



Guidance on the use of Third-Party Procurement Services i.e. Brokerage Services

The guidance is applicable to the use of any third-party services that procure goods or services on behalf of the Cayman Islands Government. These services are commonly referred to as brokerage services. Brokerage services are commonly used in industries such as insurance, advertising, travel, real estate, employment and various others. Vendors that provide these services are commonly called brokers or agents. In a brokerage agreement, there are 2 main elements to be considered:

- Direct Cost i.e. how much is being paid to the broker for their services
- Pass-through Cost i.e. the value of the goods and services being procured on our behalf

In order to comply with the Procurement Act and Regulations, this guidance requires that those elements be consider separately.

Tendering for Brokerage Services

1. Consideration of both direct and pass-through cost upfront

In this scenario, the scope of the services required from the broker or agent is well enough defined that the broker is able to quote both the cost of goods and/or services that need to be procured for the Cayman Islands Government along with how much they are going to charge to administer the procurement of those goods or services.

Example: Asking an employment agency to secure 3 temporary staff for admin support services.

The broker is able to quote for both the cost of the admin support staff based on the job descriptions provided (pass-through cost) and the cost of the administration of the recruitment (direct cost).

When tendering in this fashion, the total cost (direct and pass-through) would be considered the “value” when determining the appropriate procurement threshold. This threshold determines the requirements of the Procurement Regulations. Once approved by the relevant authorities (EPC, PPC, CO/CEO) based on the threshold, no other approvals are required to deliver the goods or services that are “pass-through” cost.

How do you determine if you are in this category? **This applies if the pricing evaluation for your procurement is the sum of both broker service costs and itemized goods/services delivery cost.**



2. Including direct cost only with pass-through cost on a “per procurement” basis

In this scenario, the goods or services required from the broker or agent are not known but the need for the goods or services that the broker specialises in is likely to arise in the future.

Example: Asking a travel agency what they charge to facilitate flight and accommodation bookings.

The broker at this time is only able to quote for, or provide a pricing structure (i.e. commissions, retainers, fixed fees) for the administration of the bookings (direct cost). They cannot provide an exact a cost for the bookings (pass-through cost) at that time because they don't have all of the details necessary.

When tendering in this fashion, the contract for the services will only cover the fee structure that is to be employed when the services are needed. The value of the brokerage agreement, and therefore the appropriate procurement threshold, would be calculated based on the estimated contract usage over the term of the agreement. However, in this instance, each procurement through the broker will be treated as a new procurement.

Every time the contract is subsequently called on, the broker or agent must follow the requirements of the Procurement Regulations based on the cost of the goods or services being procured.

How do you know if this applies? **This applies if the pricing evaluation for your procurement is the only broker service costs based on an estimated but unspecified goods/service delivery cost.**

The Use of Restricted Tendering by Brokerage Services (After the Use of Option 2)

In the cases where option 2 above is utilised, all procurements carried out by the broker after they are engaged must comply with the Procurement Regulations. As such, where a broker or agent is required to procure goods or services above the KYD\$100,000 threshold, they may engage in procurement by means of restricted tendering in place of a public tender in order to comply with the Procurement Regulations. This provision can be used when the subject matter of the procurement, being highly complex or specialized, is available only from a limited number of suppliers.

Where CIG utilises brokerage services, it is expected that the subject matter would be complex or specialised in nature and as such, the broker or agent is best placed to provide the highest quality options.



Use of Brokerage Services to procure exempted goods or services

The Procurement Act, section 3(1) covers the situations in which a good or service is exempted from the provisions of the Procurement Act and Regulations. Some of these situations include:

- Contracting for employment
- Acquisition of land or any immovable property or rights in relation thereto
- remittances relating to insurance premiums, pensions and benefits

It is important to note that although these services are exempted from the Procurement Act, section 3(2) states that the entities carrying on procurement to which the Act does not apply, shall ensure there is value for money in whatever alternative process is used.

Where brokerage services are used to procure these types of items, the value of the contract for the brokerage services is not included in the exemption. This means that the provisions of the Procurement Act and Regulations still apply to the brokerage services contract.

Example: Asking an insurance broker to get quotes for a particular insurance product and the value of the premium is KYD\$50,000 and the broker charges 7% commission.

The insurance premium, being an exempted item, would not be included in the contract value. The contract value would be 7% of the KYD\$50,000, which is \$3,500. The provisions of the procurement regulations for value of \$3,500 would apply.

Adherence to Related CIG Acts, Regulations & Policies

The Cayman Islands Government (SAGC's included) have various acts, regulations and policies in place that third-party brokerage services must also follow when delivering their services. Some of these policies include:

- The Travel Policy
- Anti-Bullying, Harassment & Discrimination Policy
- Hiring Practices Policy
- Frameworks for Risk Governance
- The Data Protection Act & Regulations
- Offering or Receiving Hospitality, Entertainment or Gifts

Any services delivered by a third-party should be in-line with these policies, as applicable.