



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



Procurement Policy

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1. Introduction

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. This policy has been written as a guidance document for those involved in the procurement process to provide a greater understanding and respect of procurement rules and best practices.

The Cayman Islands Government (CIG) spends over \$100 million dollars a year on the procurement of goods and services. The Central Procurement Office (CPO) is responsible for promoting sound procurement management practices which will result in reducing risk in government expenditures.

This policy is to be read in conjunction with *The Procurement Law 2016*, The Procurement Regulations *The Public Service Management Law (2013 revision)*, and the *Public Management and Finance Law (2017 revision)*.

Other key directives, policies and legislations are listed in 9. REFERENCES of this policy.

2. Application

The CIG has a decentralized contracting and procurement function with goods and services procured by public officers in the government ministries and departments. This policy applies to any public officers engaged in procurement activities in the CIG.

It excludes the following items as listed in *The Procurement Law 2016*, Part 1 Section 3:

- procurement between government entities;
- procurement by entities during an emergency as defined in this Law;
- contracting for employment;
- contracting with an entity established by public sector employees to carry out contracted services for government, this exception applying only to the initial awarding of a fixed term contract for a period up to a maximum of five years;
- acquisition or disposition of land or any immovable property or rights in relation thereto;
- purchasing original works of art or artifacts;
- insignias for the award of national honours;
- 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; and
- purchase agreements with community or social groups supplying outputs to government.

3. Policy statement

Adherence to procurement principles is essential to ensure an effective result and to limit risk to the CIG. The purpose of this policy is to achieve best value for CIG through procurement processes that are open, fair and transparent.

4. Expected result

Compliance with this policy is expected to result in CIG contracting activities that will:

- Meet operational requirements at the right time and the right price;
- Promote competition, reflect fairness and ensure value for money in the spending of public funds; and
- Stand the test of public scrutiny where suppliers have confidence that they will have equal opportunity to compete for bids.

5. Roles and responsibilities

5.1. Cabinet

The Cabinet, by way of regulations, prescribes the respective thresholds, approval processes and the methods of procurement to be utilized in the CIG.

5.2. Chief Officer/Chief Executive Officer

The Chief Officer in a given Ministry or Portfolio or the Chief Executive Officer of each Statutory Authority or Government Company is responsible for ensuring there is an available and approved funding source prior to soliciting bids.

5.3. Director of the Central Procurement Office (CPO)

The Director of the CPO is responsible for monitoring the operation of the public procurement process for compliance with *The Procurement Law 2016*, establish procurement policies and procedures, and for providing advice, issuing guidance and training.

5.4. Approval Authority

An accurate estimate of the total value of a procurement project is required prior to the start of the competitive process. Expenditures are approved at the budget appropriation stage.

The authority to procure is assigned to the Chief Officer/Chief Executive Officer in the *Public Management and Finance Law (2013 revision)* who may in turn delegate this authority in writing to those public officers authorized to initiate the procurement, sign the contract or authorize payment at assigned authority levels.

5.5. Project Authority

The Project Authority is the representative of the department that is responsible for all matters concerning the technical content of the contract requirements including the Statement of Work.

5.6. Legal Services

The role of the Solicitor General's Office (SGO) in respect of public service procurement broadly includes reviewing procurement documents, advising on legal issues arising from the various stages of the procurement process and assisting in the preparation and review of contracts and related documents. The SGO also assists with any issues arising post-contract which give rise to contractual disputes and possibly litigation.

5.7. Public Procurement Committee

The role of the Public Procurement Committee (PPC) is to provide external oversight of the public procurement process in accordance with its constitution, responsibilities, meetings, roles and functions as set out in Schedules 3 to 6 of *The Procurement Law 2016*.

5.8. Entity Procurement Committee

The role of the entity procurement committee is to support the Chief Officer, or the Chief Executive Officer, as the case may be, in delivering the outputs of government that contribute to the overall outcomes that have been established by the Cabinet including the acquisition of goods, services and works. The Entity Procurement Committee's responsibilities are as set out in *The Procurement Law 2016*.

6. Policy requirements

In support of this policy, the following acts, regulations, agreements and authorities must be observed:

6.1. The Procurement Law 2016

The Procurement Law 2016 provides the principles of procurement which underpin the process of acquirement of goods and services by CIG, provides for the Central Procurement Office, Public Procurement Committee and Entity Procurement Committees along with their roles and roles of others related to the procurement including Cabinet, the Minister of Finance and Chief Officers. It allows for the establishment of a *Code of Conduct for Procurement* and establishes procurement methods and limits.

6.2. The Procurement Regulations

The Procurement Regulations prescribe the respective thresholds, approval processes and the methods of procurement to be utilized in the CIG. It establishes requirements for a business case and other processes including debriefing of bidders, complaints process and the economic development preference.

6.3. Public Management and Finance Law (2013 revision)

The Public Management and Finance Law (2017 revision) outlines the powers and duties of the Minister of Finance, the ministries, portfolios and chief officers with respect to responsible financial management including budgeting, reporting and delivery of value for money in procurement that will ensure the appropriate use of public funds.

6.4. The Public Service Management Law (2013 revision)

Part II, Public Servant Values and Code of Conduct of *The Public Service Management Law (2013 revision)* (PSML) introduces the values to which the public service shall aspire

and which shall govern its management and operation. Section 4 of the PSML outlines the Public Servant Values and Section 5 of the PSML outlines the *Code of Conduct*.

6.5. Code of Conduct

The *Code of Conduct for Procurement* provides all those involved in the procurement process, public officers and suppliers alike, with a clear statement of mutual expectations to ensure a common understanding of their responsibilities to conduct procurement in an accountable, ethical and transparent manner.

Public officers and suppliers are required to respect the code when participating in procurement and contracting activities.

7. Non-compliance

The Chief Officer in the Ministry of Finance is responsible for monitoring compliance with *The Procurement Law 2016*.

The CPO is responsible for monitoring the operation of the public procurement process for compliance with *The Procurement Law 2016*, and all associated regulations, policies and procedures and to report non-compliant incidents to the Chief Officer of the affected Ministry or Portfolio or Chief Executive Officer of the affected Public Authority. The CPO may conduct audits and periodic inspection of public bodies and issue directions to them.

The Chief Officer in a given Ministry or Portfolio, or the Chief Executive Officer of each Public Authority is responsible for implementing and ensuring compliance with *The Procurement Law 2016*, and all associated legislation, policies and procedures within the Ministry or Portfolio.

Consequences of non-compliance may include:

- Specific expectations in applying the CIG Procurement Policy will be reviewed with the non-compliant public officer(s);
- The non-compliant public officer(s) may be asked to complete a training session covering the matter in question; and
- The authority to procure may be revoked for the non-compliant public officer(s) until it can be demonstrated that the public officer(s) will adhere to *The Procurement Law 2016*, and all associated regulations, policies and procedures.

8. Reporting

Following the approval of the annual budget, all entities should provide advance notice of upcoming procurement activity for the fiscal year to give suppliers the opportunity to plan their activities to ensure they have appropriate capability and capacity to undertake future work. The plans will be published after budget approval.

The CPO is responsible for compiling statistics on government-wide procurement and preparing an annual public report to be published in the Annual Public Procurement Report.

9. References

The Procurement Law 2016

The Procurement Regulations

Public Management and Finance Law (2017 revision)

Public Service Values and Code of Conduct

Public Service Management Law (2013 revision)

Code of Conduct for Procurement

Freedom of Information Legislation (2015 revision)

Offences under the Anti-Corruption Law

Office of the Complaints Commissioner

Commission for Standards in Public Life Policies and Procedures Manual

Trade and Business Licensing Law (2007 Revision)

Local Companies (Control) Law (2015 Revision)

Health Insurance Law (2013 Revision)

Health Insurance Regulations (2005 Revision)

Labour Law (2011 Revision)

National Pensions Law (2012 Revision)

The National Archive and Public Records Law & Regulations (2007)