



ANY REPLY OR SUBSEQUENT REFERENCE SHOULD BE ADDRESSED TO THE
FINANCIAL SECRETARY AND THE FOLLOWING REFERENCE NUMBER QUOTED:-

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MINISTRY OF FINANCE AND THE PUBLIC SERVICE
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P.O. BOX 512
KINGSTON
JAMAICA

REF NO: 35

November 1, 2016

Circular No.:
Division: Public Expenditure Policy Co-ordination

Permanent Secretaries
Heads of Procuring Entities

Re: Amendments to the Procedures for the Procurement of General Insurance Services

Permanent Secretaries, Heads of Departments, Chief Executive Officers and other Heads of Procuring Entities are hereby being advised of the following amendments to the Procedures for the Procurement of General Insurance Services. Circular No. 23 dated September 5, 2013 regarding Revised Procedures for Procurement of Insurance Services is hereby rescinded. The following directives are **effective December 1, 2016**, and are pursuant to Cabinet Decision No. 15/16 dated May 9, 2016.

The Ministry of Finance will discontinue preparation and circulation of bi-annual insurance tender schedules for Government Entities for the purpose of going to tender. Schedules will no longer be circulated to all registered and pre-qualified Brokers and Insurers; approved Actuarial Consultants; the Brokers' Association; and the Insurance Association of Jamaica. Letters and reminder emails will **not** be issued by this Ministry to Procuring Entities to trigger the internal procurement process for General Insurance Services.

Procuring Entities are responsible for selecting the most suitable date to initiate and execute insurance tenders. The schedule of the tender activities must be formally communicated to the Ministry of Finance and the Public Service for consideration to ensure there is no bundling of Entities going to tender at the same time, especially where complex risks and/ or overseas placements are involved. Final written approval will be issued to Procuring Entities by this Ministry.

Kindly access the following link on the Ministry of Finance and the Public Service website (<http://www.mof.gov.jm/procurement/revised-handbook-of-public-sector-procurement-procedures.html>) to view amendments to the Revised Government of Jamaica Handbook of Public Sector Procurement Procedures, March 2014:

Volume 4:- Procurement of General Insurance Services
Section 1: Procuring General Insurance Services
Sub-section 1.1 - General Procedures

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Sub-section 1.2 - Facultative Reinsurance
Sub-section 1.5 – Instructions to Procuring Entities
Sub-section 1.5.1 – Valuation of Assets
Sub-section 1.5.3 – Specialist Insurance Sector Committee
Sub-section 1.7 – Tender Opening

Section 3 – Broker / Insurer Instructions
Sub-section 3.1 – Brokers
Sub-section 3.2 – Insurers
Sub-section 3.3 – Grounds for Rejection of Proposals
Sub-section 3.4 – Role of the Actuary
Sub-section 3.4.1 - Guidelines for Consulting Actuary's Consideration of Tenders for Disqualification

This supercedes Ministry of Finance and the Public Service Circular No. 23 dated September 5, 2013 regarding the Revised Procedures for Procurement of Insurance Service.

Failure to adhere to these appended directives will constitute a breach of the Government of Jamaica Public Sector Procurement Regulations, 2008.

Permanent Secretaries, Heads of Departments, Chief Executive Officers and Heads of Procuring Entities are advised to bring this Circular to the attention of all affected personnel.



Everton McFarlane
Financial Secretary (Assigned)

APPENDIX I
AMENDED SECTIONS: GOVERNMENT OF JAMAICA HANDBOOK OF PUBLIC SECTOR
PROCUREMENT PROCEDURES

Volume 4:- Procurement of General Insurance Services

Section 1: Procuring General Insurance Services

1.1. GENERAL PROCEDURES:

The Ministry of Finance and the Public Service (MOFP&S) will discontinue preparation and circulation of bi-annual insurance tender schedules for Government Entities for the purpose of going to tender. Schedules will no longer be circulated to all registered and pre-qualified Brokers and Insurers; approved Actuarial Consultants; the Brokers' Association; and the Insurance Association of Jamaica. Letters and reminder emails will **not** be issued to these Entities to trigger the internal procurement process for General Insurance Services.

Procuring Entities are responsible for selecting the most suitable date to initiate and execute insurance tenders. The schedule of the tender activities must be formally communicated to the Ministry of Finance and the Public Service for consideration to ensure there is no bundling of Entities going to tender at the same time, especially where complex risks and/ or overseas placements are involved. Final written approval will be issued to the Entities by the Ministry of Finance and the Public Service..

1.2. FACULTATIVE INSURANCE PLACEMENTS, FRONTING AND FACULTATIVE REINSURANCE

The term Facultative Reinsurance shown at Section 1.2 and Section 3.1 (b) is amended to read Facultative Insurance Placements, Fronting and Facultative Reinsurance. This is in alignment with Section 20 (1) and (2) of the Insurance Act.

There is a distinction between facultative placements and facultative reinsurance. **Facultative Insurance Placements** is where risk is placed with an eligible unregistered insurer. That is, an insurer not registered by the Financial Services Commission (FSC) to conduct insurance business in Jamaica. The risk is placed by a registered Facultative Placement Broker, following approval from the FSC to place the risk with an unregistered insurer. Reference is made to the Insurance Act, 2001 which defines a facultative placement broker as "a person registered to place with eligible unregistered insurers, insurance on properties, risks on exposures located or to be performed in Jamaica." Similarly, an eligible facultative placement insurer means "an unregistered insurer with which a registered facultative placement broker may place facultative insurance placements."

Fronting is the process whereby a local insurer cedes all or virtually all (of up to 100%) of an insurance risk to a reinsurer under an arrangement with the reinsurer pursuant to which the reinsurer controls the underwriting and or the claims handling processes relative to the insurer. The

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entire premium is paid to the reinsurer and the local company receives a commission or fee. Note that the reinsurer is not licensed to offer insurance in Jamaica and therefore, a local insurance company provides the fronting service.

This occurs where the unregistered insurer carries the risk, particularly where the local insurer cannot. The policyholder (Procuring Entity) is required to sign an agreement which outlines the full terms and conditions of the fronting arrangement and the responsibilities of each party involved are indicated in this agreement. With fronting arrangements, the relationship exists primarily between the policyholder and the unregistered insurer/ reinsurer.

Facultative Reinsurance is a reinsurance of risk on a case-by-case basis. This means the insurer negotiates with the reinsurer, an individual reinsurance agreement for each risk it will insure. Therefore, reinsurance is to be arranged by either a Reinsurance Broker or an insurer. A registered Reinsurance Broker can provide a local or overseas insurer to carry the risk. Hence, if the proposal includes an overseas insurer to carry the risk, it is deemed an overseas quotation.

1.5 INSTRUCTIONS TO PROCURING ENTITIES

- i. It is extremely important that Procuring Entities initiate the insurance procedure **early** so that there will be adequate time for decisions to be taken on the placement of insurance. Procuring Entities shall commence the tender process **at least four (4) months prior to the expiry of their current insurance coverage**. This will allow for brokers to efficiently secure coverage from the market and facilitate the Entity's requisite review of insurance placement and contract approval processes. The timeframes given in the Procedures are the **minimum** time periods that should be allowed, and where complex risks and/or overseas placements are involved, due consideration should be given to such matters. **Completion of the tender process after the prescribed timelines constitutes a breach of GoJ Procurement Guidelines and will result in referral to Cabinet, irrespective of the contract value, for that contract's approval.**

Efforts should be made to obtain in good time, the likely totals for the annual renewal premiums for the insurance portfolio, so that the premium category may be ascertained beforehand, and the required steps taken as set out in the Procedures.

- ii. The Ministry of Finance and the Public Service will not review draft advertisements and Request for Proposals (RFPs) for individual Procuring Entities before the scheduled insurance tender process. Procuring Entities shall download and utilize the sample documents for insurance tenders available on the Ministry of Finance's website (<http://www.mof.gov.jm/procurement.html>). The website will reflect all documentation relevant to the insurance tender process such as sample Request for Proposals (RFP), advertisements (where applicable), Tender Receival Form, Broker's Contract, Broker's Evaluation Form et cetera.
- iii. Procuring Entities must note that **a sample Broker's contract shall be included in all Requests for Proposals (RFP)/ tender packages**. The sample Broker's contract outlines the terms and

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conditions of contract, which guides the Brokers in their preparation and submission of irrevocable proposals.

- iv. Procuring Entities must note that pre-qualified Brokers submit with their tenders, a signed Form of Tender regarding their acceptance of the terms and conditions of the Broker's contract and the confidentiality of their proposals and non-disclosure to unauthorized persons (MOFP&S Templates provided). This signed Form of Tender along with a valid Tax Compliance Letter/ Certificate (TCL/TCC) indicating that Brokers are tax compliant at the time of tender and a valid National Contracts Commission (NCC) Certificate for the provision of insurance services are the eligibility requirements for participating in the procurement process for General Insurance services. **Failure of the Broker to satisfy eligibility requirements deems the proposal substantially non-responsive** and disqualified.
- v. Procuring Entities are required to assess the performance of the Holding Broker on an annual basis, i.e. level of professional service rendered. Reports should be prepared using the Broker's Evaluation form. The completed Broker Evaluation Forms are confidential and will form part of the procurement record and shall be submitted to the Ministry of Finance and the Public Service within fourteen (14) days of the expiration of each contract year. Copies shall be sent to the Permanent Secretary under whose portfolio the Procuring Entity falls, as well as the Consulting Actuary. The timely submission of Broker Evaluation Forms is **mandatory**. Procuring entities shall submit to the Ministry of Finance and the Public Service within the prescribed timelines, **ALL mandatory documents** pertaining to the completed tender process.
- vi. The Quality Cost-Based Selection Methodology shall be used to assess insurance proposals on both quality of the proposals and cost of the insurance coverage to be provided. The evaluation for insurance placement services will focus on:
 - Actuarial Assessment/ Report which will account for 70% of the overall score;
 - Client Reference Score (a minimum of three client references) which will account for 30% of the overall score.
- vii. The contents of the tenders and the details of the Actuarial Reports are confidential and shall not be disclosed to any unauthorized person(s). It should be noted that disclosure creates an unfair advantage to reveal an Alternative Proposal developed by a bidder and undermines the integrity of the tender deliberation process. Disclosure of the full Actuarial/Evaluation Report is strictly prohibited as it contains some exempt matter protected by Section 20 (Documents relating to business affairs, etc) of the Access to Information Act, 2002. A comparative analysis of all insurance proposals in a specific insurance tender shall not be provided. Upon the bidder/ broker's request, procuring entities are instead allowed to provide information relating **only** to that requesting broker's submission. The sections which fall under the scope of protection provided by the Act should be redacted by the Procuring Entity and provided to the requesting bidder (s). The specific redactions are outlined in rulings/ decisions made by the Access to Information Tribunal. All RFPs for insurance services must contain a clause informing bidders of the confidentiality of their proposals and a non-disclosure provision. (Refer to sample RFP on MOFP&S website).

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- viii. The cost of the assessment of the tender shall be borne by the Procuring Entity. Proper procurement planning must be undertaken by the Entity, to account for this cost.
- ix. For fronting arrangements, the policyholder (Procuring Entity) shall sign an agreement which outlines the full terms and conditions of the arrangement and the responsibilities of each party involved shall be indicated in this agreement.
- x. Over the life of the brokerage contract, the annual renewal of insurance premiums is subject to the review of the Consulting Actuary and the approval of the relevant authorities, according to the established thresholds. Annual insurance premium in excess of **\$30 Million** shall be submitted to the Specialist Insurance Sector Committee (SISC) for endorsement and referred to the National Contracts Commission (NCC) for approval. Cabinet must approve annual premiums in excess of **\$60 Million**.
- xi. In the event that renewal rates/premiums have been increased by **10% or more** over the previous year, the Procuring Entity shall reserve the right to review its Agreement with the Broker. The Procuring Entity reserves the right to terminate the agreement if the renewal rates/premiums have been increased by **15% or more** over the previous year, other than by reason of claims or increased risk factors (Refer to Sample Contract clause 4.4.1).
- xii. To extend any general insurance contract, Procuring Entities must formally request and obtain **prior approval** from the Ministry of Finance and the Public Service. The request for contract extension must be comprised of appropriate justification, the names of the Broker and Insurer, current annual premium and premium rates, proposed premium rates and premium for both the period of extension and alternate periods (three, six and twelve months). Short-term placements shall only be considered in extenuating circumstances.

1.5.1 VALUATION OF ASSETS

Procuring Entities shall ensure that valuations are done for the insurable assets, prior to issuing invitations to tender. Valuations shall be no more than one (1) year old at the time of tender invitation. Failure to present correct values may result in the application of the *Average Clause* in the event of a claim.

1.5.3 SPECIALIST INSURANCE SECTOR COMMITTEE

Additionally the Committee will perform the following functions, among others:

- (ii) where **facultative reinsurance** was obtained overseas, ensure that the requisite approval was obtained.

1.7 TENDER OPENING

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Procuring Entities shall conduct tender closing and opening exercises in accordance with Procurement Guidelines as outlined in Volume 4: Procurement of General Insurance Services in the Revised Handbook of Public Sector Procurement Procedures. Procuring Entities shall produce and formally submit a Tender Opening Report to the Ministry of Finance and the Public Service no later than three (3) days, following the tender opening.

One (1) Tender Receival Form is used to record the required documents for each Broker. The representatives from the Procuring Entity, the Consulting Actuary and any other official, shall sign in the appropriate sections.

SECTION 3 BROKER/ INSURER INSTRUCTIONS

3.1 BROKERS

- i. Applications for permission regarding facultative placement with unregistered insurers shall be submitted in writing to the Financial Services Commission (FSC) by Insurer/Broker, no later than seven (7) days after the notification of the award of contract. Applications should be accompanied by the required supporting documentation detailed at Appendix I. It must be noted that placement with Lloyd's of London (Lloyd's) does not require FSC approval. The placement of insurance business with Lloyd's is treated by the FSC as if the placement was made with an insurer domiciled in Jamaica given its current registration/ classification.
- ii. Pre-qualified Brokers are required to submit with their tenders, a signed Form of Tender: regarding their acceptance of the terms and conditions of the Broker's contract and the confidentiality of their proposals and non-disclosure to unauthorized persons (MOFP&S Template provided). This signed Form of Tender along with a valid Tax Compliance Letter/ Certificate (TCL/TCC) indicating that Brokers are tax compliant at the time of tender and a valid National Contracts Commission (NCC) Certificate for the provision of insurance services are the eligibility requirements for participating in the procurement process for General Insurance services. **The Failure of a Broker to satisfy eligibility requirements constitutes grounds for rejection of that proposal.**
- iii. All tenders **must** be supported by Brokers' slips, which are signed, stamped and dated, to substantiate the Insurers' quotations. All Brokers' slips must state, at a minimum, the types of risk, description of risk, limits and sub-limits, excess, premium rates and premium. To guarantee the authenticity of quotations/rates, Broker's slips shall bear written, non-digital signatures, the company stamp and date. In the case of overseas placement, all local Brokers are required to obtain from their overseas correspondent Brokers, supporting slips signed by at least the Lead Underwriter. For example, submission of a local Broker's slip signed by a local Fronting Insurer must be accompanied by the Reinsurance Broker's slip signed by the overseas Reinsurer. Without, the duly signed, stamped and dated Brokers' Slips the quotations provided will be deemed invalid and shall result in disqualification.

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- iv. Brokers/ Insurers, including local Fronting Insurers, must disclose the overseas quotes for the insurance coverage along with the local Broker's, local Fronting Insurer's and Reinsurance Broker's commissions and/or mark-ups. Those failing to comply with this requirement shall be disqualified.
- v. In the renewal phase, Brokers are required to go back to the market after year one of the triennial contract to source more competitive rates for years two and three. Failure to show evidence of going back to the market will be a breach of contract and subject to termination.

3.2 INSURERS

- i. Insurers are required to provide justification for significant discounts above 15% granted to Brokers and the reasons for differences in discounts between Brokers. Where no or inadequate justification is provided, the proposal will be disqualified.
- ii. Brokers/Insurers are required to provide evidence of adequate reinsurance support in the tender submission, particularly for large or complex risks. A minimum of 15% for Reinsurer's /overseas Insurer's participation is to be obtained by close of tender and substantiated by Broker's slips. Failure to provide evidence of adequate reinsurance support will result in disqualification of the proposal.
- iii. In the renewal phase, Insurers should anticipate Brokers requesting renewal quotes, as the Holding Brokers are required to go back to the market after year one of the triennial contract to source more competitive rates for years two and three. The market is encouraged to respond to the Broker's request for renewal quotes.

3.3 GROUNDS FOR REJECTION OF PROPOSALS

Consulting Actuaries engaged by procuring entities to undertake the evaluation of insurance placement proposals have the right to consider rejection of any insurance proposal, which exhibits characteristics of contravening the Insurance Act, the Insurance Regulations or the prescribed Public Sector Public Procurement Procedures. This duty is in keeping with their role as evaluators in the tender system to ensure prudent economic management and safeguard the interests of the GoJ and its scarce financial resources. This authorization to disqualify bids is in furtherance of their duties, set out in Volume 4, Section 3.4 of the Handbook.

Additionally, if a tender exhibits signs of unfair trade practice, inclusive of, but not limited to:

- a. preferential treatment;
- b. artificial bid pricing;
- c. attempted or effective market blocking;

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upon being notified and asked to provide satisfactory clarification/documentation within a specified time, the Broker/Insurer fails to provide the requisite clarification/documentation or provides information that is not deemed satisfactory at the time of evaluation;

then the Consulting Actuary **must** submit a written report to Ministry of Finance and the Financial Services Commission (FSC) and advise the Specialist Insurance Sector Committee (SISC) by copy.

If a Tender breaches any of the Conditions set out under 3.3 of the GOJ procurement Handbook or any other breach resulting in the disqualification of the tender, the Ministry of Finance and the Public Service, in consultation with the Financial Services Commission, reserves the right to remove the Broker/Insurers in breach of the law, from the GoJ pre-qualified list of brokers. Where there are breaches of the Insurance Act and Regulations that fall under the purview of the Financial Services Commission, Brokers and Insurers are also subject to penalties under the law.

3.4 ROLE OF THE ACTUARY

3.4.1 GUIDELINES FOR CONSULTING ACTUARY'S CONSIDERATION OF TENDERS FOR DISQUALIFICATION

In the event that the Consulting Actuary identifies an insurance tender which in his professional opinion exhibits signs of unfair trade practice, inclusive of, but not limited to:

- a. preferential treatment;
 - b. artificial bid pricing;
 - c. attempted or effective market blocking,
- i. The Consulting Actuary shall comply with the following requirements before considering disqualification of the insurance tender: The Consulting Actuary must identify and document in the Actuarial/ Evaluation Report, the features of the particular insurance tender, which suggest the presence of unfair trade practices or other practice that contravenes the legislation or procurement rules. The Consulting Actuary must specify the reason for his/her professional opinion.
 - ii. The Consulting Actuary must notify the Procuring Entity of the particular Broker/Insurer who submitted the insurance tender in question in the following manner:
 - a. Advise of the fact that the Consulting Actuary has identified and documented features of the insurance tender that indicate the presence of unfair trade practices or other practice that contravenes the Insurance legislation or the Public Sector Procurement Procedures;
 - b. Specify the particular features of the insurance tender that give rise to these concerns and must indicate what unfair trade practices or other contravening practice, in the Consulting Actuary's professional opinion, are suggested by these features;

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- c. Identify the information or documentation that is required from the Broker/Insurer to explain, clarify, rebut or refute the opinion offered by the Consulting Actuary;
 - d. Stipulate a **reasonable deadline (no longer than 3-5 business days)** by which such information or documentation must be submitted to the Consulting Actuary by the Broker/Insurer;
 - e. Indicate the consequence for the particular insurance tender, should the Broker/Insurer fail or refuse to submit the required information or documentation on or before the **specified deadline (no longer than 3-5 business days)**; or if the information or documentation is not sufficient to refute the finding of unfair trade practice or other contravening practice.
- iii. The Consulting Actuary must consider the material submitted by the Broker/Insurer in light of the previously held opinion.
- iv. If the material submitted by the Broker/Insurer satisfactorily addresses the issues of concern, the Consulting Actuary must proceed to consider the merits of the particular insurance tender in order to determine the recommendation to be made as to the winning bidder for the award of the contract.

If the material submitted by the Broker/Insurer is unsatisfactory in addressing the concerns of the presence of unfair trade practice or other contravening practice; or if no information or documentation is submitted by the Broker/Insurer, then the Consultant shall a written report to Ministry of Finance and the Financial Services Commission (FSC) and advise the Specialist Insurance Sector Committee (SISC) by copy.

The Ministry of Finance and the Public Service also reserves the right to consider disqualifications from the tender process due to the presence of unfair trade practice or other contravening practice as grounds for debarment of the Broker/ Insurer from tender processes for a period of time.

