



# Chief Executive Officer's Key Information

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## Role of Chief Executive Officer

The Chief Executive Officer is responsible for delivering the outputs of the public authority that contribute to the overall outcomes that have been established by the Cabinet. The Chief Executive Officer shall be responsible for -

- (a) identifying the need for inputs and directing employees to develop requirements and specifications to be satisfied through procurement;
- (b) ensuring the creation of and authorizing of a documented business case in the prescribed format for procurement, prior to proceeding to market or soliciting bids;
- (c) ensuring an available and approved funding source prior to soliciting bids;
- (d) acquiring goods, services and works required to deliver the public authority outputs;
- (e) authorizing public authority expenditures and the awarding of contracts;
- (f) ensuring public authority employees involved in procurement have the appropriate procurement related education and training;
- (g) implementing and ensuring, within their public authority, compliance with this Law, and all associated legislation, policies and procedures;
- (h) ensuring that all procurement related documents are retained and secured at all times and disposed of in accordance with existing records management laws and policy;
- (i) ensuring the results of all procurement projects within the within their public authority are publicly reported in the prescribed format and timeframe specified in regulations and policy;
- (j) ensuring unsuccessful bidders are notified in writing following the award of contract and provided with an opportunity for a full debriefing by evaluators in the prescribed format and timeline as may be prescribed.

## Role of the Entity Procurement Committee

The Entity Procurement Committee role is to support the Chief Executive Officer, in delivering the outputs of government and its principal accountability shall be to the Chief Executive Officer for



Statutory Authority or Government Company procurement. An entity procurement committee shall be responsible for -

- (a) reviewing the business case for goods, services or works being procured in accordance with prescribed thresholds;
- (b) reviewing competition documents prior to issuance to ensure they are consistent with the business case;
- (c) reviewing and providing a receipt for all eligible bids;
- (d) ensuring fairness, impartiality and confidentiality in the treatment of bid submissions in its possession;
- (e) providing assurance to the Chief Executive Officer, that the procurement process has complied with the Law and procurement policy;
- (f) conducting the evaluation process in accordance with the terms and requirements of the competition document and recommending the successful bid;
- (g) presenting the evaluation report and recommendation to the Public Procurement Committee when exceeding prescribed thresholds and verifying that the evaluation process was conducted in accordance with the terms of the original competition document;
- (h) making the recommendation for award of contract to the Chief Executive Officer;
- (i) forwarding reports on procurement projects to the Director of Central Procurement for informational and statistical purposes;
- (j) reporting the results of all procurement projects in the prescribed format and timeframe;
- (k) reviewing the draft contract to ensure that the tender price and scope are consistent with the original competition document; and
- (l) reviewing the draft contract prior to contract signing to ensure that the agreed scope is consistent with the original competition document.

### **Appointment of the Entity Procurement Committee**

- CEO shall appoint a chairman and at least two (2) other members who have:
  - a) the requisite knowledge and skills in law and finance and the integrity and good reputation to carry out the duties in a competent and politically neutral manner; and



- b) no financial or other interest likely to affect the carrying out of the duties as a member of the committee.

One of the members shall be a nominee of the Chief Officer from the SAGC's respective Ministry provided that the nominee meets the criteria for appointment above.

- CEOs, Board Members, MLAs or Judges are not eligible for membership on an EPC
- CEO must ensure no members of the committee have a direct "supervisor-supervisee" relationship to avoid the perception or possibility of undue influence.

### Public Reporting

The entity shall publish a notice of the award of all procurement contracts  $\geq$  \$10,000 on [procure.gov.ky](http://procure.gov.ky) within thirty days of the entry into force of the contract.

The posted contract award information shall include -

- (a) the name of entity;
- (b) the procurement number;
- (c) a brief description of the goods or services being procured;
- (d) the name of the successful bidder;
- (e) the date of contract award; and
- (f) the total contract value.

The entity shall publish a list of contracts where the total procurement value is less than \$10,000 within one year of the award.

### Direct Award Justifications

Entities are required to undertake a competitive process when procuring any goods, services or works except where it can be demonstrated that the procurement meets the criteria for the direct award process set out in regulation 5. Subject to being documented in an appropriate business case, a direct award process may be utilised where:

- (a) the goods, services or works are valued at less than ten thousand dollars;
- (b) the goods or services are not competitive products and are only available from a single supplier;



(c) the goods or services are required to -

(i) match an existing brand of equipment for compatibility (including where the goods are replacement parts); or

(ii) comply with established entity specifications and standards,

and are available from only one supplier;

(d) the goods or services are required to meet physical design or quality specifications and are available from only one supplier;

(e) the goods or services are of a confidential or privileged nature and the disclosure through a competitive process is likely to compromise defence, security, public safety, or is likely to cause economic disruption or is otherwise contrary to the public interest;

(f) construction materials are to be purchased and it can be demonstrated that transportation costs or technical considerations impose geographical limitations on the available supply base, specifically in the case of sand, stone, gravel, asphalt, compound and premixed concrete or similar materials for use in the construction or repair of roads;

(g) no compliant bids have been received in response to a competitive process made in accordance with the Law and these Regulations;

(h) it can be demonstrated that only one supplier is able to meet the requirements of a procurement project;

(i) the goods or services that are being procured are from charitable and philanthropic institutions, or are produced by the labour of persons who are inmates in the prisons or persons with disabilities;

(j) the goods or services are being procured from an entity that operates an entertainment, sporting, convention or similar event in order that the procuring entity may comply with a commercial agreement containing provisions that may be in conflict with the Law and these Regulations;

(k) retaining the services of legal counsel in exceptional circumstances for the purpose of providing legal advice, opinion or representing an entity involved in litigation, arbitration, mediation or any other legal proceedings;

(l) the services or financial products being procured are related to investing money or securities;



(m) the prototypes being procured are related to research, experiment, study or original development (not including subsequent purchases); or

(n) the purchase of goods is made possible through exceptionally advantageous circumstances as a result of the supplier's bankruptcy or receivership.

Public notification of direct award contracts or purchases greater than ten thousand dollars must be posted on the [procure.gov.ky](http://procure.gov.ky) website within thirty days of the contract award or purchase date, as the case may be, and set out the following -

(a) the name of the entity;

(b) the name of the contractor or vendor, as the case may be;

(c) the date of award or purchase;

(d) a brief description of the goods or services being procured or purchased; and

(e) the total value of the contract or the purchase.