$10K**
- **One-of-a-Kind:** goods or service has no competitive product and is available from one source
- **Compatibility and Continuity:** goods or service must match existing brand of equipment for compatibility available from only one supplier
- **Replacement part/item:** replacement part/item for a specific brand of existing equipment that is available from only one supplier



# Direct Award Process

- **Unique design;** goods or service must meet physical design or quality requirements and is available from only one supplier;
- **Public interest;** Where goods or services are confidential and could compromise defense, security, public safety or cause economic disruption or otherwise be contrary to the public interest;
- **Construction materials;** Where transportation costs or technical considerations impose geographic limits on the available supply base, specifically in the case of sand, stone, gravel, asphalt, compound and pre mixed concrete for use in the construction or repair of roads;



# Cayman Islands Economic Development Preference

- In assessing **value for money, the broader socio-economic impact and benefits** to be assessed as it relates to suppliers operating in the Cayman Islands
- Undertake **pre-procurement impact assessments** on local suppliers
- **Solicit bids** from Cayman registered companies, where **adequate local capability** exists
- **Adopt a local benefits test** for all procurements within specified thresholds
- **Informing the local supplier community** of upcoming procurement projects
- Ensuring that procurement **provides a maximum opportunity** for suppliers operating in the Cayman Islands
- **Avoiding use of restrictive specifications** which may preclude capable suppliers



# Cayman Islands Economic Development Preference

- **A local impact assessment is required at \$250K or greater**
- **A formal local industry consultation is required at \$10M+**
- **a Local Industry Impact Statement as part of the solicitation shows where suppliers will provide a positive impact on the local industry and economy**
- **The evaluation of bids to include specific evaluation criterion**
- **The successful bidder's Industry Impact Statement to be published**



# Public Notice of Opportunity

All procurements  $\geq$  **\$100K** are to be:

- Publicly advertised on a website designated by the CPO
- Open for a minimum of 15 days (clock starts at time of advertisement)

All procurements  $<$  **\$100K** may be optionally advertised

Supplemental advertising locally is an option



# Competitive Procurement Methods

- Open tendering;
- Restricted tendering;
- Request for quotations;
- Request for proposals without negotiation;
- Two-stage tendering;
- Requests for proposals with dialogue;
- Request for proposals with consecutive negotiations;
- Competitive negotiations;
- Electronic reverse auction.



# Pre-qualification

A pre-qualification process is permissible when:

- The estimated procurement value > \$250K
- The request is included in the approved business case; and
- The pre-qualification is advertised with assessment criteria

A prequalification may be used as a:

- stand-alone process resulting in a list of prequalified suppliers eligible for a secondary competitive process; or
- ongoing process to establish and maintain a framework agreement for repetitive “as needed when needed” basis.



# Market Research Methods

- Formal, non-binding, **market research** may be done through:
  - Request for Information (RFI)
  - Request for Expression of Interest (REOI)
- A contract **is not awarded** as a direct result of either an RFI or REOI



# Specifications

- **Clear, detailed specifications and business requirements are required for each procurement** including:
  - Physical characteristics;
  - Functional, performance or expected results
  - Quality intended such as consumer grade, industrial grade, medical or laboratory grade, etc.
- When developing specifications, observe the following consideration:
  - Specifications **cannot unduly restricts suppliers** from bidding
  - Specifications **must be generic and non-branded where possible**
  - **All information that goes to a Bidder's** decision to submit a Bid or calculate proposed pricing is included in the solicitation



# Procurement Documentation

## Maintain proper Procurement documentation

### Minimum documentation to keep:

- Communication and correspondence
- Solicitation documents and amendments
- The business case and approvals
- Bids received
- Evaluation records, including individual evaluator notes and scores;
- Entity or Public Procurement Committee communications
- Records of bidder debriefing
- All communications with regard to bid disputes or complaints

## Store all bids and contracts in a secure location



# Acceptance of Bids

Authority to award contracts:

- **<\$100K** the **approval** of the **Head of Department** responsible and their **Chief Officer** is required
- **At \$100K to < \$250K** the **Chief Officer** may **approve** on the **advice of the Entity Procurement Committee**
- **At \$250K or greater** the **Chief Officer** may **approve** on the **advice of the Public Procurement Committee.**



# Debriefing Bidders

- As part of the selection process:
  - Advise suppliers in writing of the procurement outcome
  - Thank suppliers for participating in the process
  - Make available a debriefing
- Unsuccessful suppliers debriefing to take place after the contract is awarded within 30 days of the supplier's request, with meeting contents documented and placed on file
- focus on how the supplier was evaluated against the evaluation criteria and not **other bids**
- Purpose is to assist suppliers to bid more competitively in the future, not to appeal the outcome of the procurement process.



# Publication of Contract Award

A notice within 30 days of award of contract must be published on the website designated by the CPO .

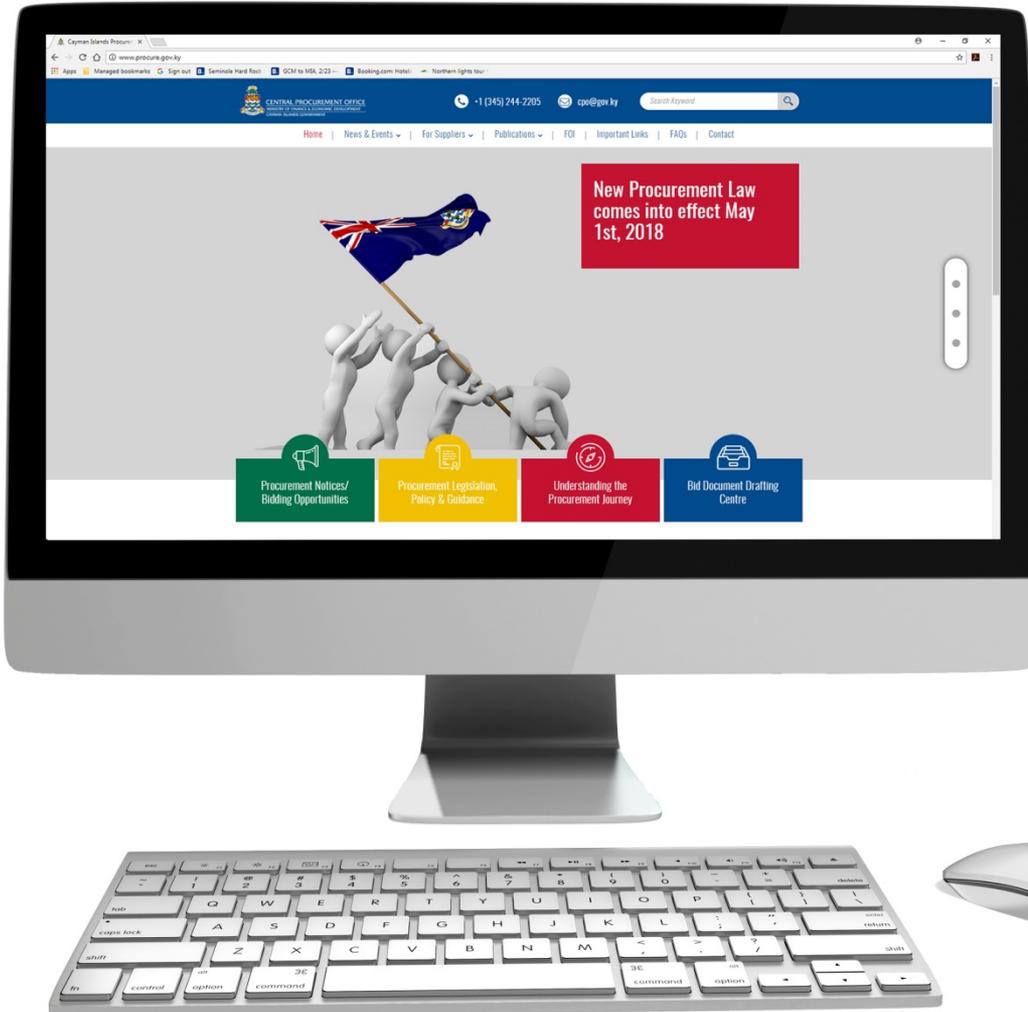
Award information includes:

- the name of entity;
- the procurement number;
- a brief description of the goods or services being procured;
- the name of the successful bidder;
- the date of contract award; and
- the total contract value.

At < \$10K a notice of award will be published within 1 year of the award.



**CENTRAL PROCUREMENT OFFICE**  
MINISTRY OF FINANCE & ECONOMIC DEVELOPMENT  
CAYMAN ISLANDS GOVERNMENT



For more  
information visit  
[www.procure.gov.ky](http://www.procure.gov.ky)