



This Guide provides key information on the Contracting for Services Policy across the Public Sector. This Guide should not be used as a substitute for the Contracting for Services Policy and all template and associated documents are listed in the Contracting for Services Policy.

The Contracting for Services Policy applies to all Public Sector Agencies who intend on recruiting domestic or international Contractors or Consultants.

Employer Responsibilities

When deciding to engage a Contractor or Consultant, an Employer must:

- Assess the Agency workforce capacity to achieve its goals.
- Promote use of national systems and build national capacity.
- Clarify work arrangements and expectations of the Contractor or Consultant.

CONSULTANTS AND CONTRACTORS

Consultants and Contractors:

- Are not Public Sector employees and do not receive employee benefits.
- Are required to fulfil the contractual obligations by which they are bound.
- Must comply with the Public Service Code of Conduct and values.
- Must not be given any authority to make commitments on behalf of the Agency or Government.
- Must not be delegated the responsibilities of an Employer.
- Must not be named as a contact person for the Agency or Minister.
- Must comply with Cook Islands tax and employment legislation.

Consultants and Contractors should only be used where:

- Capacity constraints exist or where specialist knowledge or skill is lacking within the Agency.
- The proposed Consultant / Contractor can provide a cost-effective service that is within the Agency's operational budget.
- An independent review or evaluation of work done by the Agency is required.
- Timeframe constraints exist in the Agency.

Consultants and Contractors should **NOT** be engaged:

- Where there is an expectation that a conflict of interest could develop.
- If the Agency has staff who can provide this specialist knowledge or skill.
- To carry out work that can be undertaken by Agency Employees.

PROCUREMENT

- The procurement of contractors or consultants must be clearly linked to the achievement of the National Sustainable Development Agenda 2020+ goals identified in the Agency's Strategic and Business Plans.
- Employers must adhere to the Cook Islands Government Financial Policies and Procedures Manual (CIGFPPM) and the Purchase and Sale of Goods and Services (Procurement Policy).
- Prior to requesting the services of a contractor or consultant, the Employer must prepare a summary of the work required, the length of time expected to complete the work and an estimated budget. This should be outlined in the formal Terms of Reference.
- The requirements to be imposed on the Contractor / Consultant should be properly outlined in the Terms of Reference (Annex 02)

DUE DILIGENCE

As part of the evaluation process the Employer must conduct due diligence to ensure that:

- Any conflicts of interest are identified and managed appropriately.
- The contractor or consultant's qualifications and experience meets requirements.
- Relevant references from previous or current clients are obtained.
- Public servants who apply, are in compliance with the CIGOV Private Employment Enterprise Policy.

- Prior to signing a contract, employers must clarify expectations and work arrangements when negotiating the terms and conditions of the contract. For tenders, the tender evaluation team can negotiate terms and conditions, including the final contract value with the preferred supplier.

MANAGING CONFLICTS OF INTEREST AND COMPLAINTS

- Employers must manage any conflicts of interest that may arise when procuring the services of a contractor or consultant. Individuals should declare any conflict of interest. Or, if a conflict of interest is identified, then the employer or relevant parties need to manage this appropriately.
- Under this Policy, conflicts of interest can be deemed to exist if the contractor/consultant:
 - Is providing advisory services to other Public Sector agencies and/or private organisations which can result in contradictory advice being given to the different agencies.
 - Is already engaged in another activity or relationship that contradicts work with the current contract.
 - Has a business with a Government employee who is directly involved in any part of the procurement process.
 - Where a complaint arises in relation to the conduct of a Contractor or Consultant, the complaint must be conducted in accordance with the relevant provisions outline in the CIGOV Procurement Policy.

MONITORING AND ACCOUNTABILITY

- Employers have the sole authority to engage contractors or consultants and are ultimately responsible for monitoring the work and overall performance of the contractor or consultant.
- Regular reviews of work or at agreed stages of the project are essential. This will include progress meetings, reviewing draft reports or other milestones.
- Reviews should address the timeliness and quality aspects of the project and any concerns must be discussed with the contractor or consultant as they are raised. Notes should be retained (the contractor or the consultant should be advised of this at the outset) and used as part of the post-consultancy evaluation.

ASSOCIATED DOCUMENTS AND TEMPLATES

- Purchase and Sale of Goods and Services (Procurement) Policy
- Financial Policies and Procedures Manual (CIGFPPM)
- Code of Conduct Policy
- Private Employment or Enterprise Policy
- Risk Management Policy
- Declaration of Conflict of Interest

For Policy queries or issues in the administration of this Policy, contact the Office of the Public Service Commissioner on phone (682) 29 421 or email: opsc.policy@cookislands.gov.ck