



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



Strategic Considerations



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10. Economic Development

COMING SOON

11. Business Case

The Procurement Regulations, 2018 identifies that an entity may initiate a procurement process only after the project which it relates to has been suitably appraised and the results documented in an approved business case. It provides the meaning of business case as:

a management tool that supports decision-making for an investment which provides, among other things:

- (a) the justification for a specified procurement project;
- (b) the consideration of alternative solutions;
- (c) the identification of assumptions, constraints, benefits, costs and risks; and
- (d) the local impact assessment or industry consultation report where required under the Law and these Regulations.

An entity may initiate a procurement process at certain thresholds only after the project which it relates to has been suitably appraised and the results documented in an approved business case. The complete process is documented in the Procurement Regulations, 2018. The thresholds are:

- (a) For procurement projects with a value of \$100,000 or greater and less than \$250,000, a written business case is to be submitted in the format specified by the Chief Officer or Chief Executive Officer of the initiating entity.
- (b) For procurement projects with a procurement valuation of \$250,000 or greater; a written business case is to be submitted in the format specified by the Public Management and Finance Law and regulations or other specified formats along with a formal written local impact assessment in the format specified by the Central Procurement Office, appended to the business case
- (c) For projects greater than \$10,000,000 a formal written industry consultation report is also to be submitted in addition to the requirements of (b) above in the format specified by the Central Procurement Office, appended to the business case

The Strategic Reforms Implementation Unit has provided guidance documents and templates for a business case to provide a structure for good decision-making on projects. The template links can be found under the Project Management tab on the Central Procurement Office website. The methodology used is based on the work of the UK Treasury on the Better Business Cases programme and, specifically, the five case Better Business Cases model initially detailed in the HM Treasury's Green Book on Appraisal of Policies, Programme and Projects.

Diagram 1: The Five Case Better Business Cases Model



12. Conflict of Interest

Adherence to procurement principles is essential to ensure an effective result.

Due diligence must be performed in identifying potential conflicts of interests. This can be done by asking if anyone who is not an employee of CIG is or will be involved in the preparation of the statement of work or requirement, the evaluation criteria, and the evaluation. Do any have connections to the potential suppliers in their personal or professional life, which may lead to suppliers asking questions about favoritism?

Areas with Potential for Conflict of Interest include:

Directed Contracts:

Where a request is made that a contract be directed to a particular individual or company, any potential real or perceived conflict of interest must be declared and reviewed by the appropriate CIG authority.

Contractors:

There are also situations where upon bidding for a contract or in meeting its contractual obligations to the CIG, a contractor may be in a position of potential conflict of interest. The onus is on the contractor to self-declare any potential conflict of interest in these situations to the CIG.

Preparation of Bid Solicitation Documents and Bid Evaluation Process:

Evaluators should declare any connections in their personal or professional life which may lead to suppliers asking questions about favoritism. For all contract requirements exceeding \$50,000, a Declaration of an Evaluation Committee Member must be reviewed and signed by each evaluator prior to participating in a bid evaluation.

Bid evaluators must declare that they are not in a situation of conflict of interest that would render them unable to provide an impartial evaluation of the bids, or affect or otherwise impair their objectivity in performing the evaluation of the bids or lead to suppliers asking questions about favoritism.

If an evaluator declares a real or potential conflict of interest exists, that evaluator must not participate in the bid evaluation process.

13. Privacy of Information

The procurement policy statement identifies that the CPO's purpose is to achieve best value for CIG through procurement processes that are open, fair and transparent.

All procurement processes are subject to the Freedom of Information (FOI) Law.

The FOI Law identifies information that may be made available under an access to information request and also lists that information that may be exempted from the law, for example, exemption of unreasonable disclosure of personal information. Personal information means information about an identifiable individual.

As part of procurement planning, it is very important to determine whether personal information will be collected, used or disclosed by a contractor resulting from a procurement process by assessing what the contractor's tasks and responsibilities are at the time of defining the scope of the contractor's work. When potential privacy risks are raised, risks need to be assessed to identify the nature and scope of those risks.

Some examples of risk by a contractor include:

- collection of excessive personal information or using it in unexpected ways;
- disclosure of personal information without consent;
- not storing information securely; and
- storing of information in a location where it may be subject to intrusive but legal scrutiny by another government or 3rd party.

The privacy requirements should be taken into consideration at the planning phase of the procurement process and any identified safeguards written into the solicitation documents and contracts.

It is not uncommon for a government institution to contract out the management of a program or service involving personal information about citizens to a company based in another country. When information is stored or accessible outside of the Cayman Islands, however, it can be subject not only to Cayman Islands laws but also to the laws of the other country.

One such law is the USA Patriot Act. The Act permits U.S. law enforcement officials to seek a court order allowing them to access the personal records of any individual for the purpose of an anti-terrorism investigation without informing individuals or agencies that such disclosure has occurred. In theory, as a result of government contracting activities, U.S. officials could access information about Caymanians through U.S. firms or their affiliates, even if the data is located in the Cayman Islands.

Although the risk of U.S. authorities using the USA Patriot Act in this way is minimal, it nevertheless exists. This has highlighted the need for special considerations with respect to government contracts involving personal information in order to mitigate such privacy risks.

When privacy risks have been identified, the Public Official responsible for procurement must ensure that appropriate privacy protection strategies are implemented and that appropriate privacy protection clauses are included in the solicitation document. Public Officials are encouraged to consult with their legal and privacy officials to ensure that no misinterpretation occurs and to determine appropriate privacy measures that apply to their particular circumstances. There is no universal approach, and potential contracting situations must therefore be reviewed on a case-by-case basis.

Although the main focus of this guidance document is on addressing privacy concerns and risks, the advice contained in the document can be applied to other information that may pose a security concern as defined in the FOI Law.

14. Sustainable Practices

The Cayman Islands Government is committed to promoting sustainable development and environmental considerations in its procurement strategy.

The objective, where feasible, is to integrate environmental performance specifications into the requirement by applying the 4Rs methodology (Reduce, Reuse, Recycle, and Recover).

In the context of the procurement, whole life cycle analysis should be applied which takes into considerations all costs associated with the life of the goods or services such as environmental impacts, acquisition, maintenance, repair and disposal. For example, while one good may be cheaper initially than another, taking into consideration its life cycle may prove that the costs associated with the life of the good may be disproportionately higher. procurement, sign the contract or authorize payment at assigned authority levels.

When planning your procurement, consider:

- reviewing whether the purchase can be satisfied in house rather than initiating a procurement;
- identifying in the specifications where less materials or packaging may be specified or whether more suitable packing materials could be used, i.e. recyclable packaging material over polystyrene;
- specifying eco labeling, a method of environmental performance certification practiced around the world;
- reviewing the needs for consumables, spares and maintenance;
- mapping the delivery distance for use of fuel energy;
- re-usability of the product; and
- the disposal or removal when finished.

Public Officials engaged in procurement are encouraged to buy those goods and services that are better for the environment than other products with similar performance. When purchasing goods or services, environmental considerations should be integrated to the greatest degree possible with other criteria.

Sustainable procurement is set within the context of achieving value for money. In this context, value for money includes the consideration of many factors such as cost, performance, availability, quality and environmental performance.