



**THE THIRD REPORT OF  
THE COMMISSION FOR STANDARDS IN PUBLIC LIFE**

**19 AUGUST, 2011**

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## **SECTION ONE**

### **INTRODUCTION**

1. The Commission is mandated under section 117(9)(g) of the Cayman Islands Constitution Order 2009 to report to the Legislative Assembly at regular intervals and at least every six months.
2. In so doing, the Commission has sought to ensure that such reports are tabled as soon as practical so that they may become public documents. The Commission will continue to endeavour to ensure that members of the public are thereby kept informed of the work of the Commission on a regular and ongoing basis.
3. Throughout the current reporting period, the Commission has continued to engage in a detailed review of the current procedures for awarding public contracts which will be given priority in light of serious shortcomings and concerns raised in the Auditor General's performance audit report which was released in July 2011.
4. The Commission has also continued its efforts to expedite the process leading up to the drafting of the underlying statutory framework that is fundamental to the ability of the Commission to effectively perform its functions under the 2009 Constitution Order.
5. In this report the Commission will outline the progress made and the key issues arising from the work completed by the Commission over the last six months.

## SECTION TWO

### CODES OF CONDUCT – THE SEVEN PRINCIPLES OF PUBLIC LIFE

6. As an integral part of its first report and in the exercise of its constitutional remit to assist in the setting of the highest standards of integrity, competence and behaviour on the part of public officers in order to ensure the prevention of corruption or conflicts of interests; the Commission defined and adopted *The Nolan Principles* as the seven core principles which govern standards in public life.
7. The Commission reaffirms its undertaking to uphold, promote and apply these seven core principles which form the basis of a universal standard of good governance, namely:

#### ***Selflessness***

*Holders of public office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family or their friends.*

#### ***Integrity***

*Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.*

#### ***Objectivity***

*In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.*

#### ***Accountability***

*Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.*

#### ***Openness***

*Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.*

**Honesty**

*Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.*

**Leadership**

*Holders of public office should promote and support these principles by leadership and example.*

## **SECTION THREE**

### **DRAFT STANDARDS IN PUBLIC LIFE LEGISLATION**

8. In its two previous reports, the Commission highlighted the need for the enactment of the necessary enabling legislation to ensure the Commission can fully perform its functions in a proper, timely and effective manner.
9. Section 117 of the Constitution clearly envisages a statutory framework which will guide and support the Commission in its endeavours to promote the highest standards of integrity and competence in public life and to prevent conflicts of interests or corruption by all employed in public service. Without the relevant statutory provisions the Commission is only able to address matters regarding its proposed standards in public life in the broadest terms possible.
10. The lack of the requisite enabling legislation also renders the additional responsibilities of the Commission under section 117 of the Constitution meaningless in so far as it relates to the Commission's ability to validate powers of compliance monitoring for standards in public life and investigations of potential breaches.
11. Furthermore, the Commission is of the view that the lack of supporting and enforceable legislation will render its mandate to maintain a Register of Interests a hollow exercise without the necessary sanctions in respect of those persons who may fail to comply with the duty of disclosure as mandated by section 121 of the Constitution.
12. It is envisaged the proposed Standards in Public Life Legislation (SPL) and a Register of Interests would serve in tandem to provide a platform for fulfilling the functions of the Commission and create mechanisms for ascertaining breaches of any standards in public life and potential conflicts of interest for public offices.
13. Since the submission for tabling of its second report in mid-February, the Commission with the assistance of the Secretariat has taken steps to complete its research and recommendations for the proposed Standards in Public Life Legislation. In making its recommendations the Commission has had the benefit of the input and advice of the highly respected and well known expert in the field of Constitutional Law, Sir Jeffrey Jowell, who played an integral role in the drafting and implementation of the 2009 Cayman Islands Constitution Order.
14. The Commission is now in the final stages of drafting the desired content of the SPL Bill and has recently begun consultations with Government representatives to gain a better understanding of

how the Bill can be given maximum effect. It is anticipated that the Bill will be submitted to the Honourable Ministers and Members of Cabinet for consideration within the next quarter.

## SECTION FOUR

### ONGOING REVIEW OF PROCEDURES FOR AWARDING PUBLIC CONTRACTS

15. Under the terms of the 2009 Constitution Order, the Commission is mandated under section 117(9)(d) to review and establish procedures for the awarding of all public contracts.
16. As part of its review process, which is currently ongoing, the Commission has over the last six months continued to focus its attention on the current policies and procedures for procurement by the Government with particular emphasis being placed on the following:
  - (a) whether the current policies and guidelines meet the criteria outlined in the governing statutory framework under Part IX and Part XII of the *Public Management and Finance Law (2010 Revision)* and the *Financial Regulations (2010 Revision)*;
  - (b) whether these policies and procedures promote open and effective competition and ensure the highest degree of probity, ethical behaviour and transparency;
  - (c) the need to develop conflict of interest guidelines and whether the provision of a register of interests could prove to be a useful tool in providing an additional safeguard within the overall procurement management framework;
  - (d) identifying any additional strengths and weaknesses of the current process governing the award of public contracts; and
  - (e) consideration of implementing a new procurement system.
17. It is recognised by the Commission that the underlying objective of the procedural rules governing the awarding of public contracts is one which must ensure fairness, equity and transparency. The Commission has therefore approached its review of the policies and procedures currently in place for the awarding of public contracts with these principles in mind.
18. The Commission maintains a close working relationship with the offices of the Auditor General and in fulfilling its constitutional mandate intends to place reliance on the carefully detailed and considered recommendations contained in the comprehensive and frank report of the Auditor General. The Commission encourages the Cayman Islands Government to carefully consider and respond to the content of the Auditor General's report.

19. While the Commission cannot adopt the report in its entirety due to the variance in mandates, the Commission feels that the report overall highlights many of the shortcomings also identified by the Commission during the course of its own review of the procurement process which began in September, 2010. It is hoped that the work of the Commission will build on the report and recommendations of those of the Auditor General.
20. The current statutory framework for public contracts is that which is governed by the *Public Management and Finance Law* under Part IX and Part XII of the *Financial Regulations (2010 Revision)*: Part IX provides as follows:

**PART IX – Procurement**

36. *Subject to an overriding requirement –*
- (a) to ensure value for money; and*
  - (b) to ensure that the price and quality of goods and services is no more than overseas procurement,*
- a prescribed entity, statutory authority or government company shall give preference to procuring goods and services from suppliers trading, carrying on business or operating within the Islands.*
37. (1) *Subject to paragraphs (2), (3) and (4), a prescribed entity, statutory authority or government company is required to offer for public tender –*
- (a) any contract for the purchase of supplies, services and assets over fifty thousand dollars; and*
  - (b) the sale of assets with a book value of fifty thousand dollars or more.*
- (2) In the case of a contract for the purchase of supplies, services and assets over twenty thousand dollars, where, in the opinion of the chief officer of a prescribed entity, statutory authority or government company, only one supplier can provide the supplies, services or assets, the chief officer is not required to offer for public tender such contract but –*
- (a) he shall comply with regulation 41; and*
  - (b) he shall be subject to an overriding requirement to ensure value for money.*
- (3) Without prejudice to paragraph (2), where a state of emergency is proclaimed under the Emergency Powers Law (2006 Revision) or an exceptional circumstance occurs, a prescribed entity, where it is impractical to do so, is not required to offer for public tender –*
- (a) any contract for the purchase of supplies, services or assets; or*
  - (b) the sale of any assets,*
- and the chief officer of a prescribed entity may enter into any contract for the purpose of the restoration of the Islands, using rates established by him subject to an overriding requirement to ensure value for money.*

(4) Where a chief officer enters into a contract pursuant to paragraph (3), a copy of the contract shall be provided to the Director of Internal Audit and the Auditor General.

38. The requirement to use a public tender applies to both entity financial transactions and executive financial transactions.

39. (1) A pre-qualifying tender process shall not be commenced except with the approval of the Central Tenders Committee.

(2) For the purposes of an approval under subregulation (1), application shall be made to the Committee in accordance with a practice manual published by the Committee.

(3) Tenders in the pre-qualifying tender process shall be evaluated by the purchasing prescribed entity, statutory authority or government company, which shall furnish the Committee with a report, prepared in accordance with the manual referred to in subregulation (2), specifying the evaluation criteria used in that process and the respective identities of the qualifying bidders selected.

(4) Notice of the qualifying bidders selected by the prescribed entity, statutory authority or government company shall not be given to participants in the pre-qualification process, nor shall a prescribed tendering process for the award of a contract be commenced until, in accordance with subregulation (5), the Committee gives its approval in relation to –

- (a) the qualifying bidders; and
- (b) the commencement of the prescribed tendering process.

(5) On receipt of a report under subregulation (3), and after making such enquiries, if any, as it sees fit to make, the Committee, if it is satisfied –

- (a) that the evaluation criteria used in the pre-qualifying tender process conform to its original approval under subregulation (2); and
- (b) that those criteria were correctly and regularly applied,

Shall give its approval for the purposes of subregulation (4), but otherwise may notify the prescribed entity, statutory authority or government company that it declines to do so, whereupon the pre-qualifying tender process shall be void and of no effect.

(6) Notwithstanding that an application or report under this regulation has been duly prepared in accordance with the manual referred to in subregulation (2), the Committee shall retain the right to be provided with such supplementary information, in a particular case as it see fit to require, concerning –

- (a) the evaluation criteria that are proposed to be used, or that were used, in any pre-qualifying tender process; or
- (b) any other aspect of the pre-qualifying tender process.

*(7) An approval of the Central Tenders Committee under subregulation (1) may be granted unconditionally or may be granted unconditionally or may be granted subject to conditions, and where it is granted subject to conditions, the prescribed entity, statutory authority or government company shall not conduct a pre-qualifying tender process otherwise than in accordance with those conditions.*

*40. (1) The prescribed tendering process shall be used in respect of any contract required by this Part to be offered for public tender.*

*(2) A pre-qualifying tender process shall not be used in respect of a contract with a value of less than two hundred and fifty thousand dollars.*

*(3) A pre-qualifying tender process may be used for a contract with a value of two hundred and fifty thousand dollars or more.*

*(4) In the evaluation of a tender, whether in the prescribed tendering process or a pre-qualifying tender process, any price quoted or indicated in the tender shall be considered, but the least expensive tender is not, by virtue of that fact alone, entitled to succeed.*

*41. (1) Tenders submitted for any contract with a value of less than two hundred and fifty thousand dollars shall be evaluated by a tenders committee established by the chief officer of the purchasing prescribed entity, statutory authority or government company.*

*(2) Tenders submitted for any contract with a value of two hundred and fifty thousand dollars or more shall be evaluated by a Central Tenders Committee comprising –*

*(a) the chief officer (Public Finance) of the Ministry (or his nominee) as chairman; and*

*(b) such other persons as may be appointed, from time to time, by the Financial Secretary.*

*(3) Subregulation (2) shall not apply to a pre-qualifying tender process, but applies to a prescribed tendering process to which any such pre-qualifying tender process was a preliminary.*

21. In conducting his audit, the Auditor General reviewed the current procurement framework outlined in the Public Management and Finance Law (2010 Revision) and corresponding Regulations to determine the extent to which it has been implemented and respected. He found that the key missing piece in the current framework is a central procurement leadership role that ensures the consistent and accountable implementation of the policies, procedures and practices for an effective and efficient procurement function in the Government that ensures due regard for value-for-money. The Commission agrees with this finding and addresses our recommendation in the Conclusion section of this report.

22. As a first step in its endeavours to introduce measures to enhance the practice and procedures governing public contracts, the Commission commenced its work by engaging in an in-depth review of the policies and procedures currently in place for public contracts with a value of CI\$250,000.00 or more. The Commission then completed its review of the existing policies and procedures applying to those contracts falling below CI\$250,000.00.
23. Regulation 41(1) of the *Financial Regulations (2010 Revision)* requires that tenders submitted for any contract with a value of less than CI\$250,000.00 shall be evaluated by a Departmental Tenders Committee (DTC) established by the Chief Officer of the purchasing entity, statutory body or government company. Pursuant to regulation 41(2) all tenders submitted with a value of CI\$250,000.00 or more must be evaluated by a Central Tenders Committee (CTC) comprising of the Chief Officer (Public Finance) of the Ministry (or his nominee) who is mandated to serve as Chairman and “such other persons as may be appointed from time to time by the Financial Secretary”.
24. As an integral part of its general overview of the strengths and weaknesses that may be attributed to the current statutory framework and guidelines governing the awarding of public contracts the Commission has sought to gain a clear understanding of the roles of the CTC and the DTC who are two key entities charged with the oversight and preservation of the integrity of the procedures regulating the awarding of public contracts. As part of this exercise, the Commission has also taken into account the pivotal role conferred upon Chief Officers under Part IX of the *Financial Regulations (2010 Revision)* as hereinbefore set out and Part XII of the aforesaid regulations which provide as follows:

#### ***PART XII – Capital Project Appraisal***

45. *The chief officer of a prescribed entity shall ensure that all capital projects (whether entity or executive) that are three hundred thousand dollars and above are submitted to the PSIC [Public Sector Investment Committee] for review.*

46. *A chief officer is required to submit the following documentation to the PSIC using the formats for the Project Profile and Project Report set out in the Fifth Schedule –*

*(a) in relation to projects between three hundred thousand dollars and one million dollars, Project Profile; and*

*(b) in relation to projects over one million dollars, Project Profile and Project Report.*

47. *All completed Project Profiles and Project Reports are to be submitted to the PSIC at least two weeks in advance of its monthly meeting.*

48. *The PSIC shall submit recommendations on the viability of capital projects to the Governor in Cabinet, through the Minister of Finance.*

49. *In this Part –*

*“capital project” means any item that will be capitalized on the balance sheet in accordance with generally accepted accounting practice and the Third Schedule, and includes the construction or purchase of physical assets and the purchase or development of computer hardware or software.*

25. In addition to being the entity charged with the oversight of all public contracts over the value of CI\$250,000.00, regulation 39(2) of the *Financial Regulations (2010 Revision)* suggests that the CTC is the entity charged with the responsibility for the creation and publishing of the guidelines governing the integrity of the DTC and its functions.
26. The relevant guideline produced by the CTC states that *“The integrity of the public sector relies on all bids being evaluated fairly and impartially against the eligibility and evaluation criteria stated in the advertisement and tender documents. The entity DTC is responsible and held accountable for ensuring that the process of bid evaluation is carried out in an ethical, fair, consistent and transparent manner and that the tender award recommendation provides value-for-money over the full procurement life-cycle whilst adhering to Cayman Islands and Government legal requirements.”*
27. The existing framework therefore makes it equally clear that the DTC is the entity that is charged with the responsibility for ensuring that process is carried out in an “ethical, fair, consistent and transparent manner”.
28. During the course of its review of the relevant guidelines and statutory provisions the Commission has been unable to identify any specific Terms of Reference or provisions for the manner in which members of the DTC are to be appointed or achieve their intended objectives.
29. The Commission was also not able to find any evidence to suggest the existence of a code of conduct to ensure that members perform their duties in the “fair, ethical, consistent and transparent manner” which is clearly envisaged by the existing framework.
30. Furthermore the Commission was not able to find any direction for members of the CTC or any DTC relating to handling conflicts of interest.
31. The Auditor General cited instances of both inappropriate appointments being made to DTC’s, and terms of reference being prescribed, by elected officials.

32. The Commission agrees wholeheartedly that this type of activity undermines the ethics and integrity of the procurement process that the Public Service should be striving to achieve. During its own review of the procurement process, the Commission flagged this as a concern which requires the CTC to take immediate steps to remedy. Ultimately, the Commission believes that this type of behaviour undermines the confidence of future bidders, suppliers and the public in general. Clearly written policies would prevent this type of activity and would also communicate effective guidance for selecting the membership of the DTC's.

## SECTION FIVE

### MOVING FORWARD

#### Procurement

33. As stated by the Auditor General, the Public Service has a responsibility to maintain the confidence of the supplier community and the public at large in the procurement system by conducting procurement in an accountable, ethical and transparent manner. The Commission considers it is of paramount importance that in all contractual dealings, public bodies must preserve the highest ethical standards of honesty, integrity, impartiality and objectivity. In particular, those engaged in the commissioning of public contracts must:

- be seen to be fair, impartial and transparent;
- maintain the highest possible standards of integrity with all business relations;
- foster appropriate standards of professional competence amongst those for whom they are responsible; and
- declare any personal interest which it may be viewed as a potential conflict.

34. The Commission remains committed to promoting practices in government that allow for more effective action and provide greater transparency in the government procurement process overall. The public needs to know that the rules of conduct governing persons in public life are being firmly and fairly enforced.

35. While the Commission has made initial recommendations as a result of its initial investigation into the Central Tenders Committee and the Departmental Tenders Committee in the appendix to this report, the Commission will continue to consider the general practice and procedure of the procurement process in the next phase of work. The Commission is cognizant of the need to enlist the services of a consultant possessing the requisite expertise and knowledge to assist the Commission in fulfilling its mandate to review and establish procedures for public contracts. It is envisaged that securing these services will thereby place the Commission in a position to complete a more in-depth research and make recommendations for the establishment and implementation of a procurement system that will best serve the needs of the public services and benefit the people of the Cayman Islands in the future.

36. During the next stage of the review, and with the assistance of the consultant, the Commission is particularly interested in reviewing the primary functions of the CTC and ascertaining whether the procurement system currently in place is the most appropriate system to best meet the needs of the Cayman Islands Government and the public it serves. Most notably, the Commission would like to review the relationship between the CTC and the Government in order to ascertain a

recommendation which would assist in strengthening the independence of the CTC's and to make it more difficult for anyone to influence, or be perceived to influence, the process.

37. Furthermore the Commission would like to take an in-depth look at the composition and manner of appointment of members to the CTC and the DTC's as well as the relationship in terms of oversight between the CTC and the DTC.

### **Appointments to Statutory Boards**

38. The Commission intends to take an in-depth look at the question of appointments to statutory boards and how conflicts of interests or corruption (whether real or perceived) can be avoided during this process. The Commission is particularly interested in the qualifications of members and whether or not members are equipped to make the best decisions and to handle all matters falling within their remit. The Commission will also take additional steps to consider whether or not any specific professional expertise is required by these bodies where the scope of their work requires or would benefit from such skills in their operational processes.

### **Codes of Conduct**

39. In the exercise of its functions the Commission intends to conduct a thorough review of the existing legislation governing codes of conduct on the part of public servants with particular emphasis being placed on the values to which the public service aspires. These values are expressly set out in the *Public Service Management Law (2010 Revision)* and are as follows:
- a. to serve diligently the government of the day, the Legislative Assembly and the public in an apolitical, impartial and courteous manner and to deliver high-quality policy advice and services;
  - b. to uphold the proper administration of justice and the principles of natural justice, and to support public participation in the democratic process;
  - c. to strive continually for efficiency, effectiveness and value for money in all government activities;
  - d. to adhere to the highest ethical, moral and professional standards at all times;
  - e. to encourage creativity and innovation, and recognise the achievement of results;
  - f. to be an employer that cares, is non-discriminatory, makes employment decisions on the basis of merit and recognises the aims and aspirations of its employees, regardless of gender or physical disabilities;
  - g. to be an employer that encourages workplace relations that value communication, consultation, co-operation and input from employees (either individually or collectively) on matters that affect their workplace and conditions of service; and
  - h. to provide a safe and healthy working environment.

40. In addition to the values hereinbefore set out, each public servant, in the course of his or her employment, is required to comply with the Public Servant's Code of Conduct. Failure to do so in a significant way will be grounds for discipline or dismissal.

The Public Servant's Code of Conduct reads as follows:

- a. a public servant must behave honestly and conscientiously, and fulfill his duties with professionalism, integrity and care;
- b. a public servant must be courteous and respectful to the Governor, the Speaker and Deputy Speaker, Official Members, Ministers, Members of the Legislative Assembly, other public servants and members of the public, and treat everyone with impartiality and without harassment of any kind;
- c. a public servant must be politically neutral in his work and serve the government of the day in a way that ensures that he maintains the confidence of the government, while also ensuring that he is able to establish the same professional and impartial relationship with future governments;
- d. a public servant, as a member of the public, has the right to be politically informed but must ensure that his participation in political matters or public debate or discussions, does not conflict with his obligation as a public servant to be politically neutral;
- e. a public servant must not, at any time, engage in any activity that brings his ministry, portfolio, statutory authority, government company, the public service or the government into disrepute;
- f. a public servant must obey the law and comply with all lawful and reasonable directions, including work place rules established by his chief officer or a person with delegated authority from the chief officer;
- g. a public servant must disclose, and take reasonable steps to avoid, any conflict of interest (real or apparent) with his duties as a public servant, and must not use his official position for personal or familial gain;
- h. a public servant must treat all official information and any dealings with the Governor, and Official Member or Minister as confidential, and, unless authorised to do so, must not give or disclose, directly or indirectly, any information about official business or anything of which he has official knowledge; and
- i. a public servant must not use official resources, including electronic or technological resources, offensively or for other than very limited private purposes.

41. The Commission believes that the Public Service Management Law (2010 Revision) (PSML) provides the necessary safeguards, codes of conduct and public service values that will serve to reinforce the standards for public life proposed and adopted by the Commission. It is also

believed that these will be further supported by the requisite enabling Standards in Public Life Legislation (SPL) which the CSPL is actively seeking to have enacted to ensure that the spirit of Sections 117 and 121 of the Constitution is preserved.

42. As part of its ongoing review, the Commission will be monitoring the response to its recommendation that the seven Nolan Principles adopted by the Commission are incorporated across the public service. It is intended that these codes of conduct will take the Commission one step forward towards ensuring the prevention of corruption or conflict of interest.

### **Monitoring of Ethical Conduct**

43. In seeking to fulfill its constitutional mandate of section 117 (9)(b) the Commission will be seeking to establish protocols for monitoring the ethical conduct in the Legislative Assembly, the Cabinet and on the part of public authorities and public officers which may include establishing channels in which individuals may lodge complaints about the ethical conduct of the members of the aforementioned entities and methods of investigating complaints and producing reports.

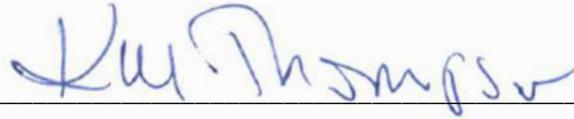
### **Enabling Legislation**

44. In the next phase of work, the Commission will complete the consultation with government representatives and forward the draft bill to the Deputy Governor to present to the Honourable Ministers and Members of Cabinet. It is anticipated that the Bill will then be laid in the House after which the public consultation stage will begin.

### **Conclusion**

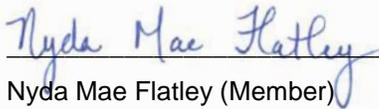
45. Attached, as an appendix to this report, are the recommendations of the Commission following its initial review of the procurement process. It is anticipated that the Fourth Report of the CSPL will contain more in-depth and thorough recommendations relating to the procurement system as a whole and among other things will identify whether the need exists to continue to improve the current system or invest in putting into place a new system.

Dated this 19<sup>th</sup> day of August, 2011.



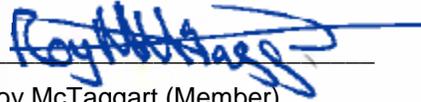
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Karin M. Thompson (Chair)



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Nyda Mae Flatley (Member)



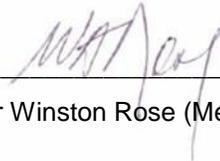
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Roy McTaggart (Member)



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Hedley Robinson (Member)



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Pastor Winston Rose (Member)

## APPENDIX

### RECOMMENDATIONS

Following on its initial research into the current procurement system in the Cayman Islands, the Commission for Standards in Public Life makes the following recommendations in regards to the CTC, which it expects the Government to consider and implement within the next three months:

- The Financial Secretary should:
  - develop, and publish, specific Terms of Reference or provisions for the manner in which members of the both the CTC and the DTC are to be appointed and the way in which they are to achieve their intended objectives;
  - develop, and publish, a policies and procedures manual which sets out in writing clear guidelines on the manner in which the CTC and the DTC's operate;
  - require each member of the CTC and any DTC to sign a confidentiality agreement before commencing work;
  - require each member of the CTC and any DTC to complete a full disclosure of all pecuniary and business interests to the Financial Secretary before commencing work and an update every twelve months thereafter. The Financial Secretary should compile these declarations into a Register of Interest which upon request should be made available for public viewing. The purpose of the Register of Interest is to provide an additional safeguard to compliment the Code of Conduct and the written policies and processes in order to prevent the rise (or perceived rise) of potential conflicts of interests on the part of members;
  - develop, and publish, clear direction for members of the CTC and any DTC regarding the handling of conflicts of interests which may arise (or be perceived to arise) during their dealing with the public contracts and the procurement process as a whole. With the benefit of clear and unequivocal guidelines, public servants will be placed in a position whereby they will necessarily be constrained to arrange their private affairs in a manner that will prevent conflicts of interest between their private interests and their public duties;
  - put in place a system in which more support, guidance and leadership is given to the DTC's. It is the belief of the Commission that the CTC is the entity charged with the oversight of the entire procurement process and as such needs to play a more active role to ensure consistency and compliance with policies/procedures. This support system should include exercises in which the CTC reviews decisions made by the DTC's; and
  - provide training to the existing members of the CTC and all key players in the DTC's on these new changes.

- The Central Tenders Committee should:
  - develop, and publish, a policies and procedures manual which sets out in writing clear guidelines on the manner in which the DTC's operate.

Additionally, the Commission believes that all public bodies including the CTC and DTC should be subject to a code of conduct incorporating the seven core principles (“the Nolan Principles”) which have been restated in Section Two of this report. A code of conduct will ensure that all parties involved are working from the same statement of expectations and to the same commitments. It will further serve to clarify what is acceptable conduct for the members of the entity including the way in which they interact with the general public. The absence of a Code of Conduct, which details issues such as confidentiality of members in relation to any proceedings, leaves the members to subjectively interpret their responsibility of ethical conduct. Specifically, for the CTC, the purpose of a Code of Conduct is to ensure that members perform their duties in the “fair, ethical, consistent and transparent manner” which is clearly envisaged by the existing yet bare legal framework. Persons across the public service must be required to sign an agreement to uphold such standards.