



Office of the Deputy Governor  
Grand Cayman  
Cayman Islands

March 2, 2016

**Ms., Deborah Bodden**  
Manager,  
Commissions Secretariat

Dear Ms. Bodden,

Further to our meeting with the Commission for Standards in Public Life and the subsequent email dated 3<sup>rd</sup> December 2015, detailed below are your questions and our responses in blue.

**Question:**

- **Section 3(2)(a) and (b)**

*Should a timeline be included as to when the decision from the Chief Executive Officer/Central Procurement Office/Cabinet would be handed down? (This is probably not possible where Cabinet is concerned but maybe the movement of the information from the CEO/CPO office to Cabinet could be specified?)*

This actually refers to the Regulations. There is no decision from CPO here. CEO and Cabinet only, we do not see any need to set a timeline.

**Question:**

- **Section 3(2)(b)**

*Refers to a "formal written local impact assessment" and a "formal written industry consultation report". Perhaps there should be some reference to the fact that these should be recent, say within the past 3 to 6 months? (I'll defer the timing as to what is "recent" to those with more expertise in that area)*

This actually refers to the Regulations. Agreed.

**Question:**

- **Section 4(1)**  
*Was the word “competitive” intended to be used here?*  
This actually refers to the Regulations. Yes

**Question:**

- **Section 4(1)(d)**  
*Will there be a definition for the term “mutualisation arrangement”?*  
Yes

**Question:**

- **From Section 7 onwards**  
*There are a number of references throughout the Regulations to “policy and procedure established by the Central Procurement Office”. Will these be forwarded to the Commission for review when in draft form?*

No, once the strategic policy direction and the principles are established in the law and regulations, these will be purely detailed operational procedures.

**Question:**

- **Section 9 (in the heading)**  
*Should be Role of the Chief Officer/Chief Executive Officer.*  
Yes

**Question:**

- **Section 15**  
*Is the decision to exclude an entity SOLELY up to the CO or CEO? Should it be?*  
This actually refers to the Regulations. Yes.

**Question:**

- **Section 15(5)**  
*The process of appointing Committee - reference is made to a “declaration to the Governor... of his/her interests”. It is envisioned that the PPC will be subjected to the SPL Law in which case a declaration will also be made to that Commission.*

Agreed

**Question:**

- **Section 16**

*Doesn't mention how long it takes to reach an acceptance decision.*

That's correct, this could depend on a number of factors and we did not want to tie the hands of the entities involved.

**Question:**

- **Section 16(6)(a)**

*What is "...a reasonable period of time..." Should this be more specific? Otherwise, could Section 16(8) be invoked potentially in a premature or unfair fashion?*

Setting a timeframe could cause issues that are beyond the control of either parties. Section 16 (8) is designed for supplier who will not sign or who cannot sign security of performance, this is not to be invoked for delay in signing.

**Question:**

- **Section 18**

*Should the time for when complaints may be received be restricted, rather than leave the window open?*

Agree, we will establish a timeframe

**Question:**

- **Overall**

*Having regard to previous meetings, discussions, etc. particularly involving the previous Commission, Members remain of the view that the Law should make reference to the fact that the CSPL has been given constitutional responsibility to "review and establish procedures" for the awarding of public contracts. We did not think it was necessary to repeat what was in the constitution, but if the CSPL require it we can insert a line in the introduction to the law.*

## Regulations

### Question:

- **Reg. 6(3)**  
*What happens where notice does not meet the 15 working days minimum? Is there a provision addressing this?*  
The website will be configured to enforce this.

### Question:

- **Reg. 14(1)**  
*Procurement documentation – does there need to be further consideration/clarification as to who are the “individuals directly involved with the procurement project”?*  
There could be a number of persons involved in the procurement process depending on the management culture of the entity and the type and size of the project. As procurement is now defined in a wider context and life cycle, from business case preparation through to market management and contract management and appraisal, it would be difficult to define “individuals”

### Question:

- **Regulation 15 (1)(b)**  
*In addition to exclusion from the process, will there also be certain investigations and possible criminal sanctions? It would be incumbent on the Chief Officer to inform the Police and my understanding it would be dealt with as bribery under Section 10 of the Ant-Corruption Law 2008.*

### Question:

- **Regulation 15(1)(d)**  
*Will probably be very difficult to ‘police’ – perhaps consideration can be given as to how this would be monitored?*  
Agreed, this issue would be reinforced in the training and hopefully reported through the whistleblower legislation.

### Question:

- **Regulation 15(3)**  
*Is there recourse for a person/entity who/which is excluded? Is there provision for a ‘hearing’?*

No there is no provision for a hearing; if the excluded party is aggrieved they can make a complaint through the Office of the Complaints Commissioner.

Thank you for the helpful suggestions, those changes we have agreed will be passed on to the legal drafter.

Yours Sincerely



**Peter Gough**

Strategic Advisor to the Deputy Governor

**Copy:**  
Deputy Governor  
Chief Officer, Portfolio of the Civil Service  
Director, Central Procurement Office

