



OFFICE OF THE CONTRACTOR GENERAL OF JAMAICA

Special Report of Investigation

Conducted into the Circumstances Surrounding the Award of a Contract to Syncon Technologies Limited for the Supply and Installation of a Telephone System in 2007

The Accountant General's Department/Ministry of Finance and Planning

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EXECUTIVE SUMMARY

On 2010 March 15, the Office of the Contractor General (OCG), acting on behalf of the Contractor General, and pursuant to the provisions which are contained in Sections 15(1) and 16 of the Contractor General Act, initiated an Investigation into the alleged irregularities surrounding the award of a Government contract by the Accountant General's Department (AGD) to Syncon Technologies Limited, for the supply and installation of a telephone system.

Section 15 (1) of the Act provides that “...a Contractor-General may, if he considers it necessary or desirable, conduct an investigation into any or all of the following matters-

- (a) the registration of contractors;*
- (b) tender procedures relating to contracts awarded by public bodies;*
- (c) the award of any government contract;*
- (d) the implementation of the terms of any government contract;*
- (e) the circumstances of the grant, issue, use, suspension or revocation of any prescribed license;*



(f) *the practice and procedures relating to the grant, issue, suspension or revocation of prescribed licenses”.*

Section 16 of the Contractor General Act expressly provides that “*An investigation pursuant to section 15 may be undertaken by a Contractor- General on his own initiative or as a result of representations made to him, if in his opinion such investigation is warranted*”.

The OCG’s decision to commence a formal Investigation into the referenced matter followed, *inter alia*, upon the Office’s conduct of a Preliminary Enquiry and the findings which were revealed in respect of same.

The OCG initiated a Preliminary Enquiry based upon its receipt of an anonymous telephone call which was received on 2009 February 27. The referenced telephone call informed the OCG of certain untoward practices which were taking place at the AGD with respect to irregularity, impropriety and/or the lack of transparency and merit in the award of a Government contract by the AGD to a company known as Syncon Technologies Limited, for the supply and installation of a telephone system in 2007.

The OCG was also prompted to investigate this matter following upon the receipt of two (2) other separate and highly placed complaints, which were received by the OCG from concerned individuals, who have requested to remain anonymous.

The allegations and comments, which were expressed by the three (3) independent sources, raised concerns which suggested, *inter alia*, that the procurement and contract management practices of the AGD may have been, or are, irregular, improper and/or lacking in transparency and fairness and that the above referenced Government contract might not have been awarded in accordance with the relevant provisions of the Contractor General Act and/or the Government’s Procurement Procedures.



Consequently, these allegations and inferences, amongst others, raised several concerns for the OCG, especially in light of (a) the findings of the OCG's Preliminary Enquiry and (b) the perceived absence of adherence to the Government contract award principles which are enshrined in Section 4 (1) of the Contractor General Act.

Section 4 (1) of the Act requires, *inter alia*, that GOJ contracts should be awarded “*impartially and on merit*” and that the circumstances of award should “*not involve impropriety or irregularity*”.

The OCG's Investigation primarily sought to determine, *inter alia*, whether (a) there were any alterations to the tender specifications, (b) any Public Official/Officer of the AGD had any pecuniary and/or undisclosed interest with respect to the referenced award of the contract, (c) there were any breaches of the GOJ Public Sector Procurement Guidelines (GPPH, 2001 May) and/ or any level of impropriety and/or irregularity in the award of the contract, and (d) value for money was attained.

The foregoing objectives formed the basis of the OCG's Terms of Reference for its Investigation and were primarily developed in accordance with the provisions which are contained in Section 4 (1) and Section 15 (1) (a) to (d) of the Contractor General Act.

Additionally, the OCG was guided by the recognition of the very important responsibilities which are imposed upon Public Officials and Officers by, *inter alia*, the Contractor General Act, the GPPH (2001 May), the Financial Administration and Audit Act (FAA Act), the Public Bodies Management and Accountability Act (PBMA), as well as the Corruption Prevention Act.

The OCG was also guided by the expressed provisions which are contained in Section 21 of the Contractor General Act. Section 21 specifically mandates that a Contractor General shall consider whether he has found, in the course of his Investigation, or upon the conclusion thereof, evidence of a breach of duty, misconduct or criminal offence on the part of an officer or member



of a Public Body and, if so, to refer same to the competent authority to take such disciplinary or other proceedings as may be appropriate against that officer or member.

At the commencement of its Investigation on 2010 March 15, the OCG, by way of a letter of even date, wrote to the then Minister of Finance and the Public Service, Mr. Audley Shaw, M.P., the Financial Secretary, Dr. Wesley Hughes, and the Accountant General, Ms. Millicent Hughes, to inform them of the OCG's decision to launch an Investigation into the circumstances surrounding the alleged irregularities in the award of a Government contract by the Accountant General's Department (AGD), to Syncon Technologies Limited, for the supply and installation of a telephone system.

The Findings of the OCG's Investigation into the circumstances surrounding the alleged award of a Government contract by the Accountant General's Department (AGD), to Syncon Technologies Limited, are premised primarily upon an analysis of the sworn statements and the documentary evidence which were provided by the Respondents who were requisitioned by the OCG during the course of the Investigation.

Summary of Key Findings

Based upon a comprehensive review of, *inter alia*, the sworn written statements and enclosed documentary evidence which were furnished to the OCG by certain named Public Officials/Officers in the AGD, who were statutorily requisitioned by the OCG, and other applicable legislation and documentation which were reviewed, the OCG is detailing, hereunder, a list of certain key Findings of the Investigation:

1. The OCG found that there were several pre-tender deviations from the then applicable GOJ Handbook of Public Sector Procurement Procedures (2001 May). Chief among the referenced deviations which were identified are the following:



- i. The failure of the AGD to prepare a Request for Quotation/ tender document;
 - ii. The absence of a Tender Receival Form;
 - iii. The absence of a prescribed date and time for the close and opening of the tenders;
 - iv. The failure of the AGD to prepare an Evaluation Report, as well as scoring sheets which were to be completed by each Evaluator, during the Evaluation of the proposals; and
 - v. The failure of the AGD to consummate a formal written contract with Syncon Technologies Limited, which detailed the terms and conditions underpinning the referenced procurement, as well as the formal obligations of each party.
2. It is instructive to note that Ms. Millicent Hughes, in her sworn testimony to the OCG of 2009 April 8, admitted that there were certain discrepancies and divergences in the subject procurement process that was undertaken by the AGD, inclusive of, *inter alia*, (a) the failure of the AGD to consummate a written contract with the Contractor **prior to the award and execution of the contract**, (b) the inability of the Accountant General to provide formal records of the proposals which were purportedly submitted by the companies known as '755 PBXS' and 'Jamaica Electrical Technologies Limited', and (c) the failure of the AGD to provide the requisite procurement documents for the OCG's review.
3. In its Preliminary Enquiry, the OCG was advised by the Accountant General, Ms. Millicent Hughes, that the "...*method used was limited tender*..." and that proposals were solicited via emails and telephone calls. The OCG, however, found that the provisions, as stipulated in the then applicable GPPH, were not adhered to by AGD, in accordance with the requirements for the use of the Limited Tender Procurement Methodology.
4. The OCG's findings revealed that there was no record of any documentation of the Procurement Committee's Meeting in which the subject contract was deliberated upon,



neither was there any substantive documentation which alluded to the Procurement and Evaluation Committee's respective endorsement and evaluation of the referenced contract award.

5. The OCG found, based upon the sworn representations which were made by the Accountant General, Ms. Millicent Hughes, that five (5) proposals were submitted to the AGD in respect of the referenced procurement. However, in the absence of a Tender Receival Form and the subsequent obscurities which subsist, the OCG is unable to verify the actual total number of proposals which were submitted to the AGD in the captioned regard.

It must be noted that the AGD reported that proposals were received from the following five (5) companies:

- i. Cable and Wireless Jamaica Limited;
 - ii. Syncon Technologies Limited;
 - iii. Compumart Jamaica Limited;
 - iv. 755 PBXS; and
 - v. Jamaica Electronic Technologies Limited.
6. The OCG found that of the five (5) proposals which were reportedly received by the AGD, only three (3) proposals namely those from, Cable and Wireless Jamaica Limited, Syncon Technologies Limited, and Compumart Jamaica Limited, were submitted to the AGD's Procurement Committee for its review and subsequent approval of the recommendation for the award of the contract.
7. The OCG found that a recommendation was conveyed to the Procurement Committee by way of a Memorandum, which was dated 2007 February 27, from the Accountant General, Ms. Millicent Hughes, which identified Syncon Technologies Limited as the



‘preferred Bidder’. It is instructive to note that the date of the referenced Memorandum was also the date on which the Procurement Committee met and deliberated upon the subject procurement.

The OCG found that the aforementioned recommendation, which was proffered by the Accountant General, Ms. Millicent Hughes, to the Procurement Committee, was based upon her independent evaluation of the proposals.

It is instructive to note that the OCG has seen no evidence which indicates that the responsibilities of the Procurement Committee to, *inter alia*, “effect [an] objective evaluation [process] with respect to quotations, tenders and requests for proposals”, as outlined in Section 1.5.2.3 of the GPPH, were divested to either Ms. Dennese Smith, the then Director of Financial Information Systems and/or Ms. Millicent Hughes.

In the premises, the OCG found the referenced independent evaluations and recommendation which were carried out by Ms. Dennese Smith, in her then capacity as the Director of Financial Information Systems and Ms. Millicent Hughes, in her capacity as the Accountant General, to be improper and highly irregular, since their influence may have impeded the Procurement Committee’s ability to objectively review and provide a recommendation.

8. Based upon the sworn testimonies which were provided to the OCG, by members of the AGD’s Procurement Committee, the OCG found, *inter alia*, the following:
 - i. That the AGD’s Procurement Committee reviewed on 2007 February 27 proposals which were received from (a) Syncon Technologies Limited, (b) Compumart Jamaica Limited and (c) Cable and Wireless Jamaica Limited.



- ii. That, in addition to the above stated proposals, the Procurement Committee was provided with a copy of an Evaluation Matrix, that was attached to a Memorandum which was prepared by the Accountant General and which was dated 2007 February 27.

It is instructive to note that the OCG found that (a) the referenced Matrix was independent of the input of the Procurement Committee and (b) the referenced Memorandum, which was sent by the Accountant General to the Procurement Committee, instructed the members of the Committee as to the course which should be taken in the review of the proposals, as well as the Accountant General's 'preferred bidder'.

- iii. The Procurement Committee provided its recommendation based upon a review of (a) the referenced Evaluation Matrix, (b) the proposals from the three (3) prospective bidders and (c) the Accountant General's recommendation, which was contained in the referenced Memorandum of 2007 February 27.
 - iv. That the AGD's Procurement Committee was not provided with any detailed Tender Document, inclusive of tender specification and/or an Evaluation Criteria upon which to conduct a comprehensive review of the referenced proposals.
 - v. That the Procurement Committee was unable to produce, upon the request of the OCG, any evidence of an Evaluation Report and/or scoring sheets which were utilized by its members to endorse or approve the recommendation for the award of contract.
9. The OCG has seen no documented particulars of the proposals which were submitted by 'Jamaica Electronic Technologies Limited' and '755-PBXS' and was informed by the



Accountant General, Ms. Millicent Hughes, that the referenced companies were not shortlisted by the AGD and, as such, records of the proposals were not kept by the AGD.

10. The OCG found, based upon the dates which were inscribed on the proposals which were submitted by Cable and Wireless Jamaica Limited, Syncon Technologies Limited and Compumart Jamaica Limited, that same were submitted between the period of 2006 July and 2007 February, which suggests that there was no standard date or time, established by the AGD, by which all proposals were to be submitted.
11. The OCG found, by the admission of Ms. Dennese Smith, the then Director of Financial Information Systems, and the individual with whom the responsibility was reportedly vested, that the AGD failed to prepare and issue a Tender Document/Request for Quotations with detailed specifications which could adequately indicate (a) the expectations of the procuring entity, (b) a clear description of the works, goods and services which are expected to be performed, (c) the eligibility requirements, (d) the evaluation methodology and criteria and (e) any other specific particulars with respect to the referenced procurement which would aptly uniformly assist **all** the prospective bidders in the drafting of their Proposals.

The OCG found that the foregoing has impinged upon standards of transparency and openness in the procurement process and, by extension, in government contracting, which the procurement guidelines stand to enforce and thereby constitutes a breach of Section 6.1 of the GPPH May (2001) which requires that a Tender Document be prepared by all public procuring entities and provides further that *“Procuring entities shall ensure that tender documents contain all the necessary information for the particular procurement...”*



12. The OCG found that the AGD also contravened Section 6.1.8 of the referenced Handbook which also clearly stipulated a defined list of all relevant sections which must be included in the Tender Document. Chief among them are as follows:

“Instructions to Tenderers; Form of Tender and Appendix; Form of Tender Bond; Form of Tender Bank Guarantee; General Conditions of Contract (GCC); Special Conditions of Contract (SCC); Technical Specifications; Drawings where applicable; ...”

13. Having regard to the allegation which was made that the tender specifications were ‘doctored’ to suit a particular bidder, the OCG has found that in the absence of a formal Tender Document, Request For Quotation, and/or written tender specifications, there were no standard eligibility and/or qualification requirements that were drafted by the AGD and which were to be satisfied by the prospective bidders in respect of the referenced procurement.

The OCG is, therefore, unable to establish the particulars of what was essentially required by the AGD and whether there were any omissions in the deliverables which were supplied by Syncon Technologies Limited.

14. The OCG found, by way of the Accountant General’s sworn response of 2010 March 30, that she was **“verbally advised that the decision of the Procurement Committee was to award the contract to Syncon Technologies Limited. This was communicated to the company by letter dated 2007 March 6.”**¹(OCG Emphasis)

15. The Accountant General informed the OCG that upon discovery that a formal contract was not in place, in respect of the referenced procurement, a ‘Statement of Work’, which was submitted by Syncon Technologies Limited in 2007 February, was signed by the AGD on 2009 January 15.

¹ Response which was received from Ms. Millicent Hughes which was dated 2010 March 30.



16. The OCG found, based upon the sworn representations which were made by Mrs. Rose McKay, Deputy Accountant General, AGD, and which were also corroborated by certain other members of the AGD's Procurement Committee, that all contact which was made by the AGD, with the supplier was undertaken by the Accountant General, Ms. Millicent Hughes and/or the then Director of Financial Information Systems, Ms. Dennese Smith.
17. The OCG found, based upon the sworn testimonies of Ms. Dennese Smith, Network Administrator and the then Director of Financial Information Systems, and certain other members of the AGD's Procurement Committee, the following conflicting positions between the Accountant General, Millicent Hughes and Ms. Dennese Smith to be of significant import:
- i. That Ms. Dennese Smith made a suggestion that the AGD *"seek the involvement of Fiscal Services and the Ministry of Finance and Planning to assist with the process"* based upon her view that the AGD did not have the *"level of expertise"* required to carry out the procurement;
 - ii. That Ms. Dennese Smith's suggestion was not supported by the Accountant General, Ms. Millicent Hughes;
 - iii. That Ms. Dennese Smith was required to solicit quotations from prospective bidders and that this process was conducted via telephone calls and email correspondence;
 - iv. That Ms. Dennese Smith commenced the evaluation of the proposals. However, the process was 'taken over' by the Accountant General, based upon *"...her dissatisfaction that I intended to offer Cable and Wireless the contract for the supply and installation of the telephone system..."*;
 - v. That Ms. Dennese Smith's rationale for opting for *Cable and Wireless Jamaica Limited* and as verbally expressed to the Accountant General were as follows:
 - *"the Department's structured cabling was done by Cable and Wireless,*



- *C & W had the best price*
 - *I felt C & W's proposed solution was appropriate for the Dept and*
 - *Anyone who won the award, would have to interface with Cable and Wireless."*
- vi. That the Accountant General, Ms. Millicent Hughes "...expressed her desire to have Syncon Technologies selected, as, 'they have what she required for the Department, a total voice over internet solution'..." and that "...Cable and Wireless was offering "out-dated technology"; and;
- vii. Based upon the conflicting opinions, "*the Accountant General decided to complete the evaluation process and make the recommendation...*"
18. The OCG found that the total cost for the PBX System which was proposed by Compumart Jamaica Limited, and which was found to have been a revised quotation, was in the amount of US\$68,955.00, and reflected the highest of the three (3) proposals which were provided to the Procurement Committee.
19. The OCG found that two (2) proposals were submitted by Syncon Technologies Limited, in respect of the referenced procurement. The proposals bore the dates 2006 December 28 and 2007 February 12, respectively.

It is instructive to note that the 2007 February 12 proposal, which was submitted by Syncon Technologies Limited, was stated to have been a 'Statement of Work' and, based upon the compendium of facts, it is apparent that the referenced Statement of Work was substituted by the AGD as a 'Form of an Agreement' for the subject procurement, since both parties concerned were found to have signed to the terms and conditions which were outlined in the referenced document on 2009 January 19.



In addition, the OCG has seen no evidence to suggest that the AGD played any role and/or had any influence in the development of the terms and conditions of the referenced 'Statement of Work'. In this regard, the OCG has found that the foregoing portrays an irregular process, based upon the fact that the referenced document, on the face of it, was prepared by Syncon Technologies Limited, accepted by the AGD and subsequently substituted as the Form of an Agreement for the referenced procurement opportunity.

20. The OCG also found that of the three (3) proposals which were received by the AGD, Syncon Technologies Limited's proposal of 2006 December 28, was the only one which provided business references. The OCG is, however, uncertain as to upon whose advice the said business references were submitted and has seen no evidence to suggest that same were considered in the evaluation of the proposals.
21. The OCG found that the total cost for the solution which was proposed by Syncon Technologies Limited, by way of its Proposal of 2006 December 28, was in the amount of US\$57,819.65, while the total cost for the solution which was proposed by Syncon Technologies Limited on 2007 February 12, was in the amount of US\$58,586.57.
22. The OCG found that the proposal which was submitted by Cable & Wireless Jamaica Limited bore the date, 2006 November 24 and that it was not the first draft of the proposal for the referenced telephone system, which was submitted to the AGD by the company.

In point of fact, the OCG found that the referenced proposal was developed, edited and revised to include 'certain' specifications and particulars which were said to be based upon the company's consultation with the AGD.



The OCG found that the cost of the telephone solution, as proposed by Cable & Wireless Jamaica Limited, was in the amount of \$US53,519.56 and thus, the lowest of the three (3) proposals which were submitted to the AGD's Procurement Committee.

23. The OCG found that the Accountant General, Ms. Millicent Hughes, was appointed by the Procurement Committee as its 'Resource Personnel' during its deliberations on 2007 February 27, at which time the recommendation to award the contract to Syncon Technologies Limited was provided.

Interestingly, the OCG found that the appointment of the Accountant General as the 'Resource Personnel' was based upon her insistence to be included in the referenced Procurement Committee Meeting.

The OCG has noted a similar occurrence, in which the Accountant General was present at a Procurement Committee Meeting, which was dated 2007 May 15. The Minutes of the referenced Meeting reported that Ms. Millicent Hughes served as the Chairperson and that the Committee deliberated on matters pertaining to the "(a) *Painting and tiling of the canteen, (b) Replacing of blinds in the department (c) Purchase of a motor vehicle for the Accountant General*"².

Further, it is highly instructive to note that the matters which were attended to in the referenced meeting pertained to procurement opportunities, in which an approval was sought from the Procurement Committee, was directly related to the Accountant General and, in this regard, the Deputy Accountant General, Mrs. Rose McKay, was requested to chair the Meeting. However, the OCG has seen no evidence to indicate that Ms. Millicent Hughes recused herself from the meeting.

In the foregoing regard, the OCG found that the Accountant General's presence at any Procurement Committee Meeting, in which the Committee is required to endorse a recommendation for the award of a contract, would be irregular and improper on the

² Procurement Committee Meeting which was dated 2007 May 15.



basis that the Accountant General, in this regard, is both the Accountable Officer and the Head of Entity and is, therefore, required to remain independent of any such decision taken by the Procurement Committee, as the final level of approval.

24. The OCG found that the Accountant General's presence in the Meeting of the Procurement Committee on 2007 February 27, in which the Committee was required to deliberate upon the award of the contract for the referenced telephone system, where it was reported that she was the "Resource Personnel", though not a member of the Committee, was inappropriate and improper, in light of the Code of Conduct which is expressed in Sub-Section 1.6 of the GPPH 2001, the then applicable procurement guidelines.

Section 1.6 of the then applicable GPPH provides, *inter alia*, that "Public sector procurement proceedings shall be afforded the highest practicable degrees of objectivity."

The OCG has also noted that though the then applicable procurement guidelines did not expressly prohibit an Accountable Officer from participating in the deliberations of the Procurement Committee, given the fact that the Accountant General, as the Head of Entity, is the final level of Authority in the approval for the award of contract, the practice is considered to be against the principles of good corporate governance.

25. The OCG found that an Internal Audit was conducted into the management of the procurement process which was undertaken by the AGD in regard to the referenced PBX system.

The referenced audit brought to the fore serious observations, findings and conceived impacts, as it relates to the manner in which the subject procurement process was conducted by the AGD.



The AGD's Internal Audit found, amongst other things, that:

- i. *"The department may not have received the best value for money*
- ii. *... the procurement committee was not involved in the decision making process, the necessary expertise for proper evaluation of services needed might not have been utilized.*
- iii. *Contract could be awarded to contractors who are not tax compliant or registered with NCC.*
- iv. *The contractor might not satisfy the needs of the department if the needs are not clearly indentified and documented.*
- v. *Misunderstandings as to basis/ criteria used for the award of contract may occur.*

In the foregoing regard, the following, *inter alia*, recommendations were proffered by the Audit:

- i. *"Technically competent personnel should always be used in the contract selection and awarding process.*
- ii. *Tender documents should be developed for contracts of this nature and there should be documentations for proper audit trail."*

26. The OCG also found that the Auditor General's Department, examined the process which was undertaken by the AGD as it regards the referenced procurement and outlined its findings and recommendations in its 2010 Report. It is instructive to note that the Auditor General found, *inter alia*, that "...transparency and objectivity were impaired because the responsible officers failed to comply with the Procurement Guidelines..."³ with respect to the procurement of the telephone system.

³ Auditor General 2010 Report, Section 30.5 - Breaches in Procurement Procedures.



27. The OCG found that the 2006 December 28 proposal, which was submitted by Syncon Technologies Company Limited to the AGD, required, in its stated terms and conditions, a 50% deposit. The OCG, however, found that an Invoice which was prepared by Syncon Technologies Limited, on 2007 March 11, requiring a deposit of 40% of the contract value, in the amount of J\$1,593,554.60, was sent to the AGD.

The OCG has seen evidence that a Payment Voucher, which was dated 2007 March 29, and which was prepared in the amount of \$1,593,554.60, was duly authorized by the Accountable Officer, Mr. Edson Williams on 2007 March 29.

It is instructive to note that the OCG found that the advance payment in the amount of \$1,593,554.60, was made by the AGD to Syncon Technologies Limited. The OCG found that this was an approximate 40% of the contract sum for the referenced procurement, and amounts to a breach of Section 6.2.2.13 of the then applicable GPPH.

Section 6.2.2.13 of the then applicable GPPH, which is captioned ‘Advance Payments’, provides, inter alia, as follows:

“Where advance payments are offered the amounts and terms under which the advances will be made and recovered must be stated. Normally the advance should be recovered by instalments by deduction from interim payments.

...All advance payments offered under contracts must be completely guaranteed by an advance payment security.”

28. The OCG found that the 40% advance payment of J\$1,593,554.60, which was authorized by the AGD on 2007 March 29, was the only payment that was made to Syncon Technologies Limited, in respect of the referenced contract as at 2010 August 12.



In point of fact, the OCG found, by way of Ms. Millicent Hughes' sworn response, which was dated 2010 August 12, that the "...total payment to date has been \$23,434.62... **The total amount outstanding as submitted by Syncon is US\$41,356.56**". The Accountant General also indicated that the interest charges which accumulated on the overdue balance, up to 2010 January, was in the amount of US\$5,183. 81.

29. The OCG found, by way of the Hansard of a meeting of the Public Accounts Committee (PAC), which was held on 2011 March 8, that while the AGD was in possession of the funds to settle the outstanding balance, the AGD had still not, at that time, made the payment which was owed to Syncon Technologies Limited due to 'internal challenges'. The OCG was further advised that, as at the referenced date, interest was still being accrued on the outstanding balance.
30. It is instructive to note that the OCG found, by way of a Memorandum, which was dated 2010 February 10, which was sent by Mr. Michael Maragh, the then Director of Finance of the AGD, to the Deputy Accountant General, Mrs. Rose McKay, and which was copied to the Financial Secretary, Dr. Wesley Hughes, the Auditor General, Ms. Pamela Munroe- Ellis, the Accountant General, Ms. Millicent Hughes *et al.*, that Mr. Maragh expressed his concerns regarding the procurement process which was undertaken by the AGD and certain difficulties that he had with making the referenced payments.
31. The OCG found that, by way of a letter which was dated 2009 June 1, which was sent to Ms. Millicent Hughes by a Dr. Shazeeda Ali, who wrote for and on behalf of the Attorney General, that the following Opinion was offered:

"The fact that the AGD did not issue a contract in the required form does not affect the validity of the agreement between the parties. Indeed, if the AGD fails to abide by the terms of the agreement, Syncon would have the right to initiate a lawsuit for breach of contract..."



The payment to Syncon of the 40% deposit on March 29, 2007, in response to the invoice from Syncon dated March 11, 2007, indicates partial performance of the contract by the AGD... ”⁴(OCG Emphasis)

32. The OCG found that by way of Ms. Millicent Hughes’ sworn response, which was dated 2011 December 12, that the AGD had completed payments to Syncon Technologies Limited, as expressed below:

- i. By way of a cheque, which bore the number 015698, a total of \$3,102,106.43 was paid to Syncon Technologies Limited representing the balance on the cost of the referenced telephone system; and
- ii. By way of a cheque which was dated 2011 March 31, the sum of J\$2,000,000.00, representing the full payment of interest charges, was paid to Syncon Technologies Limited by the AGD.

It is instructive to note that while the OCG found, based upon the AGD’s calculations, that the total interest charges owing to Syncon Technologies Limited amounted to approximately J\$3,320,781.39, negotiations which ensued between the Accountant General, Ms. Millicent Hughes and representative(s) of Syncon Technologies Limited reduced the interest payable to J\$2,000,000.00.

33. Based upon the OCG’s perusal of its QCA consolidated database, as well as the hard copy QCA submissions which were made by the AGD, in respect of contract(s) which were awarded to Syncon Technologies Limited, during the period which is under review, the OCG found that the Department failed to report the award of the referenced contract

⁴ Letter which was dated 2009 June1, which was sent to Ms. Millicent Hughes by Dr. Shazeeda Ali for and on behalf of the Attorney General.



to the OCG, which, thereby, constitutes a breach of Section 29(b) (ii) of the Contractor General Act.

34. Having regard to the overall process which was employed by the AGD, and in light of (a) the circumstances surrounding the award of the referenced contract to Syncon Technologies Limited, particularly, the extent of the involvement of the Accountant General in the evaluation and recommendation for the award of the contract, and (b) the flagrant breaches of the Government Procurement procedures and the allegations which were launched, the OCG, however, found no evidence to indicate that any Public Officer of the AGD, held any pecuniary and/or undisclosed interest in the company Syncon Technologies Limited.
35. The OCG has found, during the course of its Investigation, that the procurement process which was utilized by the AGD in procuring the referenced PBX system, exhibits flagrant breaches of the GOJ Procurement Guidelines and the Contractor General Act, which have severely impacted on the AGD's ability to employ the best suited competitive procedures which would guarantee 'value for money'.
36. Further, the OCG has found that the inability to clearly establish the needs of the AGD, as it regards the referenced procurement, had significant implications on the determination of value for money, since, the absence of same essentially rendered both the OCG and the AGD incapable of ascertaining whether the deliverables made by Syncon Technologies Limited met the needs and/or requirements of the AGD.
37. Having regard to the total payment of J\$6,695,660.60 in respect of the referenced contract, of which interest charges amounted to \$2,000,000.00; the OCG found that the untidy state of affairs at the AGD resulted in approximately 30% of the total expenditure being attributed to the servicing of interest accrued due to late payments.



Conclusions

Based upon the documents which have been reviewed, as well as the sworn testimonies which have been received from the representatives of the AGD and Syncon Technologies Limited, the OCG has arrived at the following considered Conclusions:

1. The OCG has concluded that the award of a contract to Syncon Technologies Limited, for the supply and installation of a telephone system, was in breach of Section 4 of the Contractor General Act and the then applicable GPPH (2001 May).

The OCG is of the considered opinion that the process which was undertaken by the AGD, to award a contract to Syncon Technologies Limited, in no way mirrored and/or constituted a legitimate tender process as was required by the then applicable GOJ Public Sector Procurement Procedures (2001 May).

2. The OCG has concluded that the breaches of the GPPH 2001 included, *inter alia*, the following:
 - a. The AGD acted in contravention of Section 2.11 of the GPPH (2001 May), which specifies, *inter alia*, the reporting requirements of a public body. Section 2.11 states, *inter alia*, that Procuring Entities “...are required, without exception, to report all procurements on a monthly basis using the GOJ standard form ...” Further, Section 2.11.3 provides that the Portfolio Ministry “... shall be apprised of procurements effected by that entity”.

The OCG has not seen any evidence to indicate that the contract, which was awarded to Syncon Technologies Limited was reported in accordance with the above referenced provision of the GPPH (2001 May).



- b. The OCG has concluded that the AGD failed to prepare and issue a Tender Document with detailed specifications which should have adequately indicated (a) the specific requirements of the procuring entity, (b) a clear description of the goods and services which were required, (c) the eligibility and responsiveness requirements, (d) the evaluation methodology and criteria and (e) other specific particulars with respect to the referenced procurement which would aptly assist the prospective bidders in the drafting of their Proposals.

The foregoing amounts to a breach of Sections 6.1 or Section 2.1.3.3 of the GPPH (2001, May) which provide, respectively, as follows:

- i. Section 6.1 of the GPPH (2001 May) requires that a Tender Document be prepared by all public procuring entities and further provides that “*Procuring entities shall ensure that tender documents contain all the necessary information for the particular procurement...*”
- ii. Section 2.1.3.3 of the GPPH states, *inter alia*, that “*Limited tender is a form of selective tender, whereby the procurement opportunity is open to a limited number of contractors included in the Register of Approved Contractors. **It includes the Request for Quotation (RFQ) and Sole Source procurement procedures** ...*” (OCG Emphasis)

It is instructive to note that, though the AGD indicated that the proposals were solicited from certain potential bidders, via emails and telephone calls, the OCG was not provided with any proof of same.

- c. The OCG has concluded that the failure of the AGD to properly file and record the proposals which were stated to have been submitted to the AGD by both ‘Jamaica



Electrical Technologies Limited’ and ‘755- PBXS’, amounts to a breach of Section 2.10.1 of the GPPH (2001, May).

The referenced Section provides that “...*the procuring entity shall maintain records of each contract action for a minimum period of 10 years. Procurement process and expenditure records, although entrusted to the safeguard of the accounting officers, are the property of the Ministry of Finance and Planning and shall promptly be made available to the Ministry upon request in its carrying out of expenditure and/or compliance monitoring mandates.*”

- d. The OCG has concluded that the AGD, in its failure to complete and maintain as a part of the procurement record, a Tender Receival Form, contravened Section 6.8.2 of the then applicable GPPH (2001 May). In keeping with the referenced provision, Tender Receival Forms are required to be prepared by public procuring entities.⁵
- e. The OCG has concluded that the AGD failed to clearly establish and impart to the potential bidders the Evaluation Criteria which was to be utilized in the assessment and evaluation of the bids.

The foregoing amounts to a breach of Section 6.1.25 of the then applicable GPPH (2001 May), which states, *inter alia*, that the “... *method of evaluation should be detailed... The responsiveness of tenders will be determined during the evaluation. The currency in which price comparisons will be made should be stated, where relevant. The contract award criterion shall be the lowest evaluated tender.*”

- f. The OCG has concluded, based upon the failure of the AGD to consummate a Form of an Agreement, in respect of the referenced procurement, that the Department contravened Section 6.10.3 of the GPPH (2001 May) which states the following:

⁵ A copy of the Form was also included in Appendix 1 of the referenced Handbook.



*“Once the successful contractor has provided his performance security and has put in place the requisite sureties and insurance **the formal signing of the contract should be arranged... a copy of the signed contract agreement should be delivered to each of the following persons:***

- **The Contractor;**
- **The Director of Finance of the procuring entity; and**
- **The Chief Procurement Officer of the procuring entity; and**

A copy of the executed contract should also be retained in the record of the procurement”.⁶ (OCG Emphasis)

- g. The OCG has also found that the AGD breached Section 6.10.4 of the GPPH (2001 May) which required that upon the selection of the successful bidder a letter be dispatched by the procuring entity to the other participating bidders, informing them of (a) the names of the bidders, (b) the amounts proposed by each bidder and (c) the successful bid.
3. Based upon the sworn representations which were received from the Officers within the AGD, the OCG has concluded that the referenced procurement was chiefly handled by the Accountant General, Ms. Millicent Hughes and the Network Administrator and then Director of Financial Information Systems, Ms. Dennese Smith.
4. Notwithstanding the disclosure by the Accountant General that the procurement method utilized was ‘Limited Tender’, the OCG re-iterates its position that the procedures which were undertaken by the AGD, in the solicitation of bids, were not in keeping with the referenced provisions of the then applicable GPPH (2001 May).

⁶ Section 6.10.3 of the GPPH (2001 May).



The OCG has concluded that the medium and methods which were used by the AGD, in the solicitation of bids, that is, via telephone calls and email correspondence (records of which could not be produced by the AGD), amounts not only to a breach of Section 2.1.3.3 and 6.1 of the GPPH (2001, May), but also affected the objectivity and transparency of the procurement process.

In the absence of an RFQ/ Tender Document, the OCG has seen no evidence of the information and criteria which was communicated to the prospective bidders and whether the same information and opportunity was disseminated to each bidder.

5. Based upon the representations which were made to the OCG, by the Accountant General, the OCG has found that the AGD was in receipt of five (5) proposals which were submitted by the following companies:

- Syncon Technologies Limited;
- Cable and Wireless Jamaica Limited;
- Compumart Jamaica Limited;
- 755-PBXS;
- Jamaica Electrical Technologies Limited.

It is, however, instructive to note that in the absence of, *inter alia*, a Tender Receival Form, the OCG is unable to verify the actual number of bids which were received by the AGD.

In light of the foregoing, the OCG is of the considered opinion that the process which was employed by the AGD was irregular and has compromised the level of transparency with which same was administered.

6. The OCG has concluded that only three (3) of the five (5) proposals were submitted to the Procurement Committee for its review. The OCG found that the proposals which were



allegedly submitted by 'Jamaica Electrical Technologies Limited' and '755- PBXS' were the two (2) proposals which were not submitted to the Procurement Committee for review.

Based upon the inability of the AGD to provide any substantive justification for the exclusion of the referenced proposals, the OCG is of the considered opinion that the award process was discriminatory and raises serious questions as to the merit of the award of contract to Syncon Technologies Limited.

7. The OCG has found that the three (3) Proposals which were respectively submitted by Cable and Wireless Jamaica Limited, Compumart Jamaica Limited and Syncon Technologies Limited, were initially reviewed and evaluated by Ms. Dennese Smith and Ms. Millicent Hughes, prior to being submitted to the Procurement Committee for its review.

It is the considered view of the OCG that the foregoing actions which were carried out by Ms. Millicent Hughes and Ms. Dennese Smith, in their conduct of independent evaluations of the proposals, prior to the evaluation of same by the Procurement Committee, impeded the ability of the Procurement Committee to objectively and independently provide its endorsement of the recommendation to award the contract.

8. The OCG found that an Evaluation Matrix was submitted to the Procurement Committee, by the Accountant General, under the cover of a Memorandum which was dated 2007 February 27, and which was used as the basis upon which the Procurement Committee reviewed the proposals and provided its endorsement of Syncon Technologies Limited for the award of the contract.

Having regard to the foregoing, the OCG concludes that the Accountant General had imposed her judgment and decision upon the Procurement Committee for the recommendation to award the contract to Syncon Technologies Limited.



Noteworthy, is the fact that the OCG has seen no evidence which indicates that the responsibilities of the Procurement Committee, as outlined in Section 1.5.2.3 of the GPPH, to “effect [an] objective evaluation [process] with respect to quotations, tenders and requests for proposals” were divested to Ms. Millicent Hughes, the Accountant General, and, as such, her actions were irregular and improper and may have influenced and impeded the Procurement Committee’s ability to objectively decide upon the most suitable service provider.

9. The OCG has concluded that the Accountant General’s presence in the Meeting of the Procurement Committee on 2007 February 27, was inappropriate and improper.

The OCG found that the Procurement Committee was required to deliberate upon the award of the contract for the referenced telephone system, in the presence of the Accountant General, who was reportedly appointed as the “Resource Personnel”, in that particular meeting. The OCG noted that the Accountant General was not a member of the Committee.

The OCG has also noted that although the then applicable procurement guidelines did not expressly prohibit the Head of a Public Body from participating in the deliberations of the Procurement Committee, given the fact that the Accountant General, as the Head of Entity, is the final level of Authority in the approval for the award of contract within the AGD, the practice is considered to be against the principles of good corporate governance.

Based upon the foregoing, and in light of Sub- Section 1.6 of the GPPH 2001, the OCG has concluded that the above mentioned actions of the Accountant General were not in keeping with code of conduct which is expressly provided in the referenced section, in which it is stated that *“Public sector procurement proceedings shall be afforded the highest practicable degrees of objectivity.”*



10. The OCG has concluded that there is no evidence to suggest that there were any standard specifications, eligibility and/or qualification requirements that were issued by the AGD to any of the prospective Bidders, which were to be used in the preparation of their proposals. In point of fact, the OCG's findings, upon a review of the proposals which were submitted and reportedly evaluated by the AGD, indicate that there was no uniformity in the manner in which the proposals were prepared.
11. Notwithstanding the OCG's finding that the Proposals which were submitted to the AGD in respect of the referenced procurement were revised and re-submitted by the respective entities, the OCG has come to the conclusion that there was no direct evidence to substantiate the allegation which was made that the tender document was tailored to suit a specific supplier. In respect of this, the OCG has not evidenced the existence of any tender document and/or written tender specifications which were prepared by the AGD and distributed to the prospective Bidders.

Based upon the OCG's findings that (a) two (2) proposals were submitted by Syncon Technologies Limited which were dated 2006 December 28 and 2007 February 12, (b) there were disparities between certain telephonic features which were proposed and quoted by Syncon Technologies Limited and (c) the absence of an Evaluation Report, the OCG is unable to ascertain which of the two (2) referenced proposals was submitted to the Procurement Committee for its review and approval.

12. Based upon the finding that (a) there was no established tender period, (b) proposals were submitted to the AGD by the prospective Bidders at different intervals, (c) at least two (2) of the proposals were evaluated prior to the AGD's receipt of Syncon Technologies Limited proposal, the OCG has concluded that the procurement process which led to the award of a contract to Syncon Technologies Limited was irregular.



13. In spite of the OCG's finding that the AGD had signed, on 2009 January 15, the second proposal which was submitted by Syncon Technologies Limited, in the form of a "Statement of Works", the OCG has seen no contractual document which was prepared in accordance with the general and specific conditions which were provided for under Section 6.2 of the GPPH (2001 May).

In the foregoing regard, the OCG has concluded that there was no written legally binding contract which detailed the terms and conditions which were agreed upon by the AGD and Syncon Technologies Limited prior to the award of contract. The OCG is, therefore, unable to determine whether Syncon Technologies Limited failed to execute any contractually agreed terms for the supply of the referenced telephone system.

Further to same, the OCG notes that the 'Statement of Works' was, on the face of it, prepared by the Contractor and, therefore, could not be substituted in any way or form for a properly constituted contract document, in the prescribed form, expressing the terms and conditions which are to be honoured by the Public Body and the Contractor for the supply of the telephone system.

In the foregoing regard, the abovementioned actions and inactions of the AGD and, in particular, the Accountant General were improper, irregular and inappropriate as they circumvented the process as defined by the then GOJ Procurement Guidelines and ran counter to the principles of good corporate governance.

14. The OCG has concluded that the AGD contravened Section 29 of the Contractor General Act in its failure to report, via its Quarterly Contract Awards Report, the referenced award of a contract to Syncon Technologies Limited.



15. The OCG has concluded, based upon the compendium of facts, that the total sum which was paid to Syncon Technologies Limited, for the provision of the telephone system, inclusive of interest charges, amounted to approximately J\$6,695,660.60.

It is instructive to note, that the initial proposed cost by Syncon Technologies Limited was in the amount of \$3,983,886.76.

16. The OCG has concluded that the AGD did not obtain value for money in the award of contract to Syncon Technologies Limited, based upon the following:

- i. The failure on the part of the AGD to formally establish and document its needs;
- ii. The fact that payments were made for ‘additional services’ which were based upon further demands of the AGD for ‘certain’ telephonic features;
- iii. The delays in making payment to Syncon Technologies Limited, resulted in interest charges amounting to \$2,000,000.00, which caused an estimated 30% increase in the proposed cost for the telephone system; and
- iv. The overall failure of the AGD to adhere to the provisions of the then applicable GPPH.

In point of fact, the OCG’s findings have unearthed that, based upon the proposals which were reportedly evaluated by the AGD, namely: Cable and Wireless Jamaica, Syncon Technologies Limited and Compumart Jamaica Limited, the bid price which was submitted by Cable and Wireless Jamaica Limited, in the amount of J\$3,641,370.08, was the lowest proposed cost.



17. Notwithstanding the flagrant breaches of the Government Procurement guidelines and the lack of objectivity and equity which has marred the referenced procurement, the OCG has found no evidence to indicate that any Public Officer of the AGD, who was involved in the procurement exercise held any pecuniary and/or undisclosed interest in the company Syncon Technologies Limited.

Referrals

The OCG, in the conduct of its Investigation, is required to be guided by Section 21 of the Contractor General Act.

Section 21 of the Contractor General Act provides as follows:

“If a Contractor-General finds, during the course of his Investigations or on the conclusion thereof that there is evidence of a breach of duty or misconduct or criminal offence on the part of an officer or member of a public body, he shall refer the matter to the person or persons competent to take such disciplinary or other proceeding as may be appropriate against that officer or member and in all such cases shall lay a special report before Parliament.”⁷ (OCG Emphasis)

1. Having regard to those of the Findings and Conclusions and concerns of the OCG which have been set out herein and, having regard, in particular, to, *inter alia*, (a) the significant governance deficiencies which have been identified in the operation and management of procurement at the AGD, inclusive of the highly irregular contract award, by the entity, to Syncon Technologies Limited; (b) the AGD’s flagrant breaches of the GPPH (2001 May) and the Contractor General Act; (c) the absence of transparency, merit and objectivity in the AGD’s award of the subject contract to Syncon Technologies Limited; (d) the absence of appropriate or satisfactory documentation to substantially evidence the

⁷ Contractor General Act. 1983



process which led to the award of the subject contract to Syncon Technologies Limited; (e) the failure of the AGD to consummate a written contract prior to the award and execution of the contract (f) the subjective means by which contractors were invited to participate in the procurement opportunity (g) the independent evaluations which were carried out by the Accountant General, Ms Millicent Hughes and the then Director of Financial Information Systems, Ms. Dennese Smith and (e) the undue influence and interference which the Procurement Committee was subjected to as a result of the Accountant General's recommendation, prior to its own evaluation; the matter is one which, pursuant to the mandatory statutory obligations which are imposed upon a Contractor General by Section 21 of the Contractor General Act, warrants the immediate attention of the Auditor General, and the Financial Secretary, on the basis that there is evidence which is recorded herein which would suggest that there was a breach of duty on the part of the Accountable Officer, and/or on the part of one or more Public Officers, of the AGD, and that one or more of the said Officers may have contravened, *inter alia*, the provisions of the Financial Administration and Audit Act. The matter is being referred to the Auditor General's Department and the Financial Secretary, particularly, in light of the provisions which are contained in Sections 2, 16, 19, 20, and 24 of the Financial Administration and Audit Act.

2. While the OCG is cognizant of the fact that the Auditor General had initiated and completed an Audit of the AGD and has specifically examined the referenced procurement, the OCG has, however, deemed it prudent to refer the matter in light of the remedial and other related actions which have already been reportedly taken by the AGD with respect to (a) its procurement activities, (b) its management and disbursement of public funds, (c) communications between the Accountant General and the AGD's Procurement Committee, (d) the appointment of a Procurement Officer, (e) the conduct of Procurement workshops and (f) sensitization of procurement officers with the upgraded procurement guidelines.



The OCG is also making this Referral to the Auditor General's Department and the Financial Secretary for them (a) to take such follow-up action as either or both of them may deem to be appropriate having regard to all of the circumstances of the matter and, (b) to conduct a follow-up assessment of the procurement activities of the AGD with a view to ensuring that the Department becomes compliant with the current and applicable GOJ Policy and Accounting Procedures.

3. In light of the questions and concerns which were raised by the PAC regarding the matter which is the subject of this OCG Investigation, and the Findings, Conclusions and concerns which have been detailed herein, the OCG is also hereby formally referring a copy of this Report to the Chairman of the PAC to facilitate any further action which the PAC might, in its discretion, deem to be appropriate in this matter.
4. Having regard to the failure of the AGD to report the award of the referenced contract to the OCG, by way of its QCA Reports, the OCG is hereby referring a copy of its Report of Investigation to the Office of the Director of Public Prosecutions (ODPP) for such action as the ODPP may deem to be applicable, against the Accountable Officer of the AGD, Ms. Millicent Hughes, for her failure to comply with a lawful requisition of a Contractor General, contrary to the provisions of Section 29 (b) (ii) of the Contractor General Act.

Recommendations

Section 20 (1) of the Contractor General Act mandates that *“after conducting an Investigation under this Act, a Contractor-General shall, in writing, inform the principal officer of the public body concerned and the Minister having responsibility therefore of the result of that Investigation and make such Recommendations as he considers necessary in respect of the matter which was investigated.”* (OCG's Emphasis)

Having regard to the foregoing, the OCG now posits the following recommendations:



1. The OCG has found that there were several breaches of the procurement guidelines, by the AGD, specifically during the period of 2006 to 2007. The procurement breaches which have been identified include, *inter alia*, (a) the failure to consummate a legitimate written contract prior to the execution of a contract, (b) the failure to draft tender specifications and the failure to prepare a Tender Document/RFQ in the solicitation of bids, (c) the failure to prepare a Tender Evaluation Report, (d) the failure to utilize evaluation criteria in accordance with the then applicable GPPH (2001 May) and (e) the failure to strictly adhere to the procedures for the Limited Tender Procurement Methodology as articulated in the then applicable GPPH (2001 May).

While there are breaches, which have been identified herein, it should be noted that the then applicable rules, which were contained in the GPPH (2001 May), did not impose any criminal sanctions for breaches of the GPPH. In point of fact, criminal sanctions for breaches of the Government Procurement Rules were not imposed until 2008 December 12, effective with the promulgation of the 2008 Public Sector Procurement Regulations.

The OCG recognizes that the AGD, as asserted by its Accounting Officer, Ms. Millicent Hughes, by way of a letter which was dated 2009 April 8, has since taken steps to remedy some of the defects in its operations. Nonetheless, in the circumstances, the OCG feels compelled to recommend that the Accounting and Accountable Officers of the AGD should ensure scrupulous compliance with the Handbook of Public Sector Procurement Procedures (2010 October) which came into effect on 2011 January 2, particularly with respect to the following matters:

- (a) Enforcing and administering the mandate, roles and responsibilities of the Procurement Committee and, in particular, the constitution of the said Committee, the oversight which it provides to the evaluation of tenders, and the proper maintenance of procurement records, in light of the provisions which are stipulated under Sections 2.2.5 and 2.2.5.1, Volume 1 of 4 of the RHPP;



- (b) Promoting the utilization of competent and specialized personnel with adequate knowledge and training in procurement as is mandated under Section 2.3, Volume 1 of 4 of the RHPP;
- (c) Observing and conforming to the provisions which govern the utilization of the Limited Tender Procurement Methodology as is laid out in Section 1.1.3 Volume 2 of 4 of the RHPP;
- (d) Recognizing the responsibility of the Procuring Entity in preparing and communicating Tender Specifications and Requirements, which the bidder must fulfill in order demonstrate the ability to meet the standard required to execute the contract, in keeping with Section 1.3 Volume 2 of 4 of the RHPP;
- (e) Observing the provisions which highlight the eligibility and qualification requirements which ought to be satisfied to validate the participation of a contractor in the GOJ procurement process, which are detailed in Section 1.3.1 of Volume 2 of 4 of the RHPP;
- (f) Observing and conforming to the provisions which govern the timely execution of the tender process and the award and signing of a contract which is detailed in Appendix A8.17 and A8. 14 Volumes 2 of 4 of the RHPP;
- (g) Observing and conforming to the provisions which govern the preparation and submission of a Tender Report, disclosing the invitation for bids; the tender submission, the tender opening and the tender evaluation;
- (h) Recognizing the oversight and functional responsibilities of, *inter alia*, the OCG, the NCC, the AGD's Procurement Committee and its Accounting and Accountable Officers, pursuant, *inter alia*, to Section 2 of Volume 1 of 4 of the RHHP, and adhering to the requirements thereof; and



- (i) Promoting competition in the procurement process, whilst ensuring that AGD procurement opportunities are open to all appropriately registered and qualified contractors, in conformance with the requirements which are detailed in Section 1.1.2 of Volume 2 of 4 of the RHPP.
2. The OCG recommends that in instances where a Public Body has identified that there is a breach of the procurement procedures, the responsible Agency should seek to remedy the said breach in an expeditious and effective manner as opposed to continuing the implementation of the project in violation of the applicable GOJ Public Sector Procurement Procedures, the Regulations and/or other governing laws.
3. It is recommended that an immediate review of the accounting, procurement and public administration management practices at the AGD be undertaken by the Public Administration and Appropriations Committee of the House of Representatives, the Auditor General and the MOFPS.
4. The OCG recommends that the Procurement Committees of Public Bodies should be insulated from the direction and influence of management and/or the Boards of Public Bodies, as it regards the objective and impartial discharge of those of their responsibilities which are prescribed by the Government of Jamaica Procurement Guidelines.

Further, the OCG must recommend that the Ministry of Finance, in the drafting of the Government of Jamaica's Procurement Guidelines, and attendant Circulars, should consider and implement punitive and administrative sanctions against any Public Officer and/or Official who interferes with and/or attempts to instruct an Evaluation Committee and/or a Procurement Committee to act in a manner which would bring the procurement process into disrepute.



5. It is recommended that the AGD, if it has not yet done so, revamps its Procurement Committee, and undertake initiatives to ensure that the members of same become sufficiently knowledgeable with the procurement Regulations which are denoted in the now applicable Handbook of Public Sector Procurement Procedures 2010, October.
6. The OCG strongly recommends that procuring entities should plan their procurement activities in accordance with the Procurement Cycle, inclusive of the employment and application of an approved Procurement Plan. In this regard, contracts which are to be awarded should be properly packaged, tendered, evaluated and awarded within a specified timeframe hence removing the need, *inter alia*, to apply any undue haste to the procurement process.
7. The OCG strongly recommends that the Accounting and Accountable Officers of the AGD should be more proactive in the procurement activities of Public Bodies and ensure that contracts which are awarded are done so in a manner which is consistent with the full application of the Procurement Guidelines and must be, and appear to be, awarded fairly, impartially and without any form of irregularity and/or impropriety, pursuant to Section 4 of the Contractor General Act.
8. The OCG recommends that the AGD implements an effective and efficient records keeping/filing system which will address the entity's inefficiencies in maintaining proper documentation. This will further facilitate greater levels of transparency in the entity's use of public funds and public administration.
9. It is recommended that frequent compliance reviews of the accounting, procurement and public administration management practices at the AGD be undertaken by the Public Administration and Appropriations Committee of the House of Representatives, the Auditor General and the Ministry of Finance and the Public Service.



10. The OCG recommends that in accordance with, *inter alia*, the Public Bodies Management and Accountability Act and the Financial Administration and Audit Act, the Cabinet, Accounting and Accountable Officers and Members of the Board of Directors of Public Bodies, should, at all times, ensure that the principles of good corporate governance are adhered to and promoted within the Public Sector.

In this regard, the OCG is of the considered opinion that within the respective organizations of the Public Sector, there should be adequate checks and balances mechanisms which are designed to promote transparency, integrity and probity in the management and administration of the affairs of the State.

11. Finally, the OCG is recommending that Public Officers and/or Officials, who are engaged by the GOJ, adhere to the strictest practices of professional ethics and conduct whilst in the employ of the GOJ and its agencies.



TERMS OF REFERENCE

Primary Objectives

The primary objectives of the OCG's Investigation into the circumstances surrounding the award of a contract to Syncon Technologies Limited for the supply and installation of a telephone system were to determine, *inter alia*, the following:

1. Whether there was compliance, on the part of the Accountant General's Department (AGD), with the provisions of the Contractor General Act (1983) and the then applicable GPPH (2001, May).
2. The merits of the allegation, which have been made, that the tender specifications and other relevant tender documents were doctored to suit the award of the contract to Syncon Technologies Limited.
3. The propriety of the process which was undertaken by the AGD in the procurement and installation of the referenced telephone system.
4. The role, involvement and/or affiliation, if any, of the Accountant General, Director of Procurement and/or any Officials/Officers of the AGD, in the award of the contract to Syncon Technologies Limited, for the supply and installation of a telephone system.

Specific Objectives

The specific objectives were:

1. To determine whether there was evidence to suggest that alterations were made to any technical specification documents for the procurement of a telephone system, which led to the unfair award of a contract to Syncon Technologies Limited.



2. To determine whether any official who is/was directly involved in the referenced procurement has/had any pecuniary and/or undisclosed interest in Syncon Technologies Limited.
3. To identify the procurement and contract award process which was utilized by the AGD, or by anyone acting on its behalf, which led to the award of a contract to Syncon Technologies Limited, for the supply and installation of a telephone system.
4. To ascertain whether there were breaches of the then applicable GPPH (2001, May) on the part of any official at the AGD and/or anyone acting on their behalf, in the award of the contract to Syncon Technologies Limited.
5. To ascertain whether the contract award process was fair, impartial, transparent, and devoid of irregularity and/or impropriety.
6. To ascertain whether there was any *prima facie* evidence which would suggest impropriety on the part of the Accountant General and/or anyone acting on behalf of the AGD, which contributed to the award of a contract to Syncon Technologies Limited.
7. To determine whether the proposal which was submitted by Syncon Technologies Limited reflected value for money.
8. To determine whether there may have been a conflict of interest situation and/or unethical conduct on the part of the Accountant General and/or any other officer of the AGD who was involved in the award of the contract.



METHODOLOGY

The OCG, in the conduct of its Investigations, has developed standard procedures for evidence gathering. These procedures have been developed and adopted pursuant to the powers which are conferred upon a Contractor General by the Contractor General Act (1983).

It is instructive to note that Section 17 (1) of the Contractor General Act empowers a Contractor General *“to adopt whatever procedure he considers appropriate to the circumstances of a particular case and, subject to the provisions of (the) Act, to obtain information from such person and in such manner and make such enquiries as he thinks fit.”* (OCG Emphasis).

The Terms of Reference of the OCG’s Investigation into the circumstances surrounding the award of a contract by the Accountant General’s Department (AGD) to Syncon Technologies Limited, for the supply and installation of a telephone system in 2007, were primarily developed in accordance with those of the mandates of the Contractor General as are stipulated in Section 4 (1) and Section 15 (1) (a) to (d) of the Contractor General Act.

The Terms of Reference of the Investigation, and the development of the written Requisitions/Questionnaires that were utilized throughout the course of the Investigation, were guided by the OCG’s recognition of the far-reaching responsibilities and requirements that are imposed, *inter alia*, upon Public Officials and Public Officers by the applicable Government Procurement Procedures, the Contractor General Act, the Financial Administration and Audit Act (FAA Act), the Public Bodies Management and Accountability Act and the Corruption Prevention Act.

In addition, the OCG was guided by Section 21 of the Contractor General Act which provides that *“If a Contractor-General finds, during the course of his Investigations or on the conclusion thereof that there is evidence of a breach of duty or misconduct or criminal offence on the part of an officer or member of a public body, he shall refer the matter to the person or*



persons competent to take such disciplinary or other proceeding as may be appropriate against that officer or member and in all such cases shall lay a special report before Parliament.”

(OCG Emphasis)

A letter of initiation, which was dated 2010 March 15, was sent by the OCG to Mr. Audley Shaw, the then Minister of Finance and the Public Service, Dr. Wesley Hughes, Financial Secretary, Ministry of Finance and the Public Service and Ms. Millicent Hughes, Accountant General, AGD.

A subsequent Media Release, which was dated 2010 March 15, was sent to members of the media and, by extension, the public, outlining the allegations which were made and the OCG’s decision to formally launch an Investigation into the foregoing circumstances.

A Requisition/Questionnaire was also directed on 2010 March 15, to Mr. Michael Maragh, then Director of Finance, AGD, Ms. Millicent Hughes Accountant General, AGD, Mrs. Rose McKay, Deputy Accountant General, AGD, Ms. Dennese Smith, Network Administrator, AGD, Ms. Arlene Reynolds, External Auditor, Auditor General’s Department, and Mr. Edison Williams, Director of Salaries, AGD.

Additionally, Requisitions/Questionnaire were sent to Mrs. Maria Clarke-Proute, Deputy Accountant General, AGD, Mr. Kelvin Donaldson, Director –Revenue Management, AGD, Mr. Rhoan Collins, Office Manager, AGD, Joseph Jengelly, Chief Internal Auditor, AGD, Mr. Patrick Beecher, Director- Foreign Debt, AGD, Mr. Leo Johnson, Director-Consolidated Fund, AGD, and Mr. Dudley Johnson, Managing Director, Syncon Technologies Limited.

A follow-up Requisition was also sent to Ms. Millicent Hughes, Accountant General, on 2010 July 13.



The Requisitions/Questions which were utilised by the OCG included specific questions that were designed to elucidate critical information from Respondents on the matters which were being investigated.

However, in an effort to not limit and/or exclude the disclosure of information which was germane to the Investigation but which might not have been specifically requisitioned by the OCG, the OCG asked all Respondents the following question:

“Are you aware of any additional information which you believe could prove useful to this Investigation or is there any further statement in regard to the Investigation which you are desirous of placing on record? If yes, please provide full particulars of same.”

Very importantly, the form of written Requisition, which was utilised by the OCG, also required each Respondent to provide, under the pain of criminal prosecution, complete, accurate and truthful written answers to a specified list of written questions and to make a formal declaration attesting to the veracity of same before a Justice of the Peace.

The Requisitions were issued pursuant to the powers that are reserved to the Contractor General under the Contractor General Act and, in particular, under Sections 4, 15, 17, 18 and 29 thereof. The Requisitions were also issued pursuant to Sections 2 and 7 of the Voluntary Declarations Act and Section 8 of the Perjury Act.

It is instructive to note that **Section 18 (2) of the Contractor-General Act** provides that *“Subject as aforesaid, a Contractor-General **may summon before him and examine on oath** –*

a. any person who has made representations to him; or



- b. any officer, member or employee of a public body or any other person who, in the opinion of the, Contractor-General is able to furnish information relating to the Investigation,

and such examination shall be deemed to be a judicial proceeding within the meaning of section 4 of the Perjury Act.” (OCG Emphasis)

Further, **Section 18 (3) of the Contractor-General Act** provides that, **“For the purposes of an Investigation under this Act, a Contractor-General shall have the same powers as a Judge of the Supreme Court in respect of the attendance and examination of witnesses and the production of documents”**. (OCG Emphasis)

Section 2 (1) of the Voluntary Declarations Act provides that, *“In any case when by any statute made or to be made, any oath or affidavit might, but for the passing of this Act, be required to be taken or made by any person or persons on the doing of any act, matter, or thing, or for the purpose of verifying any book, entry, or return, or for any other purpose **whatsoever, it shall be lawful to substitute a declaration in lieu thereof before any Justice; and every such Justice is hereby empowered to take and subscribe the same.**”* (OCG Emphasis)

Section 7 of the Voluntary Declarations Act provides that, *“In all cases when a declaration in lieu of an oath or affidavit shall have been substituted by this Act, or by virtue of any power or authority hereby given, or when a declaration is directed or authorized to be made and subscribed under the authority of this Act, or of any power hereby given, although the same be not substituted in lieu of an oath, heretofore legally taken, such declaration, unless otherwise directed under the powers hereby given, shall be in the form prescribed in the Schedule.”*

Section 8 of the Perjury Act provides, *inter alia*, that, *“Every person who knowingly and willfully makes (otherwise than on oath) a statement false in a material particular and the statement is made-*



(a) in a voluntary declaration; or

(b) in any oral declaration or oral answer which he is required to make by, under, or in pursuance of any enactment for the time being in force, shall be guilty of a misdemeanour, and liable on conviction on indictment thereof to imprisonment with hard labour for any term not exceeding two years, or to a fine, or to both such imprisonment and fine”.

The material import of the foregoing, *inter alia*, is that the sworn and written evidence that is provided to a Contractor General, in response to his Statutory Requisitions, during the course of his Investigations, is (a) provided in accordance with certain specified provisions of the Statutory Laws of Jamaica, and (b) provided in such a manner that if any part thereof is materially false, the person who has provided same would have, *prima facie*, committed the offence of Perjury under Section 8 of the Perjury Act and, as will be seen, would have also, *prima facie*, committed a criminal offence under Section 29 (a) of the Contractor General Act.

The OCG considers the above-referenced evidence-gathering procedures to be necessary in order to secure, *inter alia*, the integrity and evidentiary cogency of the information which is to be elicited from Respondents. The implications of the subject requirements also serve to place significant gravity upon the responses as well as upon the supporting documents which are required to be provided by Respondents.

It is instructive to note that the OCG, in the conduct of its Investigation, prefers to secure sworn written statements and declarations from Respondents, under the pain of criminal prosecution. This ensures, *inter alia*, that there is no question as to what has been represented to the OCG. Nor will there be any doubt as to the integrity or credibility of the information which is furnished to the OCG and on which its consequential Findings, Conclusions, Referrals and Recommendations will be necessarily based.



The OCG also went to great lengths to ensure that Respondents were adequately and clearly warned or cautioned that should they mislead, resist, obstruct or hinder a Contractor General in the execution of his functions or fail to provide a complete, accurate and truthful response to any of the Requisitions or questions which were set out in its Requisition, they would become liable, *inter alia*, to criminal prosecution under Section 29 of the Contractor General Act.

Section 29 of the Contractor-General Act provides as follows:

“Every person who –

- (a) willfully makes any false statement to mislead or misleads or attempts to mislead a Contractor-General or any other person in the execution of his functions under this Act;*
or
- (b) without lawful justification or excuse –*
 - i. obstructs, hinders or resists a Contractor-General or any other person in the execution of his functions under this Act; or*
 - ii. fails to comply with any lawful requirement of a Contractor General or any other person under this Act; or*
- (c) deals with documents, information or things mentioned in section 24 (1) in a manner inconsistent with his duty under that subsection,*

shall be guilty of an offence and shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment.”

Further, in addition to the **sworn** written answers which the Respondents were required to provide, the OCG also requested that in respect of the assertions and/or information which were to be provided, Respondents should submit documentary evidence to substantiate the statements that were made.



Finally, all Respondents were advised, in writing, of their rights under Section 18 (5) of the Contractor General Act. Section 18 (5) of the Act provides that *“No person shall, for the purpose of an investigation, be compelled to give any evidence or produce any document or thing which he could not be compelled to give or produce in proceedings in any court of law.”*

Requisitions/Questionnaires were directed by the OCG to the Public Officers/Officials who are listed below. In addition, comprehensive reviews of certain relevant information were undertaken by the OCG to assist it in its Investigation. Details of these are also summarized below.

1. The following Public Officials were required to provide sworn written responses to formal Requisitions which were directed to them by the OCG:

- a. Mr. Michael Maragh, then Director of Finance, AGD;
- b. Ms. Millicent Hughes, Accountant General, AGD;
- c. Mrs. Rose McKay, Deputy Accountant General, AGD;
- d. Ms. Dennese Smith, Network Administrator, AGD;
- e. Ms. Arlene Reynolds, External Auditor, Auditor General's Department;
- f. Mr. Edson Williams, Director of Salaries, AGD;
- g. Mrs. Maria Clarke Proute, Deputy Accountant General, AGD;
- h. Mr. Kelvin Donaldson, Director –Revenue Management, AGD;
- i. Mr. Rhoan Collins, Office Manager, AGD;
- j. Mr. Joseph Jengelly, Chief Internal Auditor, AGD;
- k. Mr. Patrick Beecher, Director - Foreign Debt, AGD; and
- l. Mr. Leo Johnson, Director - Consolidated Fund, AGD.

2. A detailed Requisition/Questionnaire was also directed to the following individual:

- a. Mr. Dudley Johnson, Managing Director, Syncon Technologies Limited.



3. A Follow-up Requisition/Questionnaire, requesting clarification on certain issues, was directed by the OCG to the following Public Official:

a. Ms. Millicent Hughes, Accountant General, AGD.

4. The OCG, on 2009 March 30, wrote to the Accountant General, Ms. Millicent Hughes informing her of the OCG's receipt of a report, which asserted allegations of impropriety in the award of a contract for the provision of a telephone system.

In an effort to access the veracity of the allegations, the OCG requested that the Accountant General's Department provide a copy of the following documents:

- a. A copy of the Tender Advertisement or Letter of Invitation;
- b. A copy of the Tender Document;
- c. A copy of the Tender Receival Form;
- d. A copy of the Proposals which were received from the bidders;
- e. A copy of the Tender Evaluation Report, inclusive of the scoring sheet for each Evaluator; and
- f. A copy of the signed Contract.

5. The OCG conducted a review of the Hansard for the Public Accounts Committee (PAC) Meeting, which was held on 2011 March 08, at which Ms. Millicent Hughes, Accountant General, Mrs. Rose McKay, Deputy Accountant General and Mrs. Pamela Munroe-Ellis, Auditor General, among others, were in attendance.

6. The OCG conducted a review of the Auditor General's 2010 Annual Report, which proffered findings relating to breaches in the Procurement Procedures which were revealed at the AGD and other related concerns.



FINDINGS

The Allegations

The Office of the Contractor General's (OCG's) decision to commence the Investigation followed upon the conduct of an OCG Preliminary Enquiry, in which the OCG directed a Requisition to Ms. Millicent Hughes, Accountant General, AGD, on 2009 March 30, and the content of her subsequent response, which was provided to the OCG on 2009 April 8.

It is instructive to note that the OCG's Preliminary Enquiry was initiated following upon its receipt of an anonymous telephone call, which was received on 2009 February 27.

A File Note, which was prepared by the OCG, subsequent to its receipt of the referenced telephone call, revealed, *inter alia*, the following:

*"...the OCG need to look at a contract which was awarded by the Accountant General's Office last year...in relation to the provision of a Telephone System...the matter was serious as it involved management ...tender documents were doctored to suit ...a specific Supplier"*⁸.

The OCG was also prompted to investigate this matter based upon its receipt of the following two (2) separate and highly placed complaints, from concerned individuals, who have requested to remain anonymous.

The OCG's internal File Note of a telephone call, which was received on 2010 March 9, detailed, *inter alia*, the following:

1. That the original contract/tender was fragmented;

⁸ OCG's File Note dated February 27, 2009



2. That after bids were received, the specifications in the Tender Document were amended, allegedly by the Accountant General;
3. That the AGD reduced the specifications to lower cost, so that a Bidder who had quoted a lower figure would win the tender;
4. That 'LIME' submitted the most comprehensive proposal;
5. That the AGD now wants to vary the contract to include the specifications that were previously submitted;
6. That the OCG pay specific attention to the source documents, request the original specifications and query why it was revised;
7. That persons were placed under pressure to sign off on payments and were re-assigned for failure to sign off on the said payments;
8. That the Accountant General and the 'Head of the Procurement Committee' at the AGD were persons of interest; and
9. That the 'Head of the AGD' was the person who revised the specifications and, hence, the decision could not have been contested.

The OCG also received a letter from a Senior Official of the AGD, which was dated 2010 September 10, which alleged, *inter alia*, the following:

*"It is with deep regret that I bring to your attention the Accountant General Department outright refusal to follow GOJ guidelines and exercise of due care, prudence and transparency..."*⁹

The OCG noted that the complainant alleged several instances of irregularity which were observed during the procurement process of the referenced telephone system by the AGD.

The allegations and comments which were expressed by the three (3) independent sources raised concerns which would suggest, *inter alia*, that the procurement and contract management

⁹ Letter from Senior Officer at the AGD 2010 September 10.



practices of the AGD may have been, or are, irregular, improper and/or lacking in transparency and fairness and that the above referenced Government contract might not have been awarded in accordance with the relevant provisions of the Contractor General Act and/or the relevant Government Procurement Procedures.



The OCG's Preliminary Enquiry

In an effort to verify the veracity of the allegations of impropriety and irregularity in the award of the referenced contract, and in keeping with the OCG's internal procedures, the OCG wrote to Ms. Millicent Hughes, Accountant General, on 2009 March 30, requesting the following documents:

1. A copy of the Tender Advertisement and/or the Letter of Initiation;
2. A copy of the Tender Document;
3. A copy of the Tender Receival Form;
4. A copy of all the Proposals which were received from bidders who expressed an interest in the referenced procurement;
5. A copy of the Tender Evaluation Report, inclusive of the scoring sheet which was completed by each Evaluator; and
6. A copy of the signed contract.

The OCG also requested that the Accountant General provide an Executive Summary detailing any exceptions which may have arisen during the conduct of the said procurement process.

By way of a letter which was dated 2009 April 8, Ms. Millicent Hughes, Accountant General, AGD, stated, *inter alia*, as follows;

"The method used was limited tender and the proposals were solicited by telephone...The submission to the Procurement Committee was based on the criteria as defined in the evaluation matrix ... A working copy has been submitted as the minutes of the Procurement Meeting and the accompanying documentation have not been provided..." It should be noted that the decision(s) of the Committee would have been



*communicated directly to Office Management...No contract was issued as required.*¹⁰(OCG Emphasis)

In addition, Ms. Millicent Hughes, under cover of the referenced letter, submitted to the OCG a copy of the proposals which were received from the following entities:

1. Cable & Wireless Jamaica Limited, which was dated 2006 November 24;
2. Compumart Jamaica Limited, which was dated 2006 July 28; and
3. Syncon Technologies Limited, which was dated 2006 December 28.

In addition to the proposals which are listed above, the Accountant General revealed that a Proposal was received from two (2) other companies, namely; ‘Jamaica Electrical Technologies Limited’ and ‘755-PBXS’.

With respect to the above stated Proposals which were received from ‘Jamaica Electrical Technologies Limited’ and ‘755-PBXS’, Ms. Hughes stated, *inter alia*, as follows:

*“... these companies were not short listed, and no copies of the proposals are on the file. The only record of these proposals is in email form from the Director IT.”*¹¹

It is instructive to note that Ms. Millicent Hughes presented the OCG with a copy of the referenced ‘*email form*’ which was dated 2006 November 9, in which an Evaluation Matrix was attached that compared only four (4) of the named entities which had submitted a proposal and that were comparatively reviewed and/or evaluated by the AGD. The referenced Matrix compared proposals which were submitted by Cable & Wireless Jamaica Limited, Compumart Jamaica Limited, ‘Jamaica Electrical Technologies Limited’ and ‘755-PBXS’.

¹⁰ Letter dated 2009 April 8, which was received from Ms. Millicent Hughes, by the OCG, on 2009 April 15.

¹¹ Letter dated 2009 April 8, which was received from Ms. Millicent Hughes, by the OCG, on 2009 April 15.



In point of fact, the OCG found that a proposal had not yet been submitted by Syncon Technologies Limited for the referenced telephone system.

In respect of the documents which were requested of the AGD, by way of the OCG's Statutory Requisition which was dated 2009 March 30, to the Accountant General, Ms. Hughes, in her response of 2009 April 8, failed to submit to the OCG, the requested Tender Advertisement, Tender Document, the Tender Receival Form and the scoring sheets which should have been completed by each Evaluator during the evaluation of the proposals.

During the conduct of its Preliminary Enquiry, Ms. Millicent Hughes, in the above referenced response, informed the OCG of the following:

"The Accountant General's Department (AGD) was without a switchboard for the period 2006 September to 2008 January. During this period there was a severe strain on our operations and person had difficulty assessing the Department ...

When the switchboard was inoperative, attempts were first made to rent a system in the short term. These efforts proved unsuccessful, even from Cable and Wireless from whom the previous system had been rented. The Director Information Technology was asked to solicit quotations for a new system.

In 2007, when the award was done, the practices in relation to Procurement were not as refined as they are currently, as is reflected in the updated Handbook on Procurement.¹²(OCG Emphasis)

The Accountant General, in the above referenced letter, also disclosed the following 'exceptions' which were applied by the AGD during the course of the referenced procurement:

¹² Letter dated 2009 April 8, which was received by the OCG, from Ms. Millicent Hughes.



“The exceptions which arose during the conduct of the process were as follows...

1. **The method used was limited tender and the proposals were solicited by telephone and email.**
2. *The composition of the Procurement Committee in February 2007 was as follows:*

<i>Mrs. Maria Clark Proute</i>	<i>Deputy Accountant General – Chairman</i>
<i>Mrs. Rose P. McKay</i>	<i>Deputy Accountant General</i>
<i>Mr. Kelvin Donaldson</i>	<i>Director – Revenue Management</i>
<i>Mr. Leo Johnson</i>	<i>Director – Consolidated Fund</i>
<i>Mr. Edson Williams</i>	<i>Director – Accounts</i>
<i>Mr. Patrick Beecher</i>	<i>Director – Foreign Debt</i>
<i>Mr. Joseph Jengelly</i>	<i>Chief Internal Auditor (ex-officio)”¹³</i>

The Accountant General also stated that she was “...**verbally advised that the decision of the Procurement Committee was to award the contract to Syncon Technologies Limited. This was communicated to the company by letter dated 2007 March 6.**”¹⁴(OCG Emphasis)

The Accountant General indicated that the “... *company communicated its acknowledgement of the acceptance of its proposal **and also agreed to a 40% deposit instead of the 50% originally quoted in the proposal** ...This deposit was paid on 2007 March 30 ...and the telephones were received on 2007 June 25...*”¹⁵ (OCG Emphasis)

Further, Ms. Millicent Hughes, Accountant General, indicated in the above referenced letter the following:

“Installation of the system was delayed as a result of:

¹³ Letter dated 2009 April 8, which was received by the OCG, from Ms. Millicent Hughes.

¹⁴ Letter dated 2009 April 8, which was received by the OCG, from Ms. Millicent Hughes.

¹⁵ Letter dated 2009 April 8, which was received by the OCG, from Ms. Millicent Hughes.



- i. *The requirement for specific approval by the US government for the software based on the level of encryption and that its ultimate destination was a Government entity.*

Final approval was received from the Attorney General with respect to contract, in August and this was then communicated to Syncon by letter dated 2007 August 13...By way of letter dated 2007 December 4...we were advised of the receipt of license and the applicable conditions.

- ii. *...The Attorney General and Cable & Wireless came to final agreement on the conditions in September as advised by letter dated 2007 September 18 from Cable and Wireless. **The contract was signed and returned on the 19th instant...the signed contract was received 2008 February 26...***¹⁶(OCG Emphasis)

In the referenced letter of 2009 April 8, Ms. Millicent Hughes, Accountant General, stated that “On discovery that there was no signed contract, on return from secondment, I took steps to have the situation corrected. **The Statement of Works submitted by the Company in 2007, February was signed on 2009, January 15,** ...having regard to the work which had been undertaken and the Project Completion Certificates issued on 2009 January 15...”¹⁷

Ms. Millicent Hughes, in the above referenced letter, also indicated that she identified a number of deviations and weaknesses in the processes which were employed by the AGD in the undertakings of the referenced procurement. In addition, Ms. Hughes indicated that she sought to highlight the corrective measures and mechanisms which were implemented to counter a replication of same. She stated, *inter alia*, as follows:

¹⁶ Letter dated 2009 April 8, which was received by the OCG from Ms. Millicent Hughes.

¹⁷ Letter dated 2009 April 8, which was received by the OCG from Ms. Millicent Hughes.



“Lack of Communication

The lack of communication between the Procurement Committee and the Accountant General has been addressed by directives to the Chairman that all minutes and/or awards need to be copied to this office.

The Deputy charged with the responsibility of completing and submitting the Quarterly report to the OCG has also been directed to advise the Accountant General by way of a copy of the report submitted.

Appointment of a Procurement Officer

A Procurement Officer has been appointed with the responsibility of ensuring that all procedural steps have been followed.

Internal Procedures

The Deputy with responsibility for Office Management and Accounts has been reminded to ensure strict adherence to the requirements in the FAA instructions and the Government’s Procurement Procedures.

Procurement Workshops

It is expected that there will be training sessions conducted throughout the year to ensure that officers are fully informed about the process and the requirements. The OCG made a presentation to the officers of the Department on 2009 March



Documentation

Each member of the Procurement Committee has been provided with a copy of the updated Procurement Guidelines.”¹⁸

The OCG found, based upon the sworn testimony which was provided by Ms. Millicent Hughes, that there were certain discrepancies and divergences in the subject procurement process that was undertaken by the AGD, inclusive of (a) the failure of the AGD to consummate a written contract with the Contractor prior to the award and execution of the contract, (b) inability of the Accountant General to provide formal records of the proposals which were purportedly submitted by the companies known as ‘755 PBXS’ and ‘Jamaica Electrical Technologies Limited’, and (c) the failure of the AGD to provide the requisite procurement document for the OCG’s review.

Having regard to the foregoing, as well as certain allegations which were also received with respect to the referenced procurement, the OCG found it necessary to launch a formal investigation into the matter.

¹⁸ Letter dated 2009 April 8, which was received by the OCG from Ms. Millicent Hughes.



The Circumstances which led to the Procurement of a PBX Telephone System by the AGD

The OCG, in keeping with the scope of its Investigation, sought to uncover the circumstances which led to or which may have necessitated the procurement of the subject PBX Telephone System by the AGD.

In an effort to ascertain the circumstances and the processes which were employed by the AGD in the pre-contract stages of the referenced procurement, the OCG thought it prudent to requisition relevant officers of the AGD, with respect to the extent of their knowledge of the contract which was awarded to Syncon Technologies Limited for the supply and installation of a PBX Telephone System.

Having regard to the foregoing, by way of a Statutory Requisition, which was dated 2010 March 15, the OCG requested that Mrs. Rose McKay, Deputy Accountant General, AGD, respond to the following question:

“What is the extent of your knowledge of the contract(s) which was/were awarded to Syncon Technologies Ltd, by the Accountant General’s Department (AGD), for the supply and installation of a telephone system? Please provide a comprehensive statement to this question and provide documentary evidence, where possible, to substantiate your assertion/responses”¹⁹.

In her response, which was dated 2010 April 12, Mrs. Rose McKay stated, *inter alia*, as follows:

“The need for a switchboard arose because the existing one had become inoperative and was hampering the operations of the Department. This situation was discussed in our senior management meetings and the decision was taken to procure a new telephone system.

¹⁹ Office of the Contractor General Requisition, dated 2010 March 15, which was sent to Mrs. Rose McKay, Question #1.



The procurement of the telephone system was handled mainly by the Accountant General. The sourcing of the quotations included the Director, Financial Information System. The Director, Financial Information System wanted to seek assistance from Ministry of Finance to develop the specifications as she felt that she did not have the competence to do so. However the Accountant General objected to her requesting such assistance. There were occasions when the Director, Financial Information System and the Accountant General argued about this matter in senior management meetings. The Accountant General, Miss Millicent Hughes, told Miss Dennese Smith, Director, Financial Information System, that quotations should be obtained from suppliers and a selection made.

The three quotations, an evaluation matrix, and a memorandum recommending Syncon Technologies Limited, came to the procurement committee meeting from the Accountant General. The Accountant General, Miss Millicent Hughes was in attendance at the procurement committee meeting and indicated that she would chair but the Internal Auditor said that since the chairperson was present, she (the chair person) should chair and the Accountant General should be the resource person. The chairperson, Mrs. Maria Clark Proute merely started the meeting and handed over to the Accountant General who guided the meeting and as recommended, Syncon Technologies was selected.

All contacts with the supplier were made either by the Accountant General, Miss Millicent Hughes or the (sic) Miss Dennese Smith the Director, Financial Information System. Hence the Human Resource and Administration Department did not handle the process. The offer letter was issued by the Accountant General, a function that is normally performed by the Human Resource and Administration Department”²⁰. (OCG Emphasis)

²⁰ Letter dated 2010 April 12, which was received by the OCG from Mrs. Rose McKay. Response #1



The above stated account of the circumstances surrounding the award of the referenced contract, which was provided by the Deputy Accountant General, Mrs. Rose McKay was also corroborated by Mr. Edson Williams, Director of Salaries, AGD, in his response to an OCG Statutory Requisition, which was dated 2010 April 12. Mr. Williams stated, *inter alia*, as follows:

“Sometime in 2006 the telephone system for the accountant generals dept became disabled. The dept then embarked upon sourcing a new system to fulfill its needs three bidders were subsequently identified after several altercation between the director of information service and the accountant general during the departments monthly senior staff meetings. the director of information service was contending that she was not technically competent to deal with the issues involved, and insisted that the ministry of finance and fiscal services should be contacted and be involved in the whole process. she also stated that she was sure that they could provide the necessary expertise that was required. the accountant general disagreed, stating that we(department)don’t need to go such a route.

Subsequently a memorandum d/d 27/02/07accompanied by a pbx evaluation matrix was sent to the procurement committee which among other things conveyed a recommendation for syncon to be awarded the contract for the pbx system. During the subsequent deliberation meeting following the receipt of the memorandum the accountant general expressed her intention to chair the evaluation process. This however was objected to and she eventually ended up acting as “the resource person” taking the committee members through the process of the merits of what syncon technologies ltd proposed to establish for use by the department. Syncon technologies ltd were eventually awarded the contract and were so advised by the accountant general



by way of letter d/d 06/03/07...addressed to the managing director of syncon mr Dudley Johnson.”²¹ (OCG Emphasis)

In response to the foregoing question, which was also posed by the OCG, in its Statutory Requisition of 2010 March 15, to Ms. Dennese Smith, Network Administrator and the then Director of Financial Information Systems, AGD, which was dated 2010 March 30, Ms. Smith stated, *inter alia*, as follows:

“At the time the contract was awarded, I was the Director, Financial Information Systems. The discussions surrounding the acquisition of a new system, started in senior staff meetings, as early as June 2005 after the PBX system, went down. We had two options;

- *Apply to the Ministry of Finance and Planning to sole source or*
- *Secure proposals from companies offering the service.*

The decision to go with option 2, was taken by the Department as early as July 2006. I suggested that we seek the involvement of Fiscal Services and the Ministry of Finance and Planning to assist with the process, as in my opinion the level of expertise required to do the selection was non-existent in the Department. This suggestion was not supported by the Accountant General, Millicent Hughes.

I was required to solicit quotations from prospective bidders, communication was made via email and telephone. The companies contacted were, Cable and Wireless, Syncon Technologies, Compumart and 755-PBX. (there might have been another but I cannot recall just now). I invited the companies to visit the Department and look at our infrastructure, with a view to seeing how they could satisfy our needs, which was communicated both verbally and via emails. Discussions with the prospective suppliers

²¹ Response which was received from Mr. Edson Williams, Director of Salaries AGD, which was dated 2010 April 12. Response #1.



involved the Accountant General, myself and the Assistant office manager, Mr. Rhoan Collins.

The bids to be evaluated were received from Cable and Wireless, Sycon Technologies, 755-PBXS and Compumart. I started doing the evaluation, but this process was taken over by the Accountant General who expressed her dissatisfaction that I intended to offer Cable and Wireless the contract for the supply and installation of the telephone system, in a meeting I had with her in her office (can't recall exact date). My reasons for opting for Cable and Wireless as given to the AG verbally were;

- the Department's structured cabling was done by Cable and Wireless,
- C & W had the best price
- I felt C & W's proposed solution was appropriate for the Dept and
- Anyone who won the award, would have to interface with Cable and Wireless.

The AG on the other hand, expressed her desire to have Syncon Technologies selected, as, 'they have what she required for the Department, a total voice over internet solution'. She stated, that Cable and Wireless was offering "out-dated technology". As a result of our disagreement, the Accountant General decided to complete the evaluation process and make the recommendation..."²²(OCG Emphasis)

Having regard to the sworn written testimonies which were made to the OCG by officers of the AGD, namely, Mr. Edson Williams, Mrs. Rose McKay and Ms. Dennese Smith, the OCG found, *inter alia*, the following:

1. That the AGD's need for a switchboard arose because the system which was then in existence had become inoperative and hampered the operations of the Department.

²² Response which was received from Ms. Dennese Smith which was dated 2010 March 30. Response #1



2. That the procurement was chiefly handled by Ms. Millicent Hughes, Accountant General, and Ms. Dennese Smith, the Network Administrator and the then Director of Financial Information Systems.
3. That, although the AGD was in receipt of five (5) proposals, only three (3) proposals were submitted to the Procurement Committee for its review.
4. That, in addition to the referenced three (3) proposals, an ‘Evaluation Matrix’, along with a recommendation from the Accountant General for the contract to be awarded to Syncon Technologies Limited, was also submitted to the Procurement Committee.
5. That, Ms. Millicent Hughes, the Accountant General, acted as the ‘Resource Personnel’ at the Procurement Committee meeting in which the procurement of the PBX System was deliberated upon. However, Ms. Hughes informed the OCG that she was “*invited to the meeting to provide general information on how the VIOP would operate*”.²³
6. That a suggestion was made by Ms. Dennese Smith to seek the assistance of the Fiscal Services and the Ministry of Finance and Planning, since, in her expressed opinion, the level of expertise required to do the selection was non-existent at the AGD. Ms. Smith also asserted that the suggestion was not supported by the Accountant General, Ms. Millicent Hughes.

In respect of the foregoing, the OCG has found that the AGD acted in contravention of Section 2.11 of the then applicable GPPH (2001 May), which highlights the reporting requirements of a public body and states, *inter alia*, that the procuring entity apprise the portfolio Ministry of all procurements effected by the entity.

²³ Response from Ms. Millicent Hughes, dated March 30 2010, to the OCG’s Requisition of March 15, 2011.



The OCG has not seen any evidence to indicate that the contract, which was awarded to Syncon Technologies Limited was reported in accordance with the above referenced provision of the GPPH (2001 May).

7. The referenced bids which were received by the AGD were, in the first instance, evaluated by Ms. Dennese Smith. However, based upon the information which has been provided to the OCG, the process was 'taken over' by the Accountant General who expressed dissatisfaction that Ms. Smith had intended to offer the contract to Cable and Wireless Jamaica Limited.

Of note, Ms. Smith indicated that her rationale for opting for Cable and Wireless Jamaica Limited was based upon the fact that (a) the department's structured cabling was done by Cable and Wireless Jamaica Limited, (b) Cable and Wireless Jamaica Limited had the best price and (c) that she was of the opinion that Cable and Wireless Jamaica Limited's proposed solution was appropriate for the AGD and that any entity which was awarded the contract would have to interface with Cable and Wireless Jamaica Limited.

In an effort to ascertain the name(s) of the officer(s) and/or official(s) of the AGD who were involved in the solicitation of bids for the referenced procurement, as well as the process which was utilized by the AGD with regard to same, the OCG, by way of a Statutory Requisition, which was dated 2010 March 15, posed the following question to select officials and officers at the AGD:

"Who, and/or what entity (ies) initiated contact, with the bidders, for the supply and installation of the telephone system for the AGD? Please provide answers to the following questions and, where possible, provide documentary evidence to substantiate your assertions/responses."



- i. *The rationale and purpose for initiating contact in regard to the same;*
- ii. *The name(s) of the entity(ies) and/or individual(s) and the title(s) of the individual(s) who initiated contact, and the circumstances relating to same;*
- iii. *The date(s) on which such interactions took place;*
- iv. *The name(s) and title(s) of the AGD Official(s) who was/were approached and/or was/were involved in discussions relating to same;*
- v. *The name(s) and title(s) of the bidder's agent(s), and/or employee(s) which was/were approached and/or was/were involved in discussions relating to same;*
- vi. *The manner and/or nature of the medium of communication which was utilised;*
- vii. *The terms and conditions of the agreement(s);*
- viii. *Any other particulars that are pertinent to the contract(s) which was/were negotiated by the AGD with Syncon Technology Ltd.*

*Please provide documentary evidence, where possible, to substantiate your assertions/responses."*²⁴

In response to the above referenced question, which was dated 2010 April 12, Mrs. Rose McKay, Deputy Accountant General, responded, *inter alia*, as follows:

i. The rationale and purpose for initiating contact in regard to the same;

The office was without a switchboard for over a year and customers were having difficulty doing business with the Department as well as the Department was inconvenienced in carrying out its duties.

²⁴ OCG Statutory Requisition which was dated 2010 March 15, that was addressed to select Officers and Officials of the AGD. Question #2.



- ii. *The name(s) of the entity(s) and/or individual(s) and the title(s) of the individual(s) who initiated contact, and the circumstances relating to same;*

To the best of my knowledge, contact was initiated by Miss Millicent Hughes, Accountant General and/or Miss Dennese Smith, Director, Financial Information System. I am not however privy to any communication between Miss Hughes/Miss Smith and any of the prospective bidders or indeed the one that was ultimately selected.

- iii. *The date(s) on which such interactions took place;*

My knowledge of the interaction relating to the supply and installation of the telephone system is limited to, and based on discussions at the monthly senior management meetings.

- iv. *The name(s) and title(s) of the AGD Official(s) who was/were approached and/or was/were involved in discussions relating to same;*

I am not aware of anyone being approached on the matter. To the best of my knowledge, Miss Millicent Hughes, Accountant General and/or Miss Dennese Smith, Director, Financial Information System were the persons involved in the discussions with the prospective suppliers.

- v. *The name(s) and title(s) of the bidder's agent(s), and/or employee(s) which was/were approached and/or was/were involved in discussions relating to same;*

I have no knowledge of any aspect of this matter.



vi. The manner and/or nature of the medium of communication which was utilised;

I am not aware.

vii. The terms and conditions of the agreement(s);

There is no written agreement however I have attached the Proposal presented to the Procurement Committee ...

viii. Any other particulars that are pertinent to the contract(s) which was/were negotiated by the AGD with Syncon Technology Ltd.

I am not aware...”²⁵ (OCG Emphasis)

Ms. Dennese Smith, Network Administrator and the then Director of Financial Information Systems, in her response to the foregoing questions, which was dated 2010 March 30, stated, *inter alia*, as follows:

“The contact for the supply and installation of the telephone system was initiated by myself, Dennese Smith in the capacity of Director Financial Information Systems, and the Accountant General, Miss Millent (sic) Hughes, in order to obtain proposals from prospective companies. The companies were invited to do a site visit of the Department. Mr. Dudley Johnson who represented Syncon Technologies visited the Department, and was given a tour, and shown the available infrastructure. Miss Karen Morgan represented Cable and Wireless (now lime). Mr. Rhoan Collins the assistant Office Manager, who discussed some of the functions he expected from the solution to be proposed. There were no written

²⁵Response from Mrs. Rose McKay, Deputy Accountant General, AGD, which was dated 2010, April 12. Response # 2.



agreements prior to the award of the contract, so there were no written terms and conditions..."²⁶ (OCG Emphasis)

It is instructive to note that Ms. Smith also stated that she "...was required to solicit quotations from prospective bidders. Communication was made via email and telephone. The companies contacted were, Cable and Wireless, Sycon(sic) Technologies, Compumart and 755-5PBX (there might have been another, but I cannot recall just now). I invited the companies to visit the Department and look at our infrastructure with a view to seeing how they could satisfy our needs, which was communicated both verbally and via emails. Discussions with the prospective suppliers involved the Accountant General, myself and the assistant office manager, Mr. Rhoad Collins."²⁷ (OCG Emphasis)

Ms. Millicent Hughes, Accountant General, in her response to the above-mentioned question, which was dated 2010 March 30, stated, *inter alia*, as follows:

"ii The name(s) of the entity(s) and/or individual(s) and the title(s) of the individual(s) who initiated contact, and the circumstances relating to same;

...My recollection is that the contracts were initiated primarily by the FIS Unit, which reports directly to the Accountant General.

There was an existing relationship with Cable and Wireless as AGD procured telephony services from the company. In the performance of my duties as Accountant General, a colleague expressed frustration in contracting the Department and referred me to Syncon Technologies Limited which he was aware had installed a system at the NHT- this was the basis of the contact with Syncon Technologies Limited. I am not aware of the circumstances related to the contact with the other three (3) companies.

²⁶ Response which was received from Ms. Dennese Smith, which was dated March 30, 2010. Response #2

²⁷ Response which was received from Ms. Dennese Smith, which was dated March 30, 2010. Response #1



iii. *The date(s) on which such interactions took place;*

I am unable to provide this information. A request was made to the former Director, FIS ...but I was advised that the information will be communicated directly to the Office of the Contractor General...

iv. *The name(s) and title(s) of the AGD Official(s) who was/were approached and/or was/were involved in discussions relating to same;*

The names of the AGD Officials who I am aware were approached and/or were involved in discussions relating to same were:

Millicent Hughes Accountant General (HOD; direct responsibility for the FIS Unit)

Dennese Smith Dir, Financial Information Systems Unit

v. *The name(s) and title(s) of the bidder's agent(s), and /or employee(s) which was/were approached and/or was/were involved in discussions relating to same;*

The names of the persons involved in the discussions were:

- *Cable and Wireless- Ms Karen Morgan*
- *Syncon Technologies Limited – Mr. Dudley Johnson*
- *Compumart- Mr. Michael Ennis*

I am not aware of the names of the agents for:

- *Jamaica Electrical Technologies Limited*
- *755-PBXS*

vi. *The manner and/or nature of the medium of communication which was utilised;*



My recollection is that the medium of communication utilized was mainly telephone & email... (OCG Emphasis)

Based upon the sworn written testimonies which were made to the OCG by officers of the AGD, namely, Ms. Millicent Hughes, Mrs. Rose McKay and Ms. Dennese Smith, the OCG found, *inter alia*, the following:

1. Contact with the prospective contractors for the supply and installation of the telephone system was initiated by Ms. Dennese Smith in her then capacity as the Director Financial Information Systems, and the Accountant General, Ms. Millicent Hughes, who were both involved in discussions with suppliers.
2. The media through which the companies were invited to submit proposals were via emails and telephone conversations.
3. The companies were also invited, via telephone and email, to attend a site visit at the AGD and were shown the available infrastructure with a view of determining how they could satisfy the needs of the AGD. Syncon Technologies Limited was represented by Mr. Dudley Johnson whilst Cable and Wireless Jamaica Limited was represented by Ms. Karen Morgan.

It is instructive to note that the OCG has seen no evidence to suggest that any other company was provided with this opportunity.

4. Quotations were solicited by Ms. Dennese Smith, via the two (2) referenced methods of communication.



The Absence of Pre-tender Procedures

Upon a review of the documents which were provided to the OCG, by the AGD, with respect to the subject procurement, the OCG has found that there were several pre-tender deviations from the then applicable GOJ Handbook of Public Sector Procurement Procedures (2001 May). The referenced deviations which were identified are as follows:

1. The failure of the AGD to prepare a Request for Quotations/ Tender Document;
2. The absence of a Tender Receival Form; and
3. The absence of a prescribed date and time for the close and opening of the tenders.

Based upon information unearthed by the OCG's Preliminary Enquiry, which is documented herein, the AGD was unable to supply the OCG with a copy of a Tender Receival Form which was prepared in respect of the referenced procurement which could speak to, *inter alia*, (a) the dates and times in which the proposals were received by the AGD and (b) the number of proposal which the AGD had received.

The OCG has found, however, that the AGD, in failing to prepare same, contravened Section 6.8.2 of the GPPH (2001 May) which specifies that a Tender Receival Form **must** be prepared by public procuring entities.²⁸

The OCG wishes to highlight the fact that as a direct result of the AGD's failure to produce a Tender Receival Form, the OCG is unable to verify the actual number of tenders/proposals which were received and, by extension, the number of proposals upon which some form of an evaluation was undertaken by the AGD.

Having regard to the failure of the AGD to produce a Tender Receival Form and based upon the variation in the dates which were inscribed on the proposals which were submitted to the OCG,

²⁸ A copy of the Form is also included in Appendix 1 of the referenced Handbook.



by the AGD, namely: Cable & Wireless Jamaica Limited on 2006 November 24, Compumart Jamaica Limited on 2006 July 28 and Syncon Technologies Limited on 2006 December 28 and 2007 February 12, respectively, the OCG found the following:

1. That the proposals were submitted between the period July 2006 and February 2007, which further suggests that there was no standard date or time by which all proposals were to be submitted in respect of the reference procurement.
2. There is no evidence to suggest that there were any standard eligibility and/or qualification requirements that were issued by the AGD, to any of the prospective bidders, which were to be used in the preparation of their proposals, as is required in a formal tender process.

The OCG, in pursuit of its Preliminary Enquiry, requested of the AGD a copy of the Request for Quotations, the Tender Document and/or tender specifications, which, based upon the then applicable procurement guidelines denoted in the GPPH (2001 May), are required to be prepared by public procuring entities for the acquisition of goods, the execution of works and/or the engagement of services.

In the foregoing regard, the OCG's Preliminary Enquiry unearthed information which alluded to the possibility that the AGD failed to (a) develop any written detailed specifications for the referenced procurement and (b) develop and communicate to prospective Bidders a Request for Proposals/Quotations or Tender Document .

The OCG became aware of the foregoing deviations by way of the Accountant General's response of 2009 April 8, in which she stated, *inter alia*, that the “...**method used was limited tender and the proposals were solicited by telephone**”. (OCG Emphasis)



In an effort to ascertain whether the AGD made any such attempt to prepare the requisite tender specifications and Tender Document and to advise potential bidders of same, and to identify the AGD Officer(s)/Official(s) who was/were charged with the responsibility to draft the referenced document, the OCG posed the following question to the Accountant General, Ms. Millicent Hughes and other relevant officers of the AGD, in its Statutory Requisitions of 2010 March 15:

*“Please provide the name(s) and title(s) of the persons who was/were responsible for drafting the specifications, which were used to solicit bids for the supply and installation of the telephone system. Please provide documentary evidence to substantiate your assertions/ responses.”*²⁹

The Accountant General, Ms. Millicent Hughes, in her sworn response to the OCG, which was dated 2010 March 30, stated, *inter alia*, as follows:

*“Various discussions took place concerning features which persons would want to be included. **The Dir, FIS was responsible for collating same. I insisted that the system be VOIP enabled**”.* (OCG Emphasis)

In response to the OCG’s Statutory Requisition, Ms. Dennese Smith, the then Director of Financial Information Systems, stated in her response which was dated 2010 March 30, that **“No specification for the supply and installation of the proposed telephone system was drafted”**. (OCG Emphasis)

It is instructive to note that the Deputy Accountant General, Ms. Rose McKay, Deputy Accountant General, Mrs. Maria Clarke-Proute, Director of Foreign Debt, Mr. Patrick Beecher, Director of Revenue Finance, Mr. Kevin Donaldson, Chief Internal Auditor, Mr. Joseph Jengelley, Director of Finance, Mr. Michael Maragh, Director of Finance, Office Manager, Mr.

²⁹ OCG Statutory Requisition which was dated 2010 March 15, and which was sent to Ms. Millicent Hughes, Accountant General. Question #5.



Rhoan Collins and the Director of Consolidated Funds, Mr. Leo Johnson, in response to the referenced OCG Statutory Requisition, in their sworn responses were either (a) unaware of the specifications and the individual(s) who drafted same, (b) not privy to seeing any such document, (c) uncertain of whose responsibility it was to draft the document, and /or (d) unaware if any such specifications had been drafted.

Consequent upon the foregoing, and by the admission of Ms. Dennese Smith, the individual with whom the responsibility reportedly resided, the OCG found that the AGD failed to prepare and issue the requisite Tender Document/ Request for Quotations with detailed specifications which could adequately indicate (a) the expectations of the procuring entity, (b) a clear description of the goods and services which are expected to be supplied and/or performed, (c) the eligibility requirements, (d) the evaluation methodology and criteria and (e) any other specific particulars with respect to the referenced procurement which would aptly assist all the prospective bidders in the drafting of their Proposals.

The OCG found that the foregoing has impinged upon standards of transparency and openness in the procurement process and, by extension, in government contracting, which the procurement guidelines stand to enforce and, thereby, constitutes a breach of Section 6.1 of the then applicable GPPH (2001, May) which requires that a Tender Document must be prepared by all public procuring entities and which further provides that *“Procuring entities shall ensure that tender documents contain all the necessary information for the particular procurement...”*

In furtherance to the abovementioned, Section 6.1.8 of the referenced Handbook also clearly stipulated a defined list of all relevant sections which must be included in the Tender Document - chief among them are as follows:

“Instructions to Tenderers; Form of Tender and Appendix; Form of Tender Bond; Form of Tender Bank Guarantee; General Conditions of Contract (GCC); Special Conditions of Contract (SCC); Technical Specifications; Drawings where applicable; ...”



The OCG also found that the mechanism applied by the AGD in the solicitation of bids for the referenced procurement was severely flawed and irregular, as, by the admission of Ms. Millicent Hughes, Accountant General, and Ms. Dennese Smith, the then Director of Financial Information Systems, the proposals were solicited by way of telephone calls and/or emails, records of which are either, in the case of telephone calls intangible, and in the case of emails, were not provided to the OCG by the AGD. This suggests that no records of any such emails were kept on file by the AGD.

In addition, the individuals who composed the AGD's Procurement Committee, namely: Mrs. Maria Clarke-Proute, Mr. Patrick Beecher, Mr. Kevin Donaldson, Mr. Edson Williams, Mr. Leo Johnson, and Mr. Joseph Jengelly, expressed in their respective responses to the OCG's Statutory Requisition that they were not aware of the preparation and/or the utilization of a Request for Quotations which was issued by the AGD to the prospective Bidders.

Therefore, the OCG found that the AGD failed to adhere to the formal procurement procedures in keeping with Sections 6.1 and 6.1.8 of the then applicable GPPH (2001 May) and, in effect, prospective bidders were not issued the requisite Request for Quotations/Tender Document which ought to be used to uniformly instruct the Bidders as to the needs of the AGD.

The referenced inaction of the AGD also contravenes Section 2.1.3.3 of the then applicable GPPH which states, *inter alia*, as follows:

*“Limited tender is a form of selective tender, whereby the procurement opportunity is open to a limited number of contractors included in the Register of Approved Contractors. **It includes the Request for Quotation (RFQ)** and Sole Source procurement procedures. Procurement offered through limited tender is generally not advertised. Instead, procuring entities may contact appropriately qualified contractors on the register and invite them to participate. Criteria for selecting contractors from the register should include:*



- *Nature of the work required;*
- *Contractor's relevant experience;*
- *Contractor's past performance record; and*
- *Contractor's current financial and technical capacities.*

Limited Tender must have prior written approval of Accounting Officers for contracts less than \$4M.

All contract for \$4M or greater must receive prior written approval from the NCC through the Accounting Officer.

The request for permission to utilize the Limited Tender procedures must include the selection of a minimum three (3) contractors and the criteria for the selection.

The prepared list of Contractors shall be submitted to the Procurement Committee or such other person(s) as may be nominated by the Procurement Committee for approval prior to any contractor being invited to tender.” (OCG Emphasis)



The Submission of Proposals

Ms. Millicent Hughes, in her 2010 March 30 sworn response to the OCG's Statutory Requisition, provided the OCG with a copy of the Proposals which were submitted by Cable & Wireless, Syncon Technologies Limited and Compumart Jamaica Limited.

The Proposal which was Submitted by Cable & Wireless Jamaica Limited

Ms. Millicent Hughes, Accountant General, in her referenced sworn response to the OCG's Statutory Requisition, which was dated 2010 March 30, appended a document which was entitled "*PROPOSAL TO THE ACCOUNTANT GENERAL'S DEPARTMENT FOR PRIVATE BRANCH EXCHANGE WITH CALL CENTRE*", that was prepared by a Ms. Karen Morgan, Account Manager and Mr. Omar Thompson, Pre- Sales Engineer, and which was dated 2006 November 24.

The OCG found that the said document represented a second draft of Cable & Wireless Jamaica Limited's proposal to the AGD, as the following was stated in a letter which was dated 2006 November 26 and which was sent by Ms. Karen Morgan, Account Manager, Cable & Wireless Jamaica Limited, to Ms. Millicent Hughes:

"Reference to proposal made on July 2006, thank you for your feedback. We have looked back at the proposal at your request, added the required specifications for networking and for adding Internet Protocol to your local area network. The new price below includes the agreed twenty percent discount on the cost of the core system and accessories..."³⁰ (OCG Emphasis)

The referenced Proposal also detailed, *inter alia*, as follows:

³⁰ Letter dated 2006, November 26 which was sent to Ms. Millicent Hughes from Ms. Karen Morgan.



“The AGD may not want to implement a full IP solution at this time as the required improvement to the network requires considerable capital expenditure that may not have been budgeted. There would a requirement for more available bandwidth on the LAN as well as quality of service with voice given priority over data ...

OUR PROPOSED FEES AND SCHEDULE:

<i>PBX Solution:</i>	<i>Cost/US\$</i>
<i>Cost of New PBX system (IP ready)</i>	<i>48,179.56</i>
<i>Installation of New PBX</i>	<i>5,340.00</i>
<i>Total</i>	<i>\$53, 519.56</i>

NEXT STEPS:

In order for Cable & Wireless to successfully implement within the timeframe discussed we will require your approval to proceed by no later than end of day December 30, 2006... ”³¹

Cable & Wireless Jamaica Limited, in its proposal, further stated that the immediate scope of the project as known to it “...*is to restore service while laying the foundation for the organization to grow and improve its communicative efficiencies and to reduce operational costs.*”³²

In addition, the following project scope was outlined by Cable & Wireless Jamaica Limited in the referenced proposal:

- 1. “The medium term arrangements will be to introduce the Call Centre and automate the answering of the phones and to provide a platform for messages to be recorded and to manage the voice call spend more efficiently.*

³¹ Proposal which was sent by Cable & Wireless Jamaica Limited on 2006 November 24, to the AGD

³² Proposal which was sent by Cable & Wireless Jamaica Limited on 2006 November 24, to the AGD- Project Scope



2. Our proposed IP PBX solution exports SMDR records to a buffer that is automatically overwritten ...
3. Cable & Wireless, Jamaica as a Premier Nortel Solution provider offers administrator and system operator level training for customers ...
4. As a value added service Cable & Wireless, Jamaica offers Maintenance contracts for customers with Large PBX solutions... ”³³

The following table depicts the deliverables and their estimated costs, as outlined in the referenced Cable & Wireless Jamaica Limited proposal:

<i>Product or Service Location</i>	<i>Delivery Location</i>	<i>One time charges</i>	<i>Comment</i>
Base System & Software & IP trunks and licenses for IP sets	13 King Street	34,582.37	Core Systems
OTM System Management	13 King Street	868.02	System management interface
Callpilot Mini Base Package	13 King Street	4,408.03	Voice messaging systems
Symposium Express Call Centre	13 King Street	5,584.47	Call Centre
Handsets (12 included)	13 King Street	2,628.58	Telephone handsets
Material for installation		899.68	
Total PBX cost		48, 971.15	
Professional Services			
PBX Configuration		3,000.00	
Voicemail Configuration		900.00	
Call Center Configuration and testing		1,440.00	
Total Labour Cost		5,340.00	
TOTAL		53, 519.56	
OPTIONAL ITEMS			
Call Accounting		6,200.00	Requires PC
Maintenance Contract			
Annual cost for Standard 3 year		8,036.00	
POE Switch		2,820.12	
8x IP phones		2,033.04	
Total Optional Items		19,089.16	

³³ Proposal which was sent by Cable & Wireless Jamaica Limited on 2006 November 24, to the AGD



The following table reflects the Deliverable Schedule as was proposed by Cable & Wireless Jamaica Limited in its referenced proposal.

<i>TASK</i>	<i>DATE</i>
<i>Proposal Delivery</i>	<i>February 1 2007</i>
<i>Acceptance</i>	<i>Within 30 days</i>
<i>Ordering to Installation</i>	<i>2-3 weeks (system is on island)</i>

Having regard to the foregoing, the OCG has found, *inter alia*, the following:

1. The proposal which was submitted by Cable & Wireless Jamaica Limited bore the date 2006 November 24.
2. The referenced proposal which was stated to have been received by the AGD, from Cable & Wireless Jamaica Limited, was not the first proposal which was submitted to Millicent Hughes, Accountant General, by Cable & Wireless Jamaica Limited, for the referenced contract.

In point of fact, the referenced proposal was developed, edited and revised to include ‘certain’ specifications and particulars which were purportedly based upon Cable & Wireless Jamaica Limited’s consultation with the AGD.

3. The proposal which was developed by Cable & Wireless Jamaica Limited was not instructively informed by a written Tender Document and/or Request for Quotation which would have outlined the requisite tender specifications.
4. The solution which was proposed by Cable & Wireless Jamaica Limited was in the amount of US\$53,519.56.



5. The 'Optional Items', which were proposed by Cable and Wireless Jamaica Limited, amounted to US\$19,089.16.

The Proposals which were Submitted by Syncon Technologies Limited

The Accountant General, Ms. Millicent Hughes, in her response of 2010 March 30, to the OCG's Statutory Requisition of 2010 March 15, appended a copy of the proposal which was submitted to the AGD by a company known as Syncon Technologies Limited.

The referenced proposal, which was dated 2006 December 28, identified the following as its response to the AGD's 'Requirements':

"System Architecture

SynCon's proposal is structured to clearly delineate the hardware and software costs associated with installing a Cisco Unified Communications solution onto an existing QOS- capable LAN data infrastructure. Since the LAN is already in place, the solution involves adding voice components such as call processing and application servers, analog and digital gateways and IP phones.

The proposed configuration for the AGD...is a centralized call processing model. In this configuration a Cisco CallManager server at the AGD's Head Office provides call processing services for the phones and gateways. In the future, the systems can be further enhanced by adding Cisco Unity voice mail /Unified Messaging to provide voicemail for the users.

The proposed Cisco IP telephony solution easily supports the initial deployment of just under 200 IP phones and analog stations, and can easily scale to 300 users without any major changes or additions to the core hardware as proposed.



A New Media Gateway is proposed for the Head Office to provide access to the PSTN. A CISCO 2811 Integrated Services router with 1 T 1 port and four (4) analog FXO port will provide PSTN access. The new T1 port will provide for the existing PSTN trunk lines and will also allow for new features such as Direct Inward Dialing (DID) to be introduced.

For the IP Phone endpoints, we are proposing the newer CISCO 7961 Executive and the CISCO 7941 phone and the new CISCO 7911. Each of the proposed IP phones has an internal switch facilitating the connection of a workstation and the phone to the network infrastructure using a single network cable. Where operator services are required, we are proposing to use a 7961 phone with a 7914 expansion module. The CISCO Attendant Console application will provide the services of the operator console through a web application.

The following Cisco equipment and applications were added to provide the complete solution for the AGD.

The AGD's Head Office:

The Head Office location is the hub of the Unified Communications infrastructure. The CallManager Cluster and the Unity VM/UM server are located here. Provisions are also made for two attendant consoles at the Head office. A Cisco 2811 Integrated Services Router is proposed to provide connectivity to the PSTN (1T1 line). This device can be further upgraded to provide Transcoding and Conference Bridge services. The primary headquarters location contains several Cisco Unified components:

- **Call Processing and Application Servers**

- *One (1) Cisco Media Convergence Server (MCS) 781512-K9-CMA1
Unified CallManager Appliance (2GB RAM; SATA RAID).*



- **Cisco IP Phones**

- *Cisco IP Phone 7961 (CP-7961G)- 4*
- *Cisco IP Phone 7961 with two Cisco 7914 Expansion Modules- 1*
- *Cisco IP Phone 7941 (CP-7941G)- 21*
- *Cisco IP Phone 7911(CP-7911G)- 100*

- **Media Gateway**

- *Cisco 2811 Voice Bundle (CISCO2811-V/K9)including:*
 - *One (1) 1-Port RJ-48 Multiflex Trunk – T1 (VWIC2-1MFT-T1) for connectivity to the PSTN*

- **Analog Voice Gateways**

- *Two (2) 2- Port ATA 186 Adapter (ATA 186-I1-A) to provide Four (4) FXS ports for Analog phones.*

Redundancy and Availability

SynCon has proposed a single site solution with one CallManager server. This configuration can be upgraded to provide a highly available solution that includes a redundant CallManager cluster of two (2) Servers...

Highly Desirable Transparent Station Feature

This CallManager solution provides full feature transparency for every device. All supported features are equally available to all users on the system, regardless of location. The following highly desirable station features will operate transparently across the network;



Call Transfer; Call Forwarding (All Calls, Busy, Don't Answer); Automatic Callback; Calling Number & Name on Voice Terminal Display; Station User Roaming (Logical Station Assignment); Message Waiting Activation.

Administrative Functions

The administration application distributed with CallManager provides a GUI tool to configure and manage the IPT solution ...

Call Detail Recording and Reporting

Call Detail Reporting (CDR) is a standard feature of CallManager. Cisco CallManager can create Call Detail Records (CDR's) and Call Management Records (CMR's). These are intended to help administrators and others responsible for billing, record keeping, and problem mitigation to have available a record of all calls that have been originated by or terminated by end users of the Cisco CallManager ...

COST DETAILS

<i>Accountant General</i>					
<i>Part #</i>	<i>Description</i>	<i>Qty</i>	<i>List Price</i>	<i>Unit Cost</i>	<i>Total Cost</i>
<u>IP PBX-</u>					
<u>CallManager</u>					
MCS7815I2-K9-CMAI	HW/SW Unified CallMgr5.0 7815-I2 Appliance, 0 Seats	1	\$4,000.00	\$2,464.00	\$2,464.00
LIC-CM 5.0-7815-I2=	License CallMgr Device License -5.0 7815-I2 Appliance	1	\$3,995.00	\$2,460.92	\$2,460.92
UCCX-45-CM-BUNDLE	5 Seat IPCCXSTD CCM Bundle-AVAILABLE ONLY WITH CCM	1	\$0.00	\$0.00	\$0.00
					\$4,924.92
<u>IP PHONES</u>					



Accountant General					
Part #	Description	Qty	List Price	Unit Cost	Total Cost
LIC-CM-DL-500=	CallManager Device License -500 units	1	\$25,000.00	\$15,400.00	\$15,400.00
LIC-CM-DL-100=	CallManager Device License -100 units	1	\$5,000.00	\$3,080.00	\$3,080.00
CP-7961G	Cisco IP Phone 7961	5	\$445.00	\$274.12	\$1,3070.60
CP-7914=	7914IP Phone Expansion Module	2	\$395.00	\$243.32	\$486.64
CP-DOUBLFOOTSTAN D=	CISCO FOOTSTAND KIT FOR 2 CP7914	1	\$38.52	\$23.73	\$23.73
CP-7941G	Cisco IP Phone 7941	21	\$345.00	\$212.52	\$4,462.92
CP-7911G	Cisco IP Phone 7911G	100	\$225.00	\$138.60	\$13,860.00
					\$38,683.89
<u>POE</u>					
PD-6548/AC	19IN 48PORT POE INJECTOR AC INPUT 802.3 AF AND CISCO	4	\$1,680.00	\$1,505.28	\$6,021.12
					\$6,021.12
<u>ANALOG GATEWAY/PHONES</u>					
ATA186-II-A	Cisco ATA 186 2-Port Adaptor,600 Ohm Impedance	2	\$250.00	\$154.00	\$308.00
					\$308.00
<u>PSTN Gateway</u>					
CISCO2811-V/K9	2811 Voice Bundle,PVDM2-16,SP Serv,64F/256D	1	\$3,195.00	\$1,968.12	\$1,968.12
PVDM2-16U48	PVDM2 16-channel to 48-channel factory upgrade	1	\$1,500.00	\$924.00	\$924.00
VIC2-4FXO	Four-port Voice Interface Card-FXO (Universal)	1	\$800.00	\$492.80	492.80
VWIC2-1MFT-T1/E1	1- Port 2nd Gen Multiflex TrunkVoice/WAN Int. Card-T1/E1	1	\$1,300.00	\$800.80	\$800.80



<i>Accountant General</i>					
<i>Part #</i>	<i>Description</i>	<i>Qty</i>	<i>List Price</i>	<i>Unit Cost</i>	<i>Total Cost</i>
					\$4,185.72
<u>Engineering</u>					
<u>Services</u>					
	<i>Installation & Configuration</i>	<i>1</i>	<i>\$6,000.00</i>	<i>\$3,696.00</i>	<i>\$3,696.00</i>
					\$3, 696.00
	SOLUTION TOTAL				\$57,819.65

Terms & Conditions:

- 1. These prices are valid for 60 days*
- 2. Prices are quoted in US Dollars*
- 3. Allow delivery time of 2-3 weeks. Express shipping available at an additional cost.*
- 4. All Purchase Order's must be accompanied by a 50% deposit."*

The referenced proposal also presented other optional support services such as a Project Plan and bolstered its solution with four (4) named Referrals.

It is instructive to note that the foregoing reflects one of two proposals which were submitted by Syncon Technologies Limited.

The OCG also found that a second proposal was submitted by Syncon Technologies Limited.

Ms. Dennese Smith, in her response to the OCG, which was dated 2010 March 30, corroborated the AGD's receipt of a second Proposal which was identified as a 'Statement of Work' and which was dated 2007 February 12.



The OCG conducted a comprehensive review of the referenced proposal and found that its format and structure could be likened to a formal agreement, as it exhibited feature of same.

The ‘Statement of Work’ detailed, *inter alia*, the following:

“This Statement of Work (“SOW”) is made and entered into between SynCon Technologies Limited at 25, Dominica Drive and the AGD with offices at 13 King Streer (sic) as of the date last written below.

*This SOW defines the services and deliverables that SynCon shall provide to the AGD under the terms of the Agreement. **The terms of this SOW are limited to the scope of this SOW and shall not be applicable to any other SOWs, which may be executed and attached to the Agreement.**”³⁴(OCG Emphasis)*

The referenced ‘Statement of Work’ also included two (2) Exhibits which detailed (a) the Project scope and responsibilities of the parties and (b) the standard SOW Terms.

The OCG found that the referenced document was signed by a representative of the AGD, a Mr. Harry Campbell, Acting Director of Financial Information Systems and a representative of Syncon Technologies Limited, a Mr. Dudley Johnson, on 2009 January 15.

Based upon a review of the referenced document, it was revealed that the intent of the document was “...to provide an agreement as to what is being delivered and promised by SynCon Technologies Limited to the Accountant General Department...”³⁵

The referenced ‘Statement of Work’ detailed as follows:

³⁴ 2007 February 12 Statement of Works which was prepared and submitted by SynCon Technologies Limited to the AGD.

³⁵ 2007 February 12 Statement of Works which was prepared and submitted by SynCon Technologies Limited to the AGD. – About this Statement of Work



<i>The following items are IN SCOPE for this project</i>	<i>The following items are OUT OF SCOPE for this project</i>
<i>Installation of Primary MCS CallManager Server</i>	<i>Installation of Network Infrastructure not relevant to this project</i>
<i>Installation and integration of Voicemail solution</i>	<i>Individual User training on IP phones and Unity Voicemail</i>
<i>Import user information for AGD</i>	
<i>Installation and configuration of Voice Gateway for inbound calls from PSTN and outbound calls to PSTN</i>	
<i>Installation and configuration of CallManager Features: Extension Mobility, Pickup Group</i>	
<i>Configure Auto Attendant</i>	
<i>Configure Attendant Console</i>	
<i>Install IP Phones to desks</i>	
<i>User Training- Train the Trainer scenario</i>	
<i>Admin Training for Unity voicemail</i>	
<i>Proof Test of Operation</i>	
<i>Action plan to resolve issues which may arise</i>	

Project Price

<i>Part #</i>	<i>Description</i>	<i>Qty</i>	<i>Unit Cost</i>	<i>Total Cost</i>
<u>IP PBX-CallManager</u>				
<i>MCS7815I2-K9-CMA1</i>	<i>HW/SW Unified CallMgr5.0 7815-I2 Appliance, 0 Seats</i>	<i>1</i>	<i>\$2,464.00</i>	<i>\$2,464.00</i>
<i>LIC-CM 5.0-7815-I2=</i>	<i>License CallMgr -5.0 7815-I2 Appliance</i>	<i>1</i>	<i>\$2,460.92</i>	<i>\$2,460.92</i>
<i>UCCX-45-CM-</i>	<i>5 Seat IPCCXSTD CCM Bundle-</i>	<i>1</i>	<i>\$0.00</i>	<i>\$0.00</i>



Part #	Description	Qty	Unit Cost	Total Cost
BUNDLE	AVAILABLE ONLY WITH CCM			
				\$4,924.92
<u>IP PHONES</u>				
LIC-CM-DL-500=	<i>CallManager Device License -500 units</i>	<i>0</i>	<i>\$15,400.00</i>	<i>\$0.00</i>
LIC-CM-DL-100=	<i>CallManager Device License -100 units</i>	<i>4</i>	<i>\$3,080.00</i>	<i>\$12,320.00</i>
LIC-CM-DL-10=	<i>CallManager Device License -10 units</i>	<i>5</i>	<i>\$308.00</i>	<i>\$1,540.00</i>
CP-7961G	<i>Cisco IP Phone 7961</i>	<i>5</i>	<i>\$274.12</i>	<i>\$1,370.60</i>
CP-7914=	<i>7914IP Phone Expansion Module</i>	<i>2</i>	<i>\$243.32</i>	<i>\$486.64</i>
CP-DOUBLFOOTSTAND=	<i>CISCO FOOTSTAND KIT FOR 2 CP7914</i>	<i>1</i>	<i>\$23.73</i>	<i>\$23.73</i>
CP-7941G	<i>Cisco IP Phone 7941</i>	<i>21</i>	<i>\$212.52</i>	<i>\$4,462.92</i>
CP-7911G	<i>Cisco IP Phone 7911G</i>	<i>100</i>	<i>\$138.60</i>	<i>\$13,860.00</i>
				\$34,063.89
<u>POE</u>				
PD-6548/AC	<i>19IN 48PORT POE INJECTOR AC INPUT 802.3 AF AND CISCO</i>	<i>4</i>	<i>\$1,505.28</i>	<i>\$6,021.12</i>
PD -6024/AC	<i>24PORT POE INJECTOR AC INPUT 802.3AF & CISCO SUPPORTED</i>	<i>0</i>	<i>\$895.10</i>	<i>\$0.00</i>
				\$6,021.12
<u>ANALOG GATEWAY/PHONES</u>				
ATA186-II-A	<i>Cisco ATA 186 2-Port Adaptor,600 Ohm Impedance</i>	<i>2</i>	<i>\$154.00</i>	<i>\$308.00</i>
				\$308.00
<u>PSTN Gateway</u>				
CISCO2811-V/K9	<i>2821 Voice Bundle,PVDM2-32,SP Serv,64F/256D</i>	<i>1</i>	<i>\$2,892.12</i>	<i>\$2,892.12</i>
NM-CUE-EC	<i>Cisco Unity Express Network Module Enhanced Capacity</i>	<i>1</i>	<i>\$3,076.92</i>	<i>\$3,076.92</i>
SCUE-LIC-150CCM	<i>Unity Express License 150Voice Mailbox – Auto Attendant –CCM</i>	<i>1</i>	<i>\$1,848.00</i>	<i>\$1,848.00</i>
PVDM2-32U48	<i>PVDM2- 32-channel to 48-channel factory upgrade</i>	<i>1</i>	<i>\$462.00</i>	<i>\$462.00</i>



Part #	Description	Qty	Unit Cost	Total Cost
VIC2-4FXO	Four-port Voice Interface Card- FXO (Universal)	1	\$492.80	492.80
VWIC2-1MFT-T1/E1	1-Port 2 nd Gen Multiflex Trunk Voice/WAN Int. Card-T1/E1	1	\$800.80	\$800.80
				\$9,572.64
<u>Engineering Services</u>	Installation & Configuration	1	\$3,696.00	\$3,696.00
				\$3,696.00
	SOLUTION TOTAL			\$58,586.57

Having regard to the foregoing proposals, which were submitted to the AGD by Syncon Technologies Limited, the OCG found, *inter alia*, the following:

1. The proposals which were prepared and submitted by Syncon Technologies Limited bore the dates 2006 December 28 and 2007 February 12, respectively.
2. The 2007 February 12 Proposal, which was submitted by Syncon Technologies Limited, was stated to have been a 'Statement of Work'.
3. That based upon the compendium of facts, it is apparent that the referenced 'Statement of Work' was substituted by the AGD as a 'Form of an Agreement' for the subject procurement, since both parties concerned were found to have signed to the terms and conditions which were outlined in the referenced document.
4. The OCG has seen no evidence to suggest that the AGD played any role and/or had any influence in the development of the terms and conditions of the referenced Statement of Work.

Having regard to the above observation, the OCG has found that the foregoing portrays an irregular process, based upon the fact that the referenced document, on the face of it,



was prepared by Syncon Technologies Limited, accepted by the AGD and subsequently substituted as the contract document for the referenced procurement opportunity.

5. That of the three (3) proposals which were submitted to the OCG, by the AGD, Syncon Technologies Limited's proposal of 2006 December 28, was the only one which provided business references. The OCG is, however, uncertain as to upon whose advice the said business references were submitted and has seen no evidence to suggest that same were considered in the evaluation of the bids.
6. The proposal which was developed by Syncon Technologies Limited was not instructively informed by a written Tender Document and/or any written tender specifications.
7. The total cost for the solution which was proposed by Syncon Technologies Limited by way of its Proposal of 2006 December 28, was US\$57,819.65, while the total cost for the solution which was proposed by Syncon Technologies Limited, in its 2007 February 12 proposal amounted to \$US58, 586.57.
8. In comparison to the 'Cost Details' which were proposed by Syncon Technologies Limited in its proposal of 2006 December 28, the 'Project Price' which was detailed in the proposal of 2007 February 12, reflected changes as it regards both arithmetic errors, proposed deliverables and the overall total project cost.

The following reflects the changes which were identified by the OCG upon its review of the referenced 'Statement of Work'.



2006 December 28			2007 February 12		
Item and Description	Qty	Total Cost	Item and Description	Qty	Total Cost
CISCO2811-V/K9 - 2811 Voice Bundle,PVDM2-16,SP Serv,64F/256D	1	US\$1,968.12	CISCO2811-V/K9- 2821 Voice Bundle,PVDM2-32,SP Serv,64F/256D	1	US\$2,892.12
Not included	N/A	N/A	NM-CUE-EC- Cisco Unity Express Network Module Enhanced Capacity	1	US\$3,076.92
Not included		N/A	SCUE-LIC-150CCM Unity Express License 150Voice Mailbox – Auto Attendant –CCM	1	US\$1,848.00
PVDM2-16U48- PVDM2 16-channel to 48-channel factory upgrade	1	US\$924.00	PVDM2-32U48 PVDM2 32-channel to 48-channel factory upgrade	1	US\$462.00
Total Project Cost	-	US\$57,819.65	Total Project Cost		US\$58,587.57

The Proposal which was submitted by Compumart Jamaica Limited.

The Accountant General, Ms. Millicent Hughes, in her response of 2010 March 30, to the OCG's Statutory Requisition, which was dated 2010 March 15, appended a copy of the proposal which was submitted to it by a company known as Compumart Jamaica Limited.

The referenced proposal, which bore the caption “*ALTIGEN COMMUNICATIONS IP- PBX TELEPHONE SYSTEM PROPOSAL FOR Accountant General Department*”, outlined, *inter alia*, the following:

“Compumart Jamaica Limited in co-oporation with Altigen Communication Inc is pleased to present to you the Atigen IP- PBX line of modern business telephone systems.



The Altigen IP PBX phone system integrates voicemail with email and voice communication with data communication across your entire organization ...the Altigen IP- PBX phone system gives you more value by providing more functionality and features at a lower cost”³⁶

The OCG has also noted the fact that the referenced proposal provided a “*REQUIREMENTS OVERVIEW*” which stated, *inter alia*, the following:

“The Accountant General Department (AGD), an Agency of the Ministry of Finance, currently has a Meridian PBX which has long passed the product end-of-life, cannot be upgraded and no spare parts readily available. A critical component is now damaged which has caused the entire office to switch to direct lines service with no PBX functionality. Trunk line service is currently supplied by Cable and Wireless.

From discussion with the staff, the AGD has the following requirements:

- 1. 200 Extensions and 60 Trunk lines.*
- 2. Customer Service/Call Centre Functionality.*
- 3. The capability to record conversation;*
- 4. The capability to provide mobile extensions to outside staff.*
- 5. The capability to manage and monitor telephone expenses.”³⁷*

Compumart Jamaica Limited stated that its proposed system would address the foregoing requirements and also include features which are not currently available. The OCG noted that this included “... *unified messaging, VoIP capabilities, Remote monitoring and management all at lower overall cost.*”³⁸

³⁶ Compumart Jamaica Limited’s Proposal- Introduction.

³⁷ Compumart Jamaica Limited’s Proposal- REQUIREMENT OVERVIEW

³⁸ Compumart Jamaica Limited’s Proposal- REQUIREMENT OVERVIEW



The proposal further indicated that the AGD would be provided with, *inter alia*, the following:

1. *“...an AtliGen VoIP Model #G IP PBX solution that integrates all the critical telecommunication functions into a simple architecture which provides tremendous cost saving and unparallel functionality”*
2. *“... with a capacity of 60 Trunk Lines and 204 extensions, including VoIP trunk lines and IP Handsets. The proposed system will also feature voice mail for all extensions, operator and customer service workgroups, customizable auto-attendant, internal email, automatic call distribution (ACD) for customer service workgroups, Overhead Paging, Extension Paging, Mobile Extensions and simplified management via the familiar Windows interface”*
3. That *“...This proposed system will integrate with your local area network to provide a unified messaging environment where you can receive your voice mail from your email inbox”*.
4. That all calls coming into the AGD *“...can be answered by a live Answer Operator or the Auto – Attendant. Outgoing calls can have various degrees of restriction and can be automatically routed via the leased cost path... to complete the call.”*³⁹

The following VoIP features were also proposed by Compumart Jamaica Limited:

1. Extension AnywhereTM Capabilities;
2. Alti-MobileTM Extension;
3. Remote Extension;
4. Remote Call Centre Agent PSTN;
5. Account Codes;

³⁹ Compumart Jamaica Limited Proposal – PROPOSAL



6. Forced Account Codes;
7. Special Account Codes;
8. Emergency (911) Call Notification to Extension/Outside Number;
9. Dialed digit Translator Enhancements (Allows Partitioning of Trunk lines);
10. Extension Dialed Digit Translator;
11. Extension Based Feature Profile;
12. Press "0" Option for Extension in Voice Mail;
13. IP Extension auto Failover;
14. Voice Mail/ Call Recording at every extension;
15. Customizable Auto-Attendant;
16. Business, After Work and Holiday Hours;
17. Call Routing;
18. Automatic Data Backup / Recovery; and
19. Use any Standard Analog Handset including Portable Phones.

The following table portrays the price proposal which was presented by Compumart Jamaica Limited and which was dated 2006 July 28:

ITEM	PRODUCT DESCRIPTION	QTY	Unit Price US\$	TOTAL US\$
1	ALTIOFFICE 3G VoIP PBX W/204 Extension Station License, 40 Soft Phone License, Auto Attendant, 4 Operator Console Ports.	1	\$10,900.00	\$10,900.00
2	Triton 12 Port VoIP Card	2	\$2,500.00	\$5,000.00
3	Triton 24 Port T1/PRI Trunk Card	2	\$2,500.00	\$5,000.00
4	Triton 12 Port Extension Card	12	\$2,500.00	\$30,000.00
5	Alti-AT510 Phone Handset	140	\$185.00	\$25,900.00
6	Alti-IP705 IP Phone Handset	56	\$312.00	\$17,472.00
7	Triton 12 Port Trunk Card	1	\$2,500.00	\$2,500.00
8	Installation (hours)	30	\$50.00	\$1,500.00
9	Training (hours)	10	\$50.00	\$500.00



ITEM	PRODUCT DESCRIPTION	QTY	Unit Price US\$	TOTAL US\$
10	One (1) Year Service Agreement	1	\$1,500.00	\$1,500.00
			SUBTOTAL	\$100,272.00
			GCT@ 16.5%	\$16,544.88
			TOTAL	\$116,816.88
CONDITIONS OF SALE:				
<i>Terms: 60% down, 40% upon installation</i> <i>Payment can be made in US\$ or Jamaica dollars at the BOJ</i> <i>weighted average selling rate on the date of payment</i> <i>One year limited Manufacturers warranty on all equipment</i>				

A revised price proposal, which was presented to the AGD, by Compumart Jamaica Limited, on 2007 February 5, detailed the following:

ITEM	PRODUCT DESCRIPTION	QTY	Unit Price US\$	TOTAL US\$
1	ALTIOFFICE 3G VoIP PBX W/136 Extension Station License, 120 Altiview Soft Phone License, Auto-Attendant, 4 Operator Console Ports.	1	\$10,900.00	\$10,900.00
2	Triton 12 Port VoIP Card	2	\$2,500.00	\$5,000.00
3	Triton 24 Port T1/PRI Trunk Card	2	\$2,500.00	\$5,000.00
4	Triton 12 Port Extension Card	3	\$2,500.00	\$7,500.00
5	Triton 12 Port Trunk Card	1	\$2,500.00	\$2,500.00
6	Alti-AT510 Phone Handset	35	\$185.00	\$6,475.00
7	Alti-IP705 IP Phone Handset	90	\$312.00	\$28,080.00
8	Installation (hours)	30	\$50.00	\$1,500.00
9	Training (hours)	10	\$50.00	\$500.00
10	One (1) Year Service Agreement	1	\$1,500.00	\$1,500.00
			SUBTOTAL	\$68,955.00
			GCT@ 16.5%	\$0.00
			TOTAL	\$68,955.00
CONDITIONS OF SALE:				



ITEM	PRODUCT DESCRIPTION	QTY	Unit Price US\$	TOTAL US\$
<i>Terms: 60% down, 40% upon installation</i> <i>Payment can be made in US\$ or Jamaica dollars at the BOJ</i> <i>weighted average selling rate on the date of payment</i> <i>One year limited Manufacturers warranty on all equipment</i>				

Having regard to the foregoing, the OCG has found, *inter alia*, the following:

1. The proposal which was presented by Compumart Jamaica Limited was first presented on 2006 July 28, and further revised and re-presented to the AGD on 2007 February 5.
2. The proposal which was developed by Compumart Jamaica Limited was not instructively informed by a written Tender Document and/or tender specifications. In point of fact, the subject proposal made reference to discussions which were held between the staff of the AGD and Compumart as it regards certain requirements which it had for the procurement.
3. The total cost for the solution which was proposed by Compumart Jamaica Limited, and which was found to have been a revised quotation, was in the amount of US\$68,955.00. This reflected the highest of the three (3) bids.

The Proposals which were submitted by 'Jamaica Electrical Technologies Limited' and '755-PBXS'

The OCG has found that the foregoing proposals which the AGD disclosed and provided to the OCG were only three (3) of the five (5) or possibly more proposals which the AGD was or may have been in receipt of, with respect to the referenced procurement.

The Accountant General, Ms. Millicent Hughes, indicated in her response to the OCG which was dated 2009 April 8, that the proposals which were received from Jamaica Electrical Technologies



and ‘755-PBXS’ were not kept on file and that the entities were not shortlisted. Ms. Hughes further added that the only record of the stated proposals was referenced in an email which she received from the Director of Information Technology, Ms. Dennese Smith.

It is instructive to note that Ms. Dennese Smith stated, in her response of 2010 March 30, that “... *the companies contacted were, Cable and Wireless, Sycon Technologies, Compumart and 755-5PBX (there might have been another, but I cannot recall just now)*”.⁴⁰

The OCG was provided with what was deemed to be a ‘matrix’ and which was communicated by way of an email correspondence from Ms. Dennese Smith to Ms. Millicent Hughes on 2006 November 9. The referenced email was captioned “*Matrix for PBX*” and contained an attached file which was labeled “*matrix for PBX.xls*”. The email further detailed as follows:

“Good Day to you,

Please see attached the matrix requested...is this okay??

*Dennese”*⁴¹

It is of import to highlight that the referenced email contained what appears to be an ‘Evaluation Matrix’ for the subject procurement which featured four (4) companies, namely; Cable and Wireless, Compumart Jamaica Limited, ‘Jamaica Electrical Technologies Limited’ and ‘755-PBXS’.

Upon a review of the referenced ‘Matrix’, the OCG noted that the abovementioned companies were compared against certain PBX ‘features’ and related cost.

⁴⁰ Response which was received from Ms. Dennese Smith, dated 2010 March 30, Response #1.

⁴¹ Email which was dated 2006 November 9, which was sent by Ms. Dennese Smith to Ms. Millicent Hughes.



Having regard to the failure of the AGD to, *inter alia*, (a) draft and/or produce a Tender Document denoting the eligibility requirements which would determine the responsiveness of the bidders in respect of the procurement of the subject services and (b) to make available same to prospective bidders, the OCG has found no evidence to indicate the substantive basis upon which the proposals which were submitted by the companies known as 'Jamaica Electrical Technologies Limited' and '755- PBXS', were excluded or '*not shortlisted*' by the AGD.

The OCG also found that the failure of the AGD to properly file and record the Proposals which were stated to have been submitted to the AGD by both 'Jamaica Electrical Technologies Limited' and '755- PBXS' amounts to a breach of Section 2.10.1 of the then applicable GOJ Handbook of Public Sector Procurement Procedures (2001 May) which states, *inter alia*, as follows:

"...the procuring entity shall maintain records of each contract action for a minimum period of 10 years. Procurement process and expenditure records, although entrusted to the safeguard of the accounting officers, are the property of the Ministry of Finance and Planning and shall promptly be made available to the Ministry upon request in its carrying out of expenditure and/or compliance monitoring mandates."(OCG Emphasis)

The foregoing Sub-section also provides a list which details the minimum standards of recorded information which included, *inter alia*, the "*Reason(s) for rejection of any or all quotations and/or tenders*".

The OCG has not been provided with any documented evidence by the AGD which would suggest that the proposals which were received from 'Jamaica Electrical Technologies Limited' and '755- PBXS' were rejected and/or any form of justification with respect to rejection of the said proposals.



The Evaluation of the Proposals

The OCG, during the course of its Preliminary Enquiry, found that there were numerous irregularities and breaches of the applicable GOJ procurement guidelines, as prescribed by the GPPH 2001, regarding the process which was utilized by the AGD to evaluate the proposals for the referenced procurement.

Consequent upon the foregoing, the OCG, in its Statutory Requisition of 2010 March 15, requested that Officials and Officers of the AGD responded to the following question:

“Please provide a copy of the Tender Evaluation Report of all the bids which were received by the AGD for the supply and installation of the telephone system”.

In response to the referenced question, the Accountant General, Ms. Millicent Hughes, in her response of 2010 March 30, stated that she was only aware of a document that was in the form of an AGD Memorandum, which was dated 2007 February 27.

The referenced Memorandum indicated that it was sent to the members of the Procurement Committee by the Accountant General, Ms. Millicent Hughes, and bore the subject *“Procurement of PBX System”*.

The Memorandum further detailed, *inter alia*, the following:

“... Attached is the Evaluation Matrix with respect to the sourcing of a new telephone system for the Department.

The system chosen is a “Voice Over Internet Protocol (VIOP) and based on the costing as submitted, Syncon Technologies is the most economical of the quotations received.



The VOIP which is being evaluated will preclude the need for direct lines. It will however require a T1 trunk line, contract for which have already been sent to the Attorney General for review. Their advice is expected within another week.

I have already made contacts [sic] with two of the four references on Syncon's behalf and they have all given glowing remarks of the system as installed. In addition, the Committee should note that we have purchased computers from Syncon and have proven a record of good service to date.

Please note that although we have received good service from Cable & Wireless (C&W) Ltd., and in light of the foregoing, the recommendation is for Syncon to be awarded the contract, as there is a significant difference in the provision of the VOIP, when compared to that of C&W.

It is to be noted that the relinquishing of the straight lines will result in significant savings for the Department.

Not all persons will be provided with telephones at this point, however, based on discussions with Ms. Dennese Smith the proposed 126 telephones will adequately serve the Department at this time.⁴² (OCG Emphasis)

An Evaluation Matrix was also affixed to the referenced Memorandum, which detailed as follows:

⁴² AGD Memorandum which was dated 2007 February 27 and which was sent by the Accountant General to the Procurement Committee.



PBX EVALUATION MATRIX

	C&W	COMPUMART	Syncon Technologies
<i>Feature</i>	<i>Meridian 1 Comm Server 1000M</i>	<i>Altioffice 3G voip</i>	<i>Cisco Unified Soln</i>
<i>Base System and Software</i>	<i>Y</i>	<i>Y</i>	<i>Y</i>
<i>Installation of PBX</i>	<i>Y</i>	<i>Y</i>	<i>Y</i>
<i>Installation and programming of telephone sets</i>	<i>Y</i>	<i>Y</i>	<i>Y</i>
<i>Call Centre</i>	<i>Y</i>	<i>Y</i>	<i>Y</i>
<i>Automated Attendant</i>	<i>Y</i>	<i>Y</i>	<i>Y</i>
<i>Voicemail</i>	<i>Y</i>	<i>Y</i>	<i>Y</i>
<i>IP Convergence</i>	<i>Y</i>	<i>Y</i>	<i>Y</i>
<i>Call Accounting</i>	<i>Y</i>	<i>Y</i>	<i>Y</i>
<i>Maintenance Contract</i>	<i>Y</i>	<i>Y</i>	<i>Y</i>
<i>User training</i>	<i>Y</i>	<i>Y</i>	<i>Y</i>
<i>Handsets</i>	<i>12</i>	<i>125</i>	<i>126</i>
<i>Mail system for mail boxes</i>	<i>100 mail boxes</i>	<i>unlimited</i>	<i>150</i>
<i>Installation and Configuration</i>	<i>Y</i>	<i>Y</i>	<i>Y</i>
<i>Backup Battery</i>	<i>Y</i>	<i>N</i>	<i>N</i>
VOIP (US Cost)	<i>72,608.72</i>	<i>68,955.00</i>	<i>58,586.57</i>
<i>Warranty</i>	<i>12-month</i>	<i>12-month</i>	<i>12-month</i>
<i>Delivery</i>	<i>2-3Wks</i>	<i>3 Wks</i>	<i>2-3 Wks</i>
<i>Offering</i>	<i>Hybrid system</i>	<i>VOIP</i>	<i>VOIP</i>
<i>conversion rate</i>	<i>68.00</i>	<i>68.00</i>	<i>68.00</i>
Total (Ja Cost)	<i>4,937,392.96</i>	<i>4,688,940.00</i>	<i>3,983,886.76</i>
<u>Cable and Wireless is offering a hybrid system with partial VOIP functionalities at a cost US \$53,549.56 or approximately Ja\$3,639,330.08 (OCG Emphasis)</u>			



It is instructive to note that the OCG's investigation has found no evidence to indicate that the Evaluation Matrix, as detailed in the aforementioned above table, reflected features which were outlined in any specifications which were drafted by the AGD and/or which were communicated to the prospective bidders.

Further, the cost of US\$53,549.56 or J\$3,639,330.08, which is foot-noted in the foregoing table, reflects an error in the cost which was proposed by Cable & Wireless Jamaica Limited, as the company's proposal indicates that a sum of US\$53,519.56, which, if converted at a rate of US\$1 to J\$68, would be equivalent to the sum of J\$3,641,370.08.

Therefore, the OCG found that the proposed cost of US\$53,519.56 or J\$3,641,370.08 would qualify as the lowest of the three (3) quotations which were provided to the OCG by the AGD, and which were incorporated in the referenced 'Evaluation Matrix'.

The OCG has also found, based upon the Accountant General's Memorandum to the Procurement Committee, which was dated 2007 February 27, that both Ms. Millicent Hughes and Ms. Dennese Smith conducted what appears to be an independent evaluation of the bids prior to such an evaluation and/or review being conducted by the authorized Procurement Committee.

Subsequent to the evaluation of the three (3) proposals by Ms. Millicent Hughes, Accountant General and Ms. Dennese Smith, the then Director of Financial Information System, the Accountant General recommended Syncon Technologies Limited as the 'preferred' Bidder to the Procurement Committee.

The OCG found that the Accountant General's evaluation and recommendation, not only preceded that of the Procurement Committee, but that her determination of a preferred bidder was also imposed upon the Committee without, amongst other things, any established Evaluation Criteria.



It is instructive to note that, based upon the sworn response of Ms. Dennese Smith to the OCG's Statutory Requisition, which was dated 2010 March 30, the OCG was informed as follows:

“The bids to be evaluated were received from Cable and Wireless, Sycon Technologies (sic), 755-PBXS and Compumart. I started doing the evaluation, but this process was taken over by the Accountant General who expressed her dissatisfaction that I intended to offer Cable and Wireless the contract for the supply and installation of the telephone system, in a meeting I had with her in her office (can't recall exact date). My reasons for opting for Cable and Wireless as given to the AG verbally were;

- *the Department's structured cabling was done by Cable and Wireless,*
- *C & W had the best price*
- *I felt C & W's proposed solution was appropriate for the Dept and*
- *Anyone who won the award, would have to interface with Cable and Wireless.*

*The AG on the other hand, expressed her desire to have Syncon Technologies selected, as, 'they have what she required for the Department, a total voice over internet solution'. She stated, that Cable and Wireless was offering “out-dated technology”. As a result of our disagreement, the Accountant General decided to complete the evaluation process and make the recommendation...”*⁴³(OCG Emphasis)

Of import is the fact that the Accountant General, in her sworn response of 2010 March 30, stated that the “...criteria on which my recommendation was made is as documented at Appendix I-I”⁴⁴. It is instructive to note that Appendix I- I, as referenced by the Accountant General, points to the AGD Memorandum, which was dated 2007 February 27, and the referenced Evaluation Matrix.

⁴³ Response from Ms. Dennese Smith which was dated 2010 March 30. Response #1

⁴⁴ Response which was received from Ms. Millicent Hughes which was dated 2010 March 30. Response #6



Having regard to the sworn disclosure that the referenced Evaluation Matrix, which was devoid of any scores and/or determinable weightings, was (a) reportedly prepared by Ms. Dennese Smith, the then Director of Financial Information Systems, and (b) submitted to the Procurement Committee by Ms. Millicent Hughes, Accountant General, under the cover of a Memorandum, which expressed her recommendation for the award of contract to Syncon Technologies Limited, the OCG found the following:

1. That Ms. Dennese Smith initially assessed and evaluated the proposals which were received by the AGD, as it regards the referenced procurement.
2. That subsequent to the evaluation of the proposals, Ms. Dennese Smith prepared and submitted to Ms. Millicent Hughes, an Evaluation Matrix.
3. That Ms. Dennese Smith indicated that she verbally advised Ms. Millicent Hughes of her preference to award the contract to Cable & Wireless Jamaica Limited, based upon her assessment of the bids, as well as the fact that she was of the view that “...*the Department’s structured cabling was done by Cable and Wireless, C & W had the best price... C & W’s proposed solution was appropriate for the Dept [and] Anyone who won the award, would have to interface with Cable and Wireless...*”⁴⁵
4. That the views which were articulated by Ms. Dennese Smith which favored Cable and Wireless Jamaica Limited, were not supported by the Accountant General, who was in support of the contract being awarded to Syncon Technologies Limited. The OCG also found that the Accountant General held the view that “...*they have what she required for the Department, a total voice over internet solution*”.⁴⁶

⁴⁵ Response which was received from Ms. Dennese Smith on 2010 March 30. Response #1

⁴⁶ Response which was received from Ms. Millicent Hughes on 2010 March 30. Response #6



5. A recommendation was conveyed to the Procurement Committee, by way of a Memorandum which was dated 2007 February 27, by the Accountant General, which endorsed Syncon Technologies Limited as the 'preferred bidder'.
6. The recommendation which was proffered by the Accountant General, to the Procurement Committee, was based upon her independent evaluation of the various proposals.

Based upon the foregoing, it is instructive to note that the OCG has seen no evidence which indicates that the responsibilities of the Procurement Committee to, *inter alia*, **"effect [an] objective evaluation [process] with respect to quotations, tenders and requests for proposals"**, as outlined in Section 1.5.2.3 of the GPPH, were divested to either Ms. Dennese Smith and/or Ms. Millicent Hughes.

In the premises, the OCG found the independent evaluations which were carried out by both Ms. Dennese Smith, in her then capacity as the Director of Financial Information Systems and Ms. Millicent Hughes, in her capacity as the Accountant General, to be improper and highly irregular, since their influence and expressed recommendation impeded the Procurement Committee's ability to objectively conduct an evaluation.

Based upon the OCG's review of the abovementioned Evaluation Matrix, which was submitted to the Procurement Committee, it was found that the said 'Matrix' failed to apply any weightings and/or scores to the evaluated bids.

It is instructive to note that based upon the failure of the AGD to prepare a Tender Document and/or a RFQ, the OCG has seen no evidence to indicate that an Evaluation Criteria was (a) prepared by the AGD, (b) issued to the prospective bidders and/or (c) utilized in the evaluation of the referenced proposals to comparatively assess the responsiveness of the bids.



In addition, the absence of an Evaluation Criteria essentially rendered the AGD incapable of effectively, transparently and equitably applying scores to the bids, thereby determining the responsiveness of same, in keeping with the applicable procurement guidelines.

In addition, the failure of the AGD to clearly establish and impart to the potential bidders the Evaluation Criteria amounts to a breach of Section 6.1.25 of the then applicable GPPH (2001 May) which states, *inter alia*, that the “ ... *method of evaluation should be detailed... The responsiveness of tenders will be determined during the evaluation. The currency in which price comparisons will be made should be stated, where relevant. The contract award criterion shall be the lowest evaluated tender.*”⁴⁷

Interestingly, the OCG also found a ‘Matrix’ that was attached to an email, which was dated 2006 November 9, and which was sent to the Accountant General, Ms. Millicent Hughes, by the then Director of Financial Information Systems, Ms. Dennese Smith. Upon a review of the referenced Matrix, the OCG found a comparison of four (4) entities and, as such, it is apparent that the said Matrix was utilized as an evaluation tool. Of note, the OCG found that the referenced Matrix preceded the Evaluation Matrix which was attached to the foregoing 2007 February 27 AGD Memorandum.

The referenced ‘Matrix’ detailed the following:

⁴⁷ Section 6.1.25 of the GPPH (2001 May)



<i>Company</i>	<i>C&W</i>	<i>COMPUMART</i>	<i>Jamaica Electrical Technologies Ltd.</i>	<i>755- PBXS</i>
<i>Feature</i>				
	<i>Meridian 1 Option 11C</i>	<i>Altioffice 3G voip</i>	<i>Option 11 Mer Mail</i>	<i>Meridian Option 11E</i>
<i>Base System and Software</i>	<i>Y</i>	<i>Y</i>	<i>Y</i>	<i>Y</i>
<i>Installation of PBX</i>	<i>Y</i>	<i>Y</i>	<i>Y</i>	<i>Y</i>
<i>Installation and programming of telephone sets</i>	<i>Y</i>	<i>Y</i>	<i>Y</i>	<i>Y</i>
<i>Call Centre</i>	<i>Y</i>	<i>Y</i>	<i>Y</i>	<i>not stated</i>
<i>Automated Attendant</i>	<i>Y</i>	<i>Y</i>	<i>Y</i>	<i>not stated</i>
<i>Voicemail</i>	<i>Y</i>	<i>Y</i>	<i>Y</i>	<i>Y</i>
<i>IP Convergence</i>	<i>Y</i>	<i>Y</i>	<i>not stated</i>	<i>not stated</i>
<i>Call Accounting</i>	<i>Y</i>	<i>Y</i>	<i>not stated</i>	<i>Y</i>
<i>Maintenance Contract</i>	<i>Y</i>	<i>Y</i>	<i>Y</i>	<i>Y</i>
<i>User training</i>	<i>Y</i>	<i>Y</i>	<i>Y</i>	<i>Y</i>
<i>Core System Cards and Software and handsetst</i>	<i>20</i>	<i>140</i>	<i>196</i>	<i>not stated</i>
<i>Mail system for mail boxes</i>	<i>100 mail boxes</i>	<i>unlimited</i>	<i>not stated</i>	<i>not stated</i>
<i>Installation and Configuration</i>	<i>Y</i>	<i>Y</i>	<i>Y</i>	<i>Y</i>
<i>Backup Battery</i>	<i>Y</i>	<i>N</i>	<i>not stated</i>	<i>not stated</i>
<i>Warranty</i>	<i>12-month</i>	<i>12-month</i>	<i>12-month</i>	<i>1 2-month</i>
<i>Delivery</i>	<i>6-8 Wks</i>	<i>3 Wks</i>	<i>Not given</i>	<i>1-2Wks</i>
<i>Cost</i>	<i>3,338,623.74</i>	<i>6,688,142.40</i>	<i>4,163,773.28</i>	<i>913,683.60</i>



As noted in the above table, the referenced ‘Matrix’ depicts certain telephonic features pertaining to a PBX system. It is, however, instructive to highlight that Syncon Technologies Limited, the company which was eventually awarded the contract, was not included in the said Matrix.

In point of fact, the foregoing Matrix was attached to an email which was dated 2006 November 9, whereas, the earlier of the two (2) proposals, which was submitted by Syncon Technologies Limited, was dated 2006 December 28, approximately seven (7) weeks after the referenced Matrix was prepared.

Having regard to the foregoing, the OCG found that the AGD conducted what appears to be an ‘evaluation process’ prior to its receipt of all the proposals, and in particular, prior to its receipt of the proposal which was submitted by Syncon Technologies Limited.

The OCG considers it of significant import to highlight the fact that upon a comparative review of both of the AGD’s Matrices of 2007 February 27 and that of 2006 November 9, it was observed that adjustments were undertaken to the quotations, which were proposed by both Cable and Wireless Jamaica Limited and Compumart Jamaica Limited.

Having regard to the foregoing, the OCG, in its Statutory Requisition which was sent to Ms. Millicent Hughes, Accountant General, and which was dated 2010 March 15, posed the following question:

“Did you evaluate the proposals which were received by the AGD for the telephone system? Please provide a comprehensive statement to this question, inclusive of the circumstances surrounding your involvement, and provide documentary evidence, where possible, to substantiate your assertions/responses.”⁴⁸

In response to the foregoing question, Ms. Millicent Hughes stated as follows:

⁴⁸ OCG Requisition which was dated 2010 March 15 and addressed to Ms. Millicent Hughes. Requisition # 14



“The proposals were not evaluated in detail by me. I relied on the matrix which was prepared by the Director FIS, and on that basis made my recommendation, in this regard, I required that the information be presented in a tabular form to allow for comparison across suppliers...” (OCG Emphasis)

Of note, and as referenced above, the OCG verified the aforementioned Matrix which was dated 2006 November 9, as posited by Ms. Millicent Hughes.

It is instructive to note that the Accountant General also provided the OCG with a copy of an AGD Memorandum which was dated 2009 April 8, and which was sent to the Accountant General by Mrs. Maria Clark Proute, in her capacity as the Chairperson of the AGD’s Procurement Committee. The referenced Memorandum stated as follows:

*“In response to your request On April 7 2009, this serves to confirm that on February 27, 2007 the Procurement Committee met and deliberated on bids from Cable and Wireless Jamaica Limited, Compumart Jamaica Limited and Syncon Technologies for the provision of a telephone system for the Accountant General’s Department Syncon Technologies was chosen as the preferred supplier.”*⁴⁹

Having regard to the foregoing, the OCG has found that the referenced Memorandum, which was provided to the OCG and which was dated 2009 April 8, was (a) prepared approximately two (2) years after 2007 February 27, the date on which the Procurement Committee met and deliberated upon the proposals which were received from Cable and Wireless Jamaica Limited, Syncon Technologies Limited and Compumart Jamaica Limited, and (b) stated that Syncon Technologies Limited was chosen as the preferred supplier.

It is instructive to note that the referenced Memorandum represents the only evidence that the OCG has seen which suggests that the AGD’s Procurement Committee selected Syncon Technologies Limited as the preferred supplier.

⁴⁹ AGD Memorandum which was dated 2009 April 8, which was sent to the Accountant General by Mrs. Maria Clark-Proute.



The Procurement Committee's Perception of the Evaluation Process

In an effort to comprehend the discrepancies surrounding the absence of a Tender Document/RFQ, an 'Evaluation Criteria' and a Tender Evaluation Report, as well as, to ascertain the extent to which the Procurement Committee was involved in the referenced procurement, the OCG, requisitioned certain information from the Accountant General and the respective members of the AGD's Procurement Committee.

The OCG's Requisitions, which were dated 2010 March 15, 2010 March 18 and 2010 April 8, respectively, posed the following questions:

"In regard to the selection of Syncon Technologies Ltd., for the supply and installation of a telephone system, please provide answers to the following questions and, where possible, provide documentary evidence to substantiate your assertions/responses:

- i. The criteria by which Syncon Technologies Ltd. was assessed and/or evaluated;*
- ii. The name(s) and title(s) of the individuals who assessed and/or evaluated all the bids which were received by the AGD;*
- iii. Detail the primary conditions of the agreement(s) and/or contract(s) which was/were to be satisfied by Syncon Technologies Ltd.;*
- iv. Did the AGD have a detailed Request For Proposal and/or Quotation, outlining (a) the criteria for selection; (b) evaluation methodology; (c) specifications for the telephone system; and (d) terms and conditions of the contract? If yes, please provide a copy of the same;*



v. *If the AGD did not have a Request For Proposal and/or Quotation, kindly detail the following information:*

(a) Please provide the reason(s) for not having a Request for Proposal and/or Quotation;

(b) The information which was communicated to each bidder;

(c) The medium of communication;

(d) The name(s) and title(s) of AGD Employee(s), Official(s) and/or Officer(s) which communicated same to the respective bidders;

(e) The name(s) and title(s) of Representative(s) of each bidder which the referenced information was communicated to.

vi. *Kindly detail the specifications which were to be met by all bidders which submitted proposals to the AGD;*

vii. *Any other particulars that are pertinent to the evaluation of the bids which was/were received by the AGD.*

Please provide documentary evidence, where possible, to substantiate your assertions/responses."⁵⁰

⁵⁰ OCG Requisitions which were dated 2010 March 15, 2010 March 18 and 2010 April 8, which were sent to the Accountant General and members of the AGD Procurement Committee.



With respect to the criteria by which Syncon Technologies Limited was assessed and evaluated, the Accountant General, Ms. Millicent Hughes, in her response of 2010 March 30, stated, *inter alia*, as follows:

“The criteria on which my recommendation was made is as documented at Appendix I- I. The matrix was completed by the Dir FIS and submitted through the Accountant General to the Procurement Committee.”⁵¹

Ms. Millicent Hughes also stated that *“the initial evaluation was done by the Dir, FIS”*.

As it regards the primary conditions of the agreement(s) and/or contracts that were to be satisfied by Syncon Technologies Limited, Ms. Hughes indicated that such Primary conditions were the provision of the features as outlined in the Evaluation Matrix which was attached to the AGD’s Memorandum of 2007 February 27.

With respect to whether the AGD had a detailed Request for Proposal and/or Quotation outlining (a) the criteria for selection; (b) the evaluation methodology; (c) the specifications for the telephone system; and the terms and conditions of the referenced contract; the Accountant General, in her response stated *“not that I am aware”⁵²*. (OCG Emphasis)

Ms. Hughes further stated in the referenced response that she was unaware of the AGD’s rationale for failing to complete and dispatch to the prospective bidders a Tender Document/Request for Quotation.

Ms. Hughes informed the OCG that it was her understanding that the features for the Private Branch Exchange (PBX) were communicated to the prospective supplier via telephone and email.

⁵¹ Millicent Hughes response of 2010 March 30, to the OCG’s Statutory Requisition. Response #6i

⁵² Millicent Hughes response of 2010 March 30, to the OCG’s Statutory Requisition. Response #6iv



With regard to the name(s) and title(s) of the officer(s) of the AGD who was/were charged with the responsibility of communicating the specifications of the telephonic services which were required by the AGD, the Accountant General stated that *“I know that the Dir, FIS communicated with prospective bidders. I was also contacted/ copied on some communications with Syncon and Cable and Wireless”*.⁵³

It is instructive to note that the OCG, by way of its statutory Requisition, which was dated 2010 March 15, required that Ms. Dennese Smith provide responses to the following questions:

“In regard to the selection of Syncon Technologies Ltd., for the supply and installation of a telephone system, please provide answers to the following questions and, where possible, provide documentary evidence to substantiate your assertions/responses:

- i. The criteria by which Syncon Technologies Ltd. was assessed and/or evaluated;*
- ii. The name(s) and title(s) of the individuals who assessed and/or evaluated all the bids which were received by the AGD;*
- iii. Detail the primary conditions of the agreement(s) and/or contract(s) which was/were to be satisfied by Syncon Technologies Ltd.;*
- iv. Did the AGD have a detailed Request For Proposal and/or Quotation, outlining (a) the criteria for selection; (b) evaluation methodology; (c) specifications for the telephone system; and (d) terms and conditions of the contract? If yes, please provide a copy of the same;*

⁵³ Millicent Hughes response of 2010 March 30, to the OCG’s Statutory Requisition. Response #6v(d)



v. *If the AGD did not have a Request For Proposal and/or Quotation, kindly detail the following information:*

(f) The information which was communicated to each bidder;

(g) The medium of communication;

(h) The name(s) and title(s) of AGD Employee(s), Official(s) and/or Officer(s) which communicated same to the respective bidders;

(i) The name(s) and title(s) of Representative(s) of each bidder which the referenced information was communicated to.

vi. *Kindly detail the specifications which were to be met by all bidders which submitted proposals to the AGD;*

vii. *Any other particulars that are pertinent to the evaluation of the bids which was/were received by the AGD.*

Please provide documentary evidence, where possible, to substantiate your assertions/responses.”⁵⁴

The then Director of Financial Information Systems, AGD, Ms. Dennese Smith, in her response to the OCG’s Statutory Requisition which was dated 2010 March 30, stated, *inter alia*, the following;

“The discussions relating to Sycon[sic] Technologies and Cable and wireless took place between the Accountant General, Millicent Hughes and the prospective suppliers.

⁵⁴ OCG Requisition to Ms. Dennese Smith which was dated March 15, 2010.



*There were no detailed request for proposal outlining the criteria for selection, evaluation methodology, specifications for the telephone system or terms of condition. I am unable to state definitively the criteria by which Sycon [sic] Technology was selected[sic]*⁵⁵ (OCG Emphasis)

It is of import to highlight that the OCG has found no evidence to suggest that the said Evaluation Matrix, which, based upon the Accountant General's assertions, formed the basis of the AGD's assessment and evaluation, was communicated to the five (5) known suppliers that reportedly responded to the procurement opportunity.

Having regard to the findings which have been unearthed, with respect to the referenced procurement, the OCG sought to ascertain the account of the members of the AGD's Procurement Committee which, based upon the Accountant General's response of 2010 March 30, comprised of the following:

- Mrs. Maria Clark-Proute – Deputy Accountant General and Chairperson;
- Mrs. Rose McKay - Deputy Accountant General;
- Mr. Kelvin Donaldson – Director of Revenue Management;
- Mr. Leo Johnson – Director, Consolidated Fund;
- Mr. Edson Williams - Director of Accounts;
- Mr. Patrick Beecher – Director of Foreign Debt; and
- Mr. J. Jengelley – Chief Internal Auditor (*ex officio*)

Mrs. Maria Clarke- Proute, the Deputy Accountant General and Chairperson of the AGD's Procurement Committee, stated in her response to the OCG, which was dated 2010 April 12, that the criteria by which Syncon Technologies Limited was assessed and evaluated were as follows:

“Base System and Software

⁵⁵ Response which was received from Ms. Dennese Smith which was dated 2010 March 30. Response #11



Installation of PBX

Installation and programming of telephone sets

Call centre

Automated Attendant

Voicemail

IP Convergence

Call Accounting

Maintenance Contract

User Training, Handsets

Mail System for mail boxes

Installation and Configuration

Backup Battery

VOIP

Warranty



Delivery

Offering

Track record of the company and Cost.”⁵⁶

It is instructive to highlight that the foregoing account of the Deputy Accountant General replicates that which was seen in the AGD’s Evaluation Matrix of 2007 February 27.

Notwithstanding the foregoing, Mrs. Maria Clarke-Proute also informed the OCG, in her referenced response, that “*there is no Tender Evaluation Report*”⁵⁷ and that she was “*...not aware of the AGD having a detailed RFP*”⁵⁸.

Further, Mrs. Clarke-Proute, who was declared to the OCG to be the Chairperson of the AGD’s Procurement Committee, indicated that she was unaware of (a) the AGD’s rationale for not having a Request for Quotation and/or Tender Document, (b) the information which was communicated to the prospective Bidders and (c) the medium which was used by the AGD to communicate same to the prospective Bidders.

However, Mrs. Clarke-Proute was able to advise the OCG that “...*both Millicent Hughes and Dennese Smith were in contact with Bidders based on reports to monthly senior staff meetings.*”⁵⁹ (OCG Emphasis)

With regard to the selection of Syncon Technologies Limited for the referenced procurement, Mrs. Rose McKay, Deputy Accountant General and a member of the AGD’s Procurement Committee, in her sworn response, which was dated on 2010 April 12, made reference to the

⁵⁶ Response which was received from Mrs. Maria Clark Proute and which was dated 2010 April 12. Response #6

⁵⁷ Response which was received from Mrs. Maria Clark Proute and which was dated 2010 April 12. Response #4

⁵⁸ Response which was received from Mrs. Maria Clark Proute and which was dated 2010 April 12. Response #6iv

⁵⁹ Response which was received from Mrs. Maria Clark Proute and which was dated 2010 April 12. Response #6v



Evaluation Matrix of 2007 February 27, as the criteria by which the referenced company was assessed and/or evaluated.

Further, Mrs. McKay confirmed the following persons as the individuals who were charged with the responsibility of assessing and/or evaluating the proposals which were received:

“Mrs. Maria Clark Proute – Deputy Accountant General and Chairperson of the Procurement Committee

Miss Millicent Hughes – Accountant General and Resource personnel

Miss Dennese Smith – Director, Financial Information System

Mrs. Rose McKay – Deputy Accountant General and member of the Procurement Committee

Mr. Leo Johnson – Director of Consolidated Fund and Member of the Procurement Committee

Mr. Kelvin Donaldson – Director of Revenue Management and Member of the Procurement Committee

Mr. Edson Williams – Director of Accounts and Member of the Procurement Committee

Mr. Patrick Beecher – Director of Foreign Debt and Member of the Procurement Committee”⁶⁰ (OCG Emphasis)

⁶⁰ Response which was received from Mrs. Rose McKay which was dated 2010 April 12. Response # 6ii



Mrs. McKay, however, indicated that the “... Evaluation Matrix was given to me by Miss Millicent Hughes, Accountant General at the Procurement Meeting on February 27, 2007. I can’t say definitively who did the evaluation but it would appear that it was either the Accountant General or the Director, Financial Information System or both”⁶¹. (OCG Emphasis)

Mrs. McKay, in her referenced response, also advised the OCG that she was unaware of a detailed Tender Document, which was prepared by the AGD and that, if such a document existed, she had never seen it.

With regard to the existence and utilization of an evaluation methodology, Mr. Rose McKay, Deputy Accountant General indicated that the “... evaluation methodology was to indicate verbally, based on what was being offered, if we were willing to go with Syncon Technologies Limited.”⁶² (OCG Emphasis)

Mr. Kelvin Donaldson, Director of Revenue Management, AGD, and a member of the AGD’s Procurement Committee, in his response of 2010 April 22, to the OCG’s Statutory Requisition of 2010 March 15, stated, *inter alia*, as follows:

*“As a member of the Accountant’s General Department (AGD) Procurement Committee, I became aware of Syncon Technologies Ltd. proposal to offer a Private Branch Exchange (PBX) system when said proposal was presented along with two other proposals to the members of the committee in February of 2007.”*⁶³

Mr. Donaldson, in his referenced response also informed the OCG of the following:

⁶¹ Response which was received from Mrs. Rose McKay which was dated 2010 April 12. Response #6ii.

⁶² Response which was received from Mrs. Rose McKay which was dated 2010 April 12. Response #6iv.

⁶³ Response which was received from Mr. Kelvin Donaldson which was dated 2010 April 22. Response # 1.



“I along with other members of the Procurement Committee evaluated the proposals, which were received by the AGD for the telephone system...”

The members of the Procurement Committee reviewed the Evaluation Matrix and the proposals from three separate companies, compared the various features and costings, and unanimously decided on Syncon Technologies Ltd. for recommendation to the Accountant General for her approval.”⁶⁴(OCG Emphasis)

Further, Mr. Donaldson also stated that he, along with other members of the Procurement Committee, were provided with a copy of the Proposals which were submitted by the Bidders, the PBX Evaluation Matrix, and the Memorandum of 2007 February 27, which was prepared by the Accountant General.

It is instructive to note that Mr. Donaldson advised the OCG, based upon the referenced Memorandum, that “...that is the only document I have knowledge of that may, or may not have influenced the selection by the Procurement Committee as the entity to choose for recommendation to the Accountant General for the supply and installation of the PBX telephone system”⁶⁵

Mr. Donaldson also indicated that “**Based on the comparison of a number of product descriptions and costing submitted, the committee made a selection and recommended Syncon Technologies Ltd to supply and install the PBX Telephone System for the department**”⁶⁶.(OCG Emphasis)

In respect of the preparation of a Tender Evaluation, Mr. Donaldson made reference to the Evaluation Matrix of 2007 February 27. He further provided that, “**Syncon Technologies Ltd. was assessed and/or evaluated based on eighteen (18) different product descriptions/features**

⁶⁴ Response which was received from Mr. Kelvin Donaldson which was dated 2010 April 22. Response 8.

⁶⁵ Response which was received from Mr. Kelvin Donaldson which was dated 2010 April 22. Response 3 c.

⁶⁶ Response which was received from Mr. Kelvin Donaldson which was dated 2010 April 22. Response 1.



and similarly compared with other product description/features of another two companies”⁶⁷. (OCG Emphasis)

He further added that “Miss Millicent Hughes, Accountant General, recommended to the Procurement Committee for the award of the contract to Syncon Technologies Ltd.”⁶⁸ (OCG Emphasis)

Mr. Leo Johnson, Director, Consolidated Fund, AGD, and a member of the AGD’s Procurement Committee, informed the OCG in his sworn response which was dated 2010 April 21 that he was unaware of the specifications to be met by all bidders. Mr. Johnson also advised the OCG of, *inter alia*, the following:

*“As a member of the Procurement Committee, I was involved in the evaluation of the proposals received by the AGD for the telephone system... The Procurement Committee was invited by the Director of Human Resources as is customary to evaluate the proposals and this invitation was supplemented by the memorandum from the Accountant General...”*⁶⁹

Mr. Johnson also stated in his referenced response, *inter alia*, the following:

*“After much deliberations under the system of collective responsibility, even though some members had reservations, a decision was taken to award the contract to Syncon Technologies Ltd. The Committee was guided by Misses (sic) M. Hughes and D. Smith who had more competence than the others on the matter, resulting in the final outcome.”*⁷⁰ (OCG Emphasis)

⁶⁷ Response which was received from Mr. Kelvin Donaldson which was dated 2010 April 22. Response 6 i.

⁶⁸ Response which was received from Mr. Kelvin Donaldson which was dated 2010 April 22. Response 9 vi.

⁶⁹ Response which was received from Mr. Leo Johnson which was dated 2010 April 21. Response #8

⁷⁰ Response which was received from Mr. Leo Johnson which was dated 2010 April 21. Response #9v



Mr. Johnson further indicated that “...the Accountant General recommended Syncon Technologies Ltd to the Procurement Committee. I cannot recall anyone else making a similar recommendation to the committee.”⁷¹ (OCG Emphasis)

Interestingly, in his referenced response, Mr. Johnson also informed the OCG of the following:

“...some members of the Procurement Committee supported the recommendation of Syncon Technologies Ltd. for the award of the contract. Ms. D. Smith was not in support of Syncon Technologies Ltd. She was in support of Cable and Wireless as she felt that the company selected should be local to ensure quick response to problems if and when they occur, and also because Cable and Wireless cabled the building just months before to accept the internet and PBX telephone system. She felt there would be greater synergy if they provided the PBX telephone system also as they would be aware of the capabilities of the cabling system to provide what we want now and the possibility of any system we choose to be able to be upgraded in the future as we expand. I supported this argument and was not fully convinced of the wisdom of selecting another provider.”⁷² (OCG Emphasis)

The OCG was also informed by Mr. Johnson that he “...was not in support of the selection of Syncon Technologies Ltd. but as a member of the Procurement Committee and under the system of collective responsibility I was of some influence”⁷³ (OCG Emphasis).

Mr. Edson Williams, Director of Salaries, who also served as a member of the AGD’s Procurement Committee, indicated in his sworn response of 2010 April 12, to the OCG’s Statutory Requisition, the following details:

⁷¹ Response which was received from Mr. Leo Johnson which was dated 2010 April 21. Response #9vi

⁷² Response which was received from Mr. Leo Johnson which was dated 2010 April 21. Response #9vii.

⁷³ Response which was received from Mr. Leo Johnson which was dated 2010 April 21. Response #10.



“...the director of information service was contending that she was not technically competent to deal with the issues involved, and insisted that the ministry of finance and fiscal services should be contacted and be involved in the whole process. she also stated that she was sure that they could provide the necessary expertise that was required. the accountant general disagreed, stating that we(department)don’t need to go such a route.”⁷⁴

Mr. Williams further indicated in his sworn response that subsequent to the foregoing:

“... a memorandum d/d 27/02/07accompanied by a pbx evaluation matrix was sent to the procurement committee which among other things conveyed a recommendation for syncon to be awarded the contract for the pbx system. During the subsequent deliberation meeting following the receipt of the memorandum the accountant general expressed her intention to chair the evaluation process. This however was objected to and she eventually ended up acting as “the resource person” taking the committee members through the process of the merits of what syncon technologies ltd proposed to establish for use by the department. Syncon technologies ltd were eventually awarded the contract and were so advised by the accountant general by way of letter d/d 06/03/07... ”⁷⁵ (OCG Emphasis)

Mr. Joseph Jengelley, Chief Internal Auditor, AGD, in his sworn response to the OCG’s Statutory Requisition, which was dated 2012 April 12, informed the OCG that he was an *ex-officio* member of the AGD’s Procurement Committee.

Further, Mr. Jengelley explained that *“at the meeting of February 27, 2007 while the Chairman was going through the proceedings in the meeting, the Accountant General joined the meeting and indicated that she wanted to take over the proceeding.* I then pointed out and advised that

⁷⁴ Response which was received from Mr. Edson Williams which was dated 2010 April 12. Response #1.

⁷⁵ Response which was received from Mr. Edson Williams which was dated 2010 April 12. Response #1.



*such an action would not be the appropriate norm, and that the Chairman should continue chairing. **It was also suggested that the Accountant General be the resource person, this was adopted by the meeting.**⁷⁶”(OCG Emphasis)*

In addition, Mr. Jengelley stated that the date on which the referenced contract award recommendation was deliberated on by the Procurement Committee was 2007 February 27. It was also indicated that the information which was presented to the Procurement Committee was the referenced Evaluation Matrix along with the proposals which were received from Cable and Wireless Jamaica Limited, Syncon Technologies Limited and Compumart Jamaica Limited.

Further, Mr. Jengelley purported that the above referenced Evaluation Matrix was the criteria by which Syncon Technologies Limited was selected and that the Procurement Committee along with the Accountant General and the ‘*FMIS IT Personnel Denise Smith*’ were present during the deliberations. He added that the basis for the Procurement Committee’s decision was “...**based on guidance of Accountant General**”⁷⁷ (OCG Emphasis)

Based upon the above sworn responses, which were provided to the OCG by members of the AGD’s Procurement Committee, the OCG found, *inter alia*, the following to be of significance:

1. The AGD’s Procurement Committee was provided with copies of the proposals which were received from (a) Syncon Technologies Limited, (b) Compumart Jamaica Limited and (c) Cable and Wireless Jamaica Limited.
2. That the proposals were reviewed by the Procurement Committee on 2007 February 27;

⁷⁶ Response which was received from Mr. Joseph Jengelley which was dated 2010 April 12. Response #1.

⁷⁷ Response which was received from Mr. Joseph Jengelley which was dated 2010 April 12. Response #9v.



3. That, in addition to the above stated proposals, the Procurement Committee was provided with a copy of an Evaluation Matrix, which was attached to a Memorandum, which was prepared by the Accountant General and which was dated 2007 February 27.

It is instructive to note that (a) the referenced Matrix was independent of the input of the Procurement Committee and (b) the referenced Memorandum which was sent by the Accountant General, to the Procurement Committee, instructed the members of the Committee as to the course which should be taken in the review of the bids, as well as the Accountant General's 'preferred bidder'.

4. The Procurement Committee had made its recommendation based upon a review of (a) the referenced Evaluation Matrix (b) the proposals from the three (3) prospective bidders and (c) the Accountant General's recommendation which was contained in the referenced Memorandum of 2007 February 27.
5. That the AGD's Procurement Committee was not provided with any detailed tender specification and/or Evaluation criteria on which to conduct a comprehensive review of the referenced proposals.
6. That the then Director of Financial Information Systems, Ms. Dennese Smith, expressed to the Accountant General the need to seek advice from a more competent source in drafting the specifications for the subject procurement.
7. That the Procurement Committee failed to produce, upon the request of the OCG, any evidence of an Evaluation Report and/or scoring sheets which were utilized by its members to endorse and/or approve the recommendation for the award of the contract to Syncon Technologies Limited.



8. That the Accountant General was appointed by the Procurement Committee as its Resource Personnel during its deliberations of 2007 February 27, at which time the recommendation to award the contract to Syncon Technologies Limited was provided.

It is instructive to note that the appointment of the Accountant General as the Resource Personnel was based upon her insistence to be included in the referenced Procurement Committee Meeting. A Committee which would, in turn, submit its recommendations for her final approval.

9. The OCG has also seen evidence in which the Accountant General, as the Accountable Officer of the AGD, would attend and chair the proceedings of the Procurement Committee.

The OCG has noted a similar occurrence in which the Accountant General was present at a Procurement Committee Meeting, which was held on 2007 May 15. The Minutes of the referenced Meeting reported that Ms. Millicent Hughes served as the Chairperson and that the Committee deliberated upon matters pertaining to the “(a) *Painting and tiling of the canteen*, (b) *Replacing of blinds in the department* **(c) Purchase of a motor vehicle for the Accountant General**”⁷⁸. (OCG Emphasis)

It is instructive to note that the matters which were attended to in the referenced meeting pertained to various procurement opportunities. However, in regard to the matter for which an approval was sought from the Procurement Committee which was directly related to the Accountant General, the OCG has noted that the Deputy Accountant General, Mrs. Rose McKay, was requested to Chair the Meeting.

However, though it was indicated in the said meeting that the Deputy Accountant General chaired the proceedings which dealt specifically with the purchase of the motor vehicle,

⁷⁸ Procurement Committee Meeting which was dated 2007 May 15.



the OCG has seen no evidence to indicate that Ms. Millicent Hughes recused herself from the meeting.

In the foregoing regard, the OCG found that the Accountant General's presence at any Procurement Committee Meeting, in which the Committee is required to endorse a recommendation for the award of a contract, would be irregular and improper on the basis that the Accountant General, in this regard, is both the Accountable Officer and the Head of Entity and is therefore required to remain independent of any such decision taken by the Procurement Committee, as the final level of approval.



Changes and/or Alterations to the Tender Specifications and Evaluation Criteria

With respect to the allegation that was made to the OCG that “*the tender documents were doctored to suit ...a specific Supplier*”, the OCG has found no direct evidence to substantiate same, since it was revealed in the conduct of its investigation that the AGD failed to prepare a written Tender Document endowed with Tender Specifications and Evaluation Criteria.

Based upon the fact that the AGD also failed to consummate a written contract, prior to the supply and installation of the telephone system, coupled with the absence of a Tender Document, the OCG is also unable to concretely establish the specifications which were required by the AGD, as well as the information which the AGD communicated to the bidders, in respect of the referenced procurement.

Notwithstanding the foregoing, and based upon the sworn representations which were made to the OCG, by members of the AGD’s Procurement Committee and the Accountant General, that the specifications which were utilized to assess the proposals were the features which were exhibited in the Evaluation Matrix of 2007 February 27, the OCG requested that certain officers of the AGD respond to, *inter alia*, the following question:

*“Are you aware of any changes which were made to the tender specifications for the supply and installation of the telephone system?”*⁷⁹

The AGD officers were also asked to substantiate the foregoing question with specific details as it regards the date on which any such changes were made and or requested, the name(s) and title(s) of the person(s) who made and/or approved the changes, the rationale for any such changes and whether details of any such changes were communicated to the other bidders who had an interest in the referenced procurement.

⁷⁹ OCG’s Requisition which was dated 2010 March 15, which was sent to Ms Millicent Hughes, Ms. Dennese Smith, Ms. Rose McKay and Ms. Maria Clark- Proute. Question #16, #15, #12, and #16, respectively.



Ms. Millicent Hughes, Accountant General, in her sworn response of 2010 March 30, indicated that she was “not aware of any changes which were made to the tender specifications for the supply and installation of the telephone system except for the inclusion of the VOIP feature.”⁸⁰(OCG Emphasis)

Ms. Dennese Smith, Director of Financial Information Systems, indicated in her sworn response of 2010 March 30, that “...there was no written specification document, and if changes were made during discussions between the vendors and the Accountant General, Millicent Hughes I was not made aware”⁸¹.(OCG Emphasis).

The Deputy Accountant General, Mrs. Rose McKay, also indicated in her sworn response of 2010 April 12 that she was unaware of any written Specifications which were drafted and was, thus, unaware of any changes which could have been made.

Mrs. Maria Clarke-Proute, Deputy Accountant General and Chairperson of the AGD’s Procurement Committee, during the referenced period, in her sworn response of 2010 April 12, informed the OCG that while she was unaware of any changes that were made to the Specifications, “...in April 2008 at the meeting between AGD and Syncon Technologies Ltd., Mr. Dudley Johnson informed that he had been instructed to remove the call accounting feature because of budgetary constraints. In senior staff meeting dated May 15, 2008 ... it was reported that call accounting, call management and auto attendant were not included in the deliverables. I do not know if the information regarding the changes were communicated to all Bidders.”⁸²(OCG Emphasis)

This was further corroborated by Ms. Dennese Smith, the then Director of Financial Information Systems, in her response which was dated 2010 March 30, in which she informed the OCG of, *inter alia*, the following:

⁸⁰ Response which was received from Ms. Millicent Hughes which was dated 2010 March 30. Response #16.

⁸¹ Response which was received from Ms. Dennese Smith, which was dated 2010 March 30. Response# 13.

⁸² Response which was received from Mrs. Maria Clark-Proute which was dated 2010 April 12. Response #14.



“...two proposals were submitted by Sycon (sic) Technologies. The first was dated December 28, 2006, and the second, sent as ‘Statement of work’, dated February 12, 2007. I am also aware that the committee were led to believe that the system being selected contained the call accounting and auto attendant functionalities, as they were included in the evaluation matrix. However, in a meeting the Department had with Mr. Johnson, in April 2008, Mr. Johnson informed that he was told to omit those functions, for budgetary reasons...”⁸³ (OCG Emphasis)

In respect of the foregoing, the OCG, in a Statutory Requisition, which was dated 2010 July 13, questioned Ms. Millicent Hughes as to whether there was any truth to the allegation that Mr. Dudley Johnson, Managing Director, Syncon Technologies Limited informed Officers of the Accountant General’s Department (AGD) that he was told to omit the Call Accounting and Auto Attendant functionalities from the proposed telephone system.

Ms. Hughes informed the OCG, in her sworn response which was dated 2010 August 12, that she *“...cannot attest to whether the assertion is true or inaccurate as I was not at any such meeting”⁸⁴.*

It is instructive to note that Ms. Dennese Smith, in her sworn response which was dated 2010 March 30, indicated that *“...this meeting was held with the then Acting Accountant General, Mrs. Maria Proute, in the presence of myself, the then Director of Finance Mr. E.T. Williams, the assistant Office Manager, Mr. Rhoad Collins and the Deputy Accountant General, Mrs. Rose McKay.”⁸⁵*

Mr. Edson Williams, Director of Salaries, AGD and a member of the Procurement Committee informed the OCG, in his sworn response of 2010 April 12, of the following:

⁸³ Response which was received from Ms. Dennese Smith which was dated 2010 March 30. Response #12.

⁸⁴ Response which was received from Ms. Millicent Hughes which was dated 2010 August 12. Response #1.

⁸⁵ Response which was received from Ms. Dennese Smith which was dated 2010 March 30. Response #12.



“After the installation of the telephone system it was realized and asserted by the information technology unit that the system was incomplete and that certain features were absent. The features mentioned are as follows:

- a) the auto attendant*
- b) call accounting*

it should be noted that these two features were a part of the evaluation matrix and thus formed a part of the selection deliberation process. *In my opinion the price as represented on the evaluation matrix should be adjusted to reflect these omissions. a subsequent submission to the procurement committee of two(2) invoices via memorandum d/d 23/02/09 from syncon technologies ltd...served to support or rather confirm the assertion of the information technology unit that these omissions did take place. It should be noted however that these invoice were never deliberated on and are in a state of limbo so to speak until the issue of the contract is resolved”⁸⁶ (OCG Emphasis)*

Mr. Rhoan Collins, in his sworn response to the OCG, which was dated 2010 April 14, advised the OCG of the following:

“It is TRUE that Mr. Dudley Johnson of Syncon Technologies Ltd informed officers of the AG D’S in a meeting in our Conference Room on April 11, 2008, that he was instructed to omit the CALL ACCOUNTING FEATURE from the proposed telephone system- (a) the names and titles of the individual(s) were never given by Mr. Johnson, although I (Rhoan Collins) distinctly asked who had given such instruction, (b) the date on which such instruction was given was not solicited from Mr. Johnson and was not given by him, (c) the circumstances relating to same was not solicited and was not given, (d) the impact such directive had on the contract has been negative and far reaching, since to

⁸⁶ Response which was received from Mr. Edson Williams which was dated 2010 April 12. Response #17.



*date the system has not worked for the maximum benefit of the department as was envisaged. The instruments are only been used as mere extensions and persons are still not knowledgeable as to how to use them.(e) I have absolutely no knowledge as to whether or not this information was communicated to all the bidders.*⁸⁷(OCG Emphasis)

The OCG sought a response from Mr. Dudley Johnson, Managing Director of Syncon Technologies Limited with respect to the foregoing allegation, by way of its Statutory Requisition, which was dated 2010 July 13.

Mr. Johnson informed the OCG, in his sworn response which was dated 2010 July 21 that he was “...not aware of any changes which were made to the tender specifications for the supply and installation of the telephone system...”⁸⁸

Mr. Johnson added that “... *The system comes with basic call accounting which some clients either elect to use as is, write software to enhance the reporting functionalities, or purchase a commercial package where advanced reporting capabilities are required.* There has been some misunderstanding by the AGD surrounding the call Accounting capabilities of the system implemented. *The call accounting and Auto attendant capabilities are a part of the PBX system and the Voice Mail system respectively and therefore the issue of omission does not arise. The functions installed were as stated in the agreement.*...”⁸⁹ (OCG Emphasis)

It is instructive to note that the PBX Evaluation Matrix that was forwarded to the AGD’s Procurement Committee, by the Accountant General, and which was appended to an AGD Memorandum, which was dated 2007 February 27, reflects the inclusion of both a Call Accounting and Automated Attendant features, which all three (3) companies, namely Syncon

⁸⁷ Response which was received from Mr. Rhoads Collins which was dated 2010 April 14. Response #12

⁸⁸ Response which was received from Mr. Dudley Johnson Which was dated 2010 July 21. Response #3.

⁸⁹ Response which was received from Mr. Dudley Johnson Which was dated 2010 July 21. Response #6.



Technologies Limited, Cable and Wireless Jamaica Limited and Compumart Jamaica Limited had proposed as being capable of providing.

The OCG found, upon its review of Syncon Technologies Limited's proposal, which was dated 2006 December 28, that telephonic features described as "*Call Detail Records (CDR's) and Call Management Records (CMR's)*"⁹⁰ were included in same.

The proposal also indicated that "... *These are intended to help administrators and others responsible for billing, records keeping, and problem mitigation to have available a record of all calls that have been originated by or terminated by end user...*"⁹¹

However, a review of the referenced company's proposal, which was dated 2007 February 12, revealed, in its project scope, *inter alia*, the following items:

*"Installation of Primary MCS CallManager Server...Installation and configuration of CallManager Features: Extension Mobility, Pickup group...Configure Auto Attendant."*⁹²

It is instructive to note that in its Proposal of 2007 February 12, Syncon Technologies Limited made no reference to any features which were described as "*Call Detail Records (CDR's) and Call Management Records (CMR's)*... [which were intended to] *help administrators and others responsible for billing, records keeping, and problem mitigation to have available a record of all calls that have been originated by or terminated by end user...*"

The OCG was provided with a Memorandum by Ms. Dennese Smith, which was dated 2008 March 5, that alluded to a request for additional funding for the PBX project. The referenced Memorandum, which was sent to Ms. Millicent Hughes by Ms. Dennese Smith, pertained to a request for additional funding in the amount of US\$6,570.00, as it regards the following items:

⁹⁰ Syncon Technologies Limited Proposal which was dated 2007 February 12.

⁹¹ Syncon Technologies Limited Proposal which was dated 2007 February 12.

⁹² Syncon Technologies Limited Proposal which was dated 2007 February 12. Project Scope.



“Item 1- Cable:

Communication with Syncon has revealed, that this item was already delivered and is in use, but was inadvertently left off the original quotation.

Item 2- SV-BILLY3-CCM-250-M

This accounting software is to be used with the Cisco Call Manager. Of note is the fact that the IPT proposal submitted Syncon ... indicated that the system being proposed, would have a Call Detail Recording and Reporting feature. It is my view that at the onset of the exercise, the Department expressed their desire to have this feature. Therefore, it should not be accommodated as an additional cost to the Department.

Item 3- VWIC-IMFT-E1

When Syncon was ready to establish communication with Cable and Wireless, it was discovered that the Department had contracted for 2 trunklines (Syncon’s quotation included an interface with 1 port, costing US\$800). As a result, syncon provided a 2- port interface (now billed at US \$780).

Item 4 – STL-ENG –SRVS

Syncon is directly increasing the installation and configuration cost by US\$1,000 by the inclusion of this item. The proposal quoted US\$6,000 as the original cost for installation and configuration. Since the project has not been completed, It would appear to me that there should be no increase.

In addition ...is the fact that the additional sum of US\$6,570.00 will move the cost of the original contract to US\$64,389.65. using an exchange rate of Ja \$ 71.50 to US\$ 1, this is



JA \$4,571,665.15 which means that the contract would have to be approved by the National Contracts Commission.”⁹³

In addition, the OCG has evidenced a quotation which was numbered ‘3835’ that was prepared by Syncon Technologies Limited and which was dated 2009 January 26. The referenced quotation was billed to Ms. Millicent Hughes, Accountant General, for the following addition items:

<i>Item ID</i>	<i>Item Description</i>	<i>Qty</i>	<i>Item Price</i>	<i>Total Price</i>
<i>Call Accounting</i>				
AS100	Avotus Professional Base System	1	847.55	847.55
AS200	Avotus Pro Call Accounting (100 Station Pack, Qty 1-4)	1	814.66	814.66
ENH-DATA	Enhanced Scripting Package (Data Collection Bufferless)	1	1,075.25	1,075.25
APEL	2 Day AP Remote Installation, Config. & Training, No Maint.	1	1,650.00	1,650.00

Based upon the referenced quotation, the items which are tabled above had a total value of US\$5,111.39.

The OCG also evidenced a quotation from Syncon Technologies Limited which was numbered ‘3834’ that was dated 2009 January 26 and which reflected, *inter alia*, as follows:

⁹³ Memorandum which was sent by Ms. Dennese Smith to Ms. Millicent Hughes which was dated 2008 March 5.



<i>Item ID</i>	<i>Item Description</i>	<i>Qty</i>	<i>Item Price</i>	<i>Total Price</i>
<i>CP-7911G</i>	<i>Cisco IP Phone 7911G</i>	<i>6</i>	<i>162.00</i>	<i>972.00</i>
<i>CP-7961G</i>	<i>Cisco IP Phone 7941G</i>	<i>2</i>	<i>320.40</i>	<i>640.80</i>
<i>LIC-CM-DL-10=</i>	<i>Call Manager Device License</i>	<i>3</i>	<i>360.00</i>	<i>1,080.00</i>

Having regard to the referenced quotation, the items which are listed in the above table had a total value of US\$3,137.11.

In addition, it is instructive to note that by way of the Accountant General's sworn response, which was dated 2010 August 12, the OCG was informed of, *inter alia*, the following:

“The AGD plans to further upgrade the telecommunication system based on the need to improve the positioning of the Department. This upgrade will allow connectivity intra-government and will include the procurement of the call accounting feature as well as other features to facilitate a telecom system, bridge facilities as well as video conferencing”⁹⁴. (OCG Emphasis)

Having regard to (a) the absence of a Tender Document/RFQ and a formal written contract, (b) the statements which were made by the Accountant General and members of the AGD's Procurement Committee which inferred telephonic features which were indicated on the 'PBX Evaluation Matrix' of 2007 February 27 were the criteria upon which the bids were assessed, (c) the proposal(s) which were submitted by Syncon Technologies Limited and (d) the AGD Memorandum, which was dated 2008 March 5, regarding a request for 'additional funding for

⁹⁴ Response which was provided by Ms. Millicent Hughes which was dated 2010 August 12. Response #12



the PBX project’ and the numerous other quotations for additional features which were submitted in 2009, the OCG has found, *inter alia*, the following to be of significance:

1. That the proposals which were submitted by the prospective bidders were not informed by a Tender Document/RFQ which would have outlined the eligibility requirements and tender qualifications and the tender specifications as it regards the referenced procurement.
2. That there were no legally binding terms and conditions which were agreed upon by the AGD and Syncon Technologies Limited prior to the award of contract, thus, the OCG is unable to determine whether Syncon Technologies Limited negated to provide any contractually agreed terms.
3. That the Proposal, which was submitted by Syncon Technologies Limited on 2007 February 12, made no reference to any features which were described as “*Call Detail Records (CDR’s) and Call Management Records (CMR’s)....[which were intended to] help administrators and others responsible for billing, records keeping, and problem mitigation to have available a record of all calls that have been originated by or terminated by end user...*” However, it must be noted that the 2006 December 28 proposal made reference to the said features.
4. Having regard to the representations which were made to the OCG that only three (3) proposals were submitted to the AGD’s Procurement Committee for its review, the OCG is uncertain as to which of the two or whether both proposals that were submitted to the AGD by Syncon Technologies Limited formed the basis of the Procurement Committee’s recommendation to award the contract.

It is instructive to note that no member of the Procurement Committee provided the OCG with a copy of the 2007 February 27 proposal which was provided by Syncon Technologies Limited.



However, in several instances, and based upon the OCG's request, several members of the AGD's Procurement Committee provided the OCG with a copy of the 2007 December proposal from Syncon Technologies Limited.

The foregoing buttresses the OCG's position regarding the uncertainty of which proposal was utilized by the Procurement Committee in its deliberations.

Notwithstanding the foregoing, it is instructive to reiterate that (a) the OCG has seen no evidence to indicate that the proposals which were submitted to the AGD by Syncon Technologies Limited and others, were expressly informed by any written specifications, (b) that discussions pertaining to the specifications were stated by the Accountant General to have taken place via emails and telephone calls, of which, no evidence has been submitted to the OCG and (c) the AGD was unable to provide the OCG with any documented evidence of the deliberations of the Procurement Committee with respect to its review of the subject procurement. The OCG is, therefore, unable to establish what was essentially required by the AGD and whether there were any omissions in the deliverables.



The Basis upon which the AGD awarded the Contract to Syncon Technologies Limited

The OCG has seen no physical evidence of the Procurement Committee's endorsement of the referenced contract, as the AGD failed to provide the Procurement Committee's Meeting Notes of 2007 February 27. The OCG was, however, advised by way of the sworn testimonies of the members of the AGD's Procurement Committee that its endorsement was provided in the said meeting of 2007 February 27, for the award of the contract to Syncon Technologies Limited.

By way of a Memorandum which was dated 2007 February 27 and which was sent by Ms. Millicent Hughes, Accountant General, to the Procurement Committee, the OCG found that the Accountant General, as the Accountable Officer and the Head of Entity, recommended to the Committee that the referenced contract be awarded to Syncon Technologies Limited.

It is instructive to note that Ms. Hughes, in her sworn response of 2010 March 30, indicated to the OCG that the basis for her recommendation for the contract to be awarded to Syncon Technologies Limited was based upon the Evaluation Matrix, which she stated was *"...completed by the Dir FIS and submitted through the Accountant General to the Procurement Committee"*⁹⁵.

It is instructive to, however, reiterate that the then Director of Financial Information Systems, Ms. Dennese Smith, indicated in her sworn response which was dated 2010 March 30, that based upon her review, the proposal which was submitted to the AGD by Cable and Wireless Jamaica Limited was, *inter alia*, (a) capable of adequately supplying the needs of the Department and (b) proposed the best price. Ms. Smith also indicated that any other company to which the contract was awarded would have to work with Cable and Wireless Jamaica Limited; based upon the fact that Department's structured cabling was done by Cable and Wireless Jamaica Limited.

⁹⁵ Response which was received from Ms. Millicent Hughes which was dated 2010 March 30. Response #6



Further, it is of import to highlight the fact that based upon the OCG's review of the referenced Evaluation Matrix, the lowest responsive tender was in the amount of US\$53,549.56 or J\$ 3,639,330.08 and was proposed by Cable and Wireless Jamaica Limited.

Having regard to the foregoing, the OCG has found that the representation which was made by Ms. Millicent Hughes, Accountant General, that her recommendation to the Procurement Committee for the referenced contract to be awarded to Syncon Technologies Limited was based upon the referenced Matrix which was reportedly prepared by Ms. Dennese Smith, is inconsistent with the representations which have been made by Ms. Smith, amongst other findings of the OCG.

Further, based upon the failure of the AGD to provide evidence of written specifications which were communicated to the prospective bidders, which would indicate the requirements of the AGD and specifically, as articulated by the Accountant General that the required system was to be a "*Voice Over Internet Protocol (VIOP)*"⁹⁶, the OCG is uncertain of the criteria which the Accountant General used as the basis to evaluate the proposals and to subsequently recommend the award of the contract to Syncon Technologies Limited.

The OCG has also seen evidence of a letter which was dated 2007 March 6, which was sent by the Accountant General, Ms. Millicent Hughes, to Mr. Dudley Johnson, Managing Director of Syncon Technologies Limited, advising as follows:

*"This serves to advise that a recent meeting of our Procurement Committee, it was decided to accept the proposal submitted by your company for the new IP Telephony Solution."*⁹⁷

⁹⁶ 2007 February 27, Memorandum which was sent to the Procurement Committee by the Accountant General.

⁹⁷ Letter which was dated 2007 March 6 that was sent by Ms. Millicent Hughes to Mr. Dudley Johnson.



Mr. Dudley Johnson, by way of a letter which was dated 2007 March 8, indicated that “*We...are in agreement with the terms as stated for the IP Telephony Solution. Please deliver Purchase Order with zero rated certificate (if applicable to your organization)...*”⁹⁸

The OCG’s Preliminary Enquiry had revealed, based upon the admission of the Accountant General, that the AGD had failed to consummate a written and legally binding contract which held the Contractor, Syncon Technologies Limited accountable based upon specified terms and conditions. This was further corroborated by Mrs. Maria Clarke-Proute, Deputy Accountant General and Chairperson of the Procurement Committee, AGD, when she stated in her sworn response of 2010 April 12, that “**There is no written contract between AGD and Syncon Technologies Ltd for the supply and installation of a telephone system**”.⁹⁹ (OCG Emphasis)

It is instructive to note that the AGD’s failure to sign a legally binding contract amounts to a breach of Section 6.10.3 of the GPPH (2001 May), which expressly provides the following:

*“Once the successful contractor has provided his performance security and has put in place the requisite sureties and insurance **the formal signing of the contract should be arranged... a copy of the signed contract agreement should be delivered to each of the following persons:***

- **The Contractor;**
- **The Director of Finance of the procuring entity; and**
- **The Chief Procurement Officer of the procuring entity; and**

***A copy of the executed contract should also be retained in the record of the procurement**”.*¹⁰⁰ (OCG Emphasis)

⁹⁸ Letter which was dated 2007 March 8, that was sent by Mr. Dudley Johnson to Ms. Millicent Hughes.

⁹⁹ Response which was received from Mrs. Maria Clark-Proute which was dated 2010 April 12. Response #1

¹⁰⁰ Section 6.10.3 of the GPPH (2001 May).



In addition, the OCG has seen no evidence of any letter which was prepared by the AGD and sent to the other bidders, namely: Compumart Jamaica Limited, and Cable and Wireless Jamaica Limited, informing them of (a) the names of the bidders, (b) the amounts proposed by each bidder and (c) the successful bid, in keeping with Section 6.10.4 of the then applicable GPPH, (May, 2001).

The OCG, in an attempt to gain an appreciation of the approval process which was undertaken by the AGD, in its Statutory Requisition of 2010 March 15, requested that the Accountant General provide the names and titles of the individual(s) who was/were authorized to approve contracts, during the period 2006 January to 2010 February.

It is instructive to note that the Accountant General indicated in her sworn response of 2010 March 30, as follows:

*“This is the direct purview of the Deputy Accountant General – Rose McKay ...”*¹⁰¹

The Deputy Accountant General, Mrs. Rose McKay, in her sworn response which was dated 2010 April 12, provided the OCG with a list of the members of the AGD’s Procurement Committee and further indicated that Mrs. Yvonne Soares, Director of Human Resources and Administration *“...was directly in charge of the Office Manager and would approve some purchases”*.

Mrs. McKay further indicated that Mr. Vincent Young, Office Manager, AGD, *“...is responsible for doing the purchasing of goods and services for the Department”* while Mr. Rhoan Collins, Assistant Manager, is responsible for carrying out the duties of the Office Manager in his absence.¹⁰²

¹⁰¹ Response which was received from Ms. Millicent Hughes that was dated 2010 March 30. Response #12.

¹⁰² Response which was received from Mrs. Rose McKay that was dated 2010 April 12. Response# 11.



It is instructive to note that Mr. Rhoan Collins, in his sworn response to the OCG which was dated 2010 April 14, stated that he has “...*absolutely no knowledge of any contract(s) awarded to Syncon Technologies Limited by the AGD for the supply and installation of a telephone system*”¹⁰³.

¹⁰³ Response which was received from Mr. Rhoan Collins that was dated 2010 April 14. Response #1.



Internal and External Audits which have been conducted by the AGD's Internal Auditor and the Auditor General

The Internal Auditor's Report

The OCG found that an Internal Audit was conducted into the management of the procurement process, which was undertaken by the AGD in the procurement of the referenced PBX system.

The audit brought to the fore serious observations and conceived impacts, which, in the considered view of the OCG, is of import to its investigation.

Based upon the contents of a Memorandum which was dated 2008 October 6, and which was submitted by the Chief Internal Auditor (Acting), Ms. Joanne Sinclair, to the Accountant General, Ms. Millicent Hughes, the OCG found that the audit sought to determine the following:

- *“...whether the procedures used for acquiring the PBX system were in accordance with the Government of Jamaica procurement guidelines.*
- *...the adequacy of the internal controls to protect the department's interest.*
- *...if value for money has been received.”¹⁰⁴*

The referenced Audit Report revealed, *inter alia*, the following observations which were evidenced by the Internal Auditor:

- *“There was no evidence that contracting services for the provision of the PBX system was advertised. Although quotes were received from three (3) entities, to date audit is not privy to the tender documents hence audit was unable to assess the method used by the Procurement Committee to select the final bidder.*

¹⁰⁴ Internal Audit Memorandum which was dated 2008 October 6, regarding “**FINAL REPORT ON THE PROCUREMENT OF PBX SYSTEM**”.



Selective tendering process is an appropriate method of choosing supplier of goods and services, but if the process was not followed, the selection could be considered incomplete, unfair and may not have been conducted at arms length.

- *It is also of note that the in examining the Minutes of the Procurement Committee meetings for the period, there was no evidence of any discussions relating to the PBX system. However, Senior Staff Meeting held on March 8, 2007 was informed that a Procurement Committee meeting was held on February 27th 2007 and the contract was awarded to Syncon Technologies Ltd. The minutes of that meeting of February 27, 2007 was not found, contact was made with the Secretary of the Procurement Committee and Deputy Accountant General/ Chairperson of the Procurement Committee, and a Memo dated 15th September 2008, was sent to the Chairman of the Procurement Committee requesting same, to date nothing has been forthcoming.*
- *A memorandum dated February 27, 2007 from the Accountant General to the members of the Procurement Committee re Procurement of PBX System stating that “The system chosen is a Voice Over Internet Protocol (VOIP) and based on the costing as submitted, Syncon Technologies is the most economical of the quotations received”, was also seen.*
- *...in an interview with the Director of Financial Information System, it was made clear that she was not technically competent to advise management of the selection, hence it was recommended that contact be made with Fiscal Services and the Ministry of Finance and Planning to assist with developing the specification for the system.*
- *Upon examination of the related documentation, such as the Procurement Committee Meeting file, it is evident that the contract cost is above \$275,000.00, yet there was no evidence of a Tax Compliance Certificate (TCC) and Certificate of Registration from NCC, an indication of noncompliance with the tendering process, which includes the preparing of tender documents.”*



The foregoing observations were found to have the following impact, as viewed by the Internal Auditor:

- *“The department may not have received the best value for money.*
- *If the procurement committee was not involved in the decision making process, the necessary expertise for proper evaluation of services needed might not have been utilized.*
- *Contract could be awarded to contractors who are not tax compliant or registered with NCC.*
- *The contractor might not satisfy the needs of the department if the needs are not clearly indentified and documented.*
- *Misunderstandings as to basis/ criteria used for the award of contract may occur.”*

Based upon the foregoing assessed impacts, the Internal Auditor advanced the following recommendations:

- *“Technically competent personnel should always be used in the contract selection and awarding process.*
- *Tender documents should be developed for contracts of this nature and there should be documentations for proper audit trail.”*

The AGD’s Internal Auditor also made the following observations:

- *“A Statement of Work (SOW) was seen from Syncon defining services and deliverables that Syncon shall provide to AGD under terms of the agreement. This document had the form of a contract but was not signed. **A request was made for signed contract from the Deputy Accountant General, but to date none was forthcoming.***



- *Vide payment voucher 101201 dated March 30, 2007, a payment of JA \$ 1,593,554.60 was made to Syncon Technologies Ltd. representing 40% deposit was seen...*
- *The cost of the contract for Syncon Technologies Ltd. was originally stated as JA\$3,983,886.76 on the PBX Evaluation Matrix this would not require approval from the National Contracts Commission (NCC).*
- *In addition memo dated March 4, 2008 from Director of Financial Management Information Systems addressed to the Accountant General, indicated that additional funding of US \$ 6570.00 would be required by Syncon, which would move the original cost from US\$58,586.57 to US \$ 65,156.57. Using the exchange rate of JA\$ 71.5 to US\$1 the JA\$ equivalent would be JA\$ 4,658,694.70.*
- *The cost for implementing trunk lines from Cable and Wireless were not included in the overall cost of contract. Trunklines and cabling are key components for the implementation of the system, so audit is of the view that the cost for such key components, for the implementation process, should have been incorporated in the overall cost of the contract.*
- *It could be construed that the cost of contract was fragmented so that the contract would have been awarded to Syncon Technologies Limited”.*

The Internal Auditor found that the foregoing observations could have the following impacts:

- *“Having made the deposit, this could be interpreted to be performance on the part of the department which could now be exposed to legal actions for final payment.*
- *Any disagreements may be difficult to settle legally or otherwise.*
- *The Department may not have received the best value for money. This includes the most competitive price and quality of service.*



- *There may also have been a breach of the procurement guidelines by not including the NCC in a contract above JA \$ 4M.*
- *This could also mean that the necessary expertise for properly evaluating the services needed was not utilized.”*

With regard to the aforementioned impacts, the Auditor postulated the following recommendations:

- *“The persons involved in the payment process should be made aware of the procurement guidelines, for making payments.*
- *An urgent meeting should be held with all concerned, with a view to settle differences and finalize a contract.*
- *The procurement committee should be instrumental in any decision making process for all goods and services being procured for this department, so as to take advantage of the relevant expertise available.”*

The Internal Auditor concluded that “...**non compliance with the procurement guidelines as set out in the Hand Book has seriously compromised the Accountant General’s position on the procurement of the PBX system. It is also believed that the rights and obligations of both parties and the total cost involved were not clearly defined from the beginning. And of major concern is how the department would address any dissatisfaction with Syncon technologies Limited about the newly installed PBX system, without there being a signed contract**”. (OCG Emphasis)



The Auditor General's Report

The OCG found, by way of the 2010 Auditor General's Report, that an examination of the process which was undertaken by the AGD was conducted which revealed that **"...its transparency and objectivity were impaired because the responsible officers failed to comply with the Procurement Guidelines."**¹⁰⁵

The referenced Report outlined, *inter alia*, the following concerns:

1. The absence of Procurement Minutes of which the Auditor General's Department found to be a breach of Section 15.2.3 of the 2001 GOJ Procurement Guidelines.
2. The absence of a written contract of which the Auditor General's Department found to be a breach of Section 5.1.2.6 (d) of the 2001 GOJ Procurement Guidelines.
3. That the procurement opportunity was not advertised, in accordance with Section 5.3.4 of the Procurement Guidelines. Consequently, the objectivity and transparency of the process was impaired.
4. That the "... deposit of US \$ 23,532 paid to the contractor was not secured in keeping with Section 6.2.2.13 of the Procurement Guidelines".
5. That the "... telephone system was installed and is currently being used by the Accountant General's Department. However, the supplier has not been paid and has claimed US\$ 39, 455 or J\$ 2,349,968 in interest charges for the period January, 2009 to July, 2010. The invoice stated that "balance outstanding beyond 30 days attracts interest charge of 5% and an additional 2% every 15 days thereafter. There was no evidence this was agreed prior to the award of the contract..."
6. That the procurement opportunity was not advertised, and as such, the Auditor General's Department was found to be in breach of Section 5.3.4 of the then applicable May 2001 GOJ Procurement Guidelines.

¹⁰⁵ Auditor General 2010 Report, Section 30.5 - Breaches in Procurement Procedures.



Payments Made by the AGD to Syncon Technologies Limited in Respect of the Referenced Procurement

Advance Payment

The OCG found that the 2006 December 28 Proposal, which was submitted by Syncon Technologies Company Limited to the AGD required in its stated Terms and Conditions a 50% deposit.

In respect of the foregoing, the OCG has evidenced a copy of a letter which was dated 2007 March 8, which was sent by Mr. Dudley Johnson, Managing Director, Syncon Technologies Limited to Ms. Millicent Hughes. The letter indicated that Syncon Technologies Limited was in agreement with the terms which were stated for the IP Telephony Solution. Mr. Johnson further asked that a “...*Purchase Order with zero rated certificate...*”¹⁰⁶ be delivered.

The OCG also found that an Invoice which was prepared by Syncon Technologies Limited on 2007 March 11, and which reflected a deposit of 40% of the contract value, in the amount of \$1,593,554.60, was sent to the AGD.

The OCG has seen evidence that a Payment Voucher, which was dated 2007 March 29, and which was prepared in the amount of \$1,593,554.60, was duly authorized by the Accountable Officer on 2007 March 29.

In response to the OCG’s Requisition of 2010 March 15, Mr. Edson Williams, Director of Salaries, and the then Director of Finance at the AGD, confirmed that an advanced payment in the amount of \$1,593,554.60 was paid to Syncon Technologies Limited. He further informed the

¹⁰⁶ Letter dated 2007 March 8, that was sent to Ms. Millicent Hughes by Mr. Dudley Johnson.98



OCG that “the director of finance Edson Williams was the authorizing officer”¹⁰⁷. (OCG Emphasis)

The OCG found that the advance payment of \$1,593,554.60, which was made by the AGD to Syncon Technologies Limited, an approximate 40% of the contract sum for the referenced procurement, amounts to a breach of Section 6.2.2.13 of the then applicable GPPH which states, *inter alia*, as follows:

“Where advance payments are offered the amounts and terms under which the advances will be made and recovered must be stated. Normally the advance should be recovered by installments by deductions from interim payments.

Advance payments for mobilization should not exceed 10% of the Contract Sum or such other amounts that may be stipulated by Cabinet. The procuring entity may allow the total of such advance payments to the amount of 15% of the Contract Sum where a large proportion of the contract sum is represented by the value of the work nominated subcontractor. It is normal to allow a grace period of up to one quarter of the contract period and a requirement that the whole advance will be recovered before the third quarter of the contract.

All advance payment offered under contract must be completely guaranteed by an advance payment security” (OCG Emphasis)

The Provision of Additional Services and Outstanding Balance

The OCG found that by way of a Memorandum, from Ms. Millicent Hughes to Ms. Janice Landell, which was dated 2009 February 20, Ms. Hughes sought approval for “... the quotations

¹⁰⁷ Response which was received from Mr. Edson Williams that was dated 2010 April 12, Response #6



*in respect of the Call Accounting, Software for telephone, as well as the Purchase of eight (8) additional Telephones to be submitted to the Procurement Committee”.*¹⁰⁸

It is instructive to note that Ms. Hughes also granted her approval for the payment of the “...outstanding balance of US\$ 35,152.75 and US\$ 1,020.00 as per Invoice Nos. 4093 and 4092 dated January 27, 2009.”¹⁰⁹

The OCG found, by way of a letter which was dated 2010 January 12, that was sent to the Accountant General, Ms. Millicent Hughes, from Mr. Dudley Johnson, Managing Director, Syncon Technologies Limited, that Mr. Johnson sought to remind the AGD of the balance which was owing to Syncon Technologies Limited with regard to the PBX system.

Mr. Johnson, in the referenced letter, informed Ms. Hughes of the following:

*“...the amount of US\$36,172.42 is still outstanding. Consequently we continue to invoke the clause in our contract with you regarding interest on outstanding balances and now include invoice Number 4706 in the amount of US\$5,183.81 for your attention...”*¹¹⁰

As at March 2010, the OCG had not seen any evidence that the foregoing amounts were settled by the AGD. In fact, the OCG has seen evidence in which the AGD has acknowledged that as at 2010 March 16, it had an outstanding balance of \$3,639,348.00 which was to be paid to Syncon Technologies Limited.¹¹¹

During the course of its Investigation, the OCG found that by way of a letter which was dated 2009 May 1, the Accountant General wrote to the Solicitor General seeking advice as to

¹⁰⁸ Memorandum dated 2009 February 20, from Ms. Millicent Hughes to Ms. Janice Landell.- “**Purchase of Telephone Software Addition Telephones and Balance of Payment in respect of Syncon Technologies Ltd.**”

¹⁰⁹ Memorandum dated 2009 February 20, from Ms. Millicent Hughes to Ms. Janice Landell.- “**Purchase of Telephone Software Addition Telephones and Balance of Payment in respect of Syncon Technologies Ltd.**”

¹¹⁰ Letter dated 2010 January 12, which was sent by Mr. Dudley Johnson to Ms. Millicent Hughes

¹¹¹ Memorandum, dated March 16, 2010, which was sent to the Deputy Accountant General, Mrs. Rose McKay by the Director of Accounts, Mr. Michael Maragh.



“whether payment may be made [to] Syncon Technologies Limited ...for the installation of a PBX system at this Department...[considering that the] Department failed to issue a contract for the service and the payment officers are of the opinion that in the absence of such a document final payment cannot be made [and] the vendors are now requesting payment ...”¹¹²

In response to the foregoing, Dr. Shazeeda Ali, who wrote for and on behalf of the Attorney General, informed Ms. Hughes of the following:

“... a contract may be written, oral or part written/part oral. Based on the documentation attached to your letter, it appears that the agreement between the Accountant General’s Department...and Syncon Technologies Ltd...would fall within the realm of the last category.

The fact that the AGD did not issue a contract in the required form does not affect the validity of the agreement between the parties. *Indeed, if the AGD fails to abide by the terms of the agreement, Syncon would have the right to initiate a lawsuit for breach of contract...*

The payment to Syncon of the 40% deposit on March 29, 2007, in response to the invoice from Syncon dated March 11, 2007, indicates partial performance of the contract by the AGD.

It appears that the works to be performed by Syncon under the contract were satisfactorily performed, as evidenced by the Project Completion Certificate, dated January 9, 2009, which was signed by both parties. Consequently, Syncon would be entitled to receive the balance that is due.¹¹³(OCG Emphasis)

¹¹² Letter dated 2009 May 1, which was sent by Ms. Millicent Hughes to the Solicitor General.

¹¹³ Letter dated 2009 June 1, which was sent to Ms Millicent Hughes by Dr. Shazeeda Ali



In an effort to ascertain the full amount owing to Syncon Technologies Limited by the AGD, the OCG, by way of its Statutory Requisition, which was dated 2010 July 13, requested that the AGD respond to the following question:

*“Kindly provide a breakdown of the **total** amounts which (a) have been paid by the AGD to Syncon Technologies Ltd. pursuant to the contract which was awarded for the installation of a telephone system; and (b) have not yet been paid and for which the AGD is liable. The breakdown should include the amounts which have been paid pursuant to any changes which have been made to the scope of the contract and/or interest which has been accrued to date.”¹¹⁴*

In respect of the foregoing, Ms. Hughes, in her response which was dated 2010 August 12, informed the OCG that the “...total payment to date has been \$23,434.62... **The total amount outstanding as submitted by Syncon is US\$41,356.56** and the details are as follows:

- i. Original amount outstanding, invoice \$35,152.75
- ii. Invoice #4092 \$1,020.00
- iii. Invoice #4706- Interest charges to January 2010 \$5,183.81... ” (OCG Emphasis)

Notwithstanding the referenced advisory which was provided by the Solicitor General, the OCG found, by way of the Hansard of a meeting of the Public Accounts Committee (PAC), which was held on 2011 March 8, that, as at that date, the AGD had still not settled the outstanding balance which was owed to Syncon Technologies Limited and that Ms. Millicent Hughes, Accountant General, informed the PAC that she was “... experiencing some internal challenges within the department”¹¹⁵.

¹¹⁴ OCG Statutory Requisition which was dated 2010 July 13, Question #13

¹¹⁵ Hansard for PAC Meeting which was held on 2011 March 8.



Ms. Hughes informed the Committee that she had given directives for the outstanding balance to be paid. However, her directives were not followed. She indicated to the PAC that the AGD was in possession of the funds to make such payments and that interest was still being attracted to the outstanding balance.

The Auditor General, Mrs. Pamela Munroe-Ellis, who was also present at the referenced PAC meeting, informed the then Chairman, Dr. the Hon. Omar Davies, that it was her understanding that the Accountant was objecting to make payments because of the absence of a contract. The Auditor General further stated that based upon the Attorney General's opinion "*...despite a contract not being in place the fact is that a transaction had occurred because they are using that telephone system right now and they were advised ... to make payment.*"¹¹⁶

The OCG found, by way of a Memorandum, which was dated 2010 February 10, that was sent by Mr. Michael Maragh to the Deputy Accountant General, Mrs. Rose McKay, and which was copied to the Financial Secretary, Dr. Wesley Hughes, the Auditor General, Ms. Pamela Munroe-Ellis, the Accountant General, Ms. Millicent Hughes, and the Deputy Accountant General, Mrs. Maria Clark- Proute *et al.*, that Mr. Maragh informed that he had "*...no knowledge concerning the matter and the reason or reasons which lead [sic] to the delay in payment or payments.*"¹¹⁷

The referenced Memorandum also advised of, *inter alia*, the following:

"...I have received no official update from you or Mr. Williams (the then Director of Finance at the time when the department supposedly entered into some arrangement with the telephone system provider)...

I am still awaiting a written explanation and directives from you as the Deputy Accountant General in charge of matters of this nature as to how to proceed.

¹¹⁶ Hansard for PAC Meeting which was held on 2011 March 8.

¹¹⁷ Memorandum dated 2010 February 10 which was sent by Mr. Michael Maragh to Mrs. Rose McKay, *et al.*



In light of the fact that this payment has been outstanding for over two years is of great concern. I suggest that the matter should also be referred to Mr. E. Williams who was the Director of Finance and like you a member of the procurement committee when the telephone system was procured and implemented.

You would appreciate that as the current sitting Director of Finance I am bounded by the provisions of the Financial Administration and Audit Act and the Contractor General Act(Procurement Regulation 2008)and I am under no obligation to disburse Government funds outside of the provisions of those acts.”¹¹⁸(OCG Emphasis)

The OCG found also that Mr. Maragh, reiterated his concerns and objections to making payments in respect of the PBX telephone system, in a Memorandum, which was dated 2010 March 15, that was sent by him to the Accountant General in response to her Memorandum of 2010 March 11, and which made reference to, *inter alia*, the Attorney General’s Opinion of 2009 May 1.

Having regard to the foregoing, the OCG, by way of its Statutory Requisition, which was dated 2011 November 30, required that Ms. Millicent Hughes, Accountant General, respond to the following questions:

- 1. Kindly advise whether the AGD has completed payments to the contractor, Syncon Technologies Limited. If yes, please provide a copy of the Payment Certificate and/or any other document which would substantiate same.*
- 2. In the event that your answer to Question 1 above is in the affirmative, kindly provide an Executive Summary disclosing (a) the process which was undertaken by the AGD to effect payment to the stated contractor and, (b) the total sum which was paid to the contractor, inclusive of the interest which was incurred.*

¹¹⁸ Memorandum dated 2010 February 10, which was sent by Mr. Michael Maragh to Mrs. Rose McKay



3. *In the event that payment has not been made by the AGD, to the referenced contractor, kindly provide an Executive Summary detailing (a) the rationale for same, (b) the total sum now owing to the contractor, inclusive of the interest which was incurred and (c) any projected actions which the AGD expects to undertake as it regards the settling of the balance.*¹¹⁹

Ms. Millicent Hughes, Accountant General, by way of her sworn response which was dated 2011 December 12, responded, *inter alia*, as follows:

“Response:

The AGD has completed payments to the contractor Syncon Tecchnologies Limited. A copy of the documents substantiating same is provided...

- *Acknowledgement of receipt of payment March 18, 2011...*
- *Copy of Sales Receipt from Syncon dated July 7, 2011...*¹²⁰

It is instructive to note that in her referenced response, the Accountant General submitted to the OCG, a copy of a letter which was dated 2011 March 15, and which was addressed to Mr. Dudley Johnson, Managing Director, Syncon Technologies Limited. The referenced letter stated, *inter alia*, as follows:

“Enclosed is our cheque number 015698 totaling Three Million One Hundred and Two Thousand One Hundred and Six dollars and Forty Three Cents (\$3,102,106.43) representing the balance on the PBX System as detailed below:

<i>Invoice Number</i>	<i>Date</i>	<i>Amount</i>
4092	January 27, 2009	US \$1,020.00 J\$87,475.20
4093	January 27, 2009	US \$35,151.95 J\$3,014,631.23

¹¹⁹ OCG Statutory Requisition which was dated 2011 November 30 that was sent to Ms. Millicent Hughes.

¹²⁰ Response which was received from Ms. Millicent Hughes, which was dated 2011 December 12. Response #1



As you are aware, we had some integral challenges which prevented the payment being made before- for this, we sincerely apologize...

With regards to the accumulated interest, Deputy Accountant General Rose McKay will be contacting your office to arrange a meeting to discuss same ... ”¹²¹

Ms. Hughes also attached to her referenced sworn response two (2) Invoices which were numbered 4092 and 4093, respectively, that were prepared by Syncon Technologies Limited and billed to the AGD which corroborates the representations which were made by Ms. Hughes in her letter of 2011 March 15.

It is instructive to note that Ms. Millicent Hughes also informed the OCG, by way of her response of 2011 December 12, of, *inter alia*, the following:

“(a)The payments to the supplier Syncon Technologies Limited were effected as under:

Principal

By letter dated March 10, 2011 from the Financial Secretary to effect payment to the supplier... Deputy Accountant General Rose McKay was directed to action. Notwithstanding the instructions from the Financial Secretary, no one else was willing to authorize the transaction and this I did, thereby facilitating payment on the 18th instant as per voucher RP1101365...

Interest

¹²¹ Letter which was dated 2011 March 15 and which was sent by the Accountant General Ms. Millicent Hughes to Mr. Dudley Johnson.



*On instruction from the PAC, on my attendance **March 22, 2011**, that the vendor be paid, the approach which was to have the Deputy with direct responsibility negotiate the interest charge; such negotiation was articulated as an option by the Auditor General at PAC. Having regard also to the possible surcharge which may emanate from this transaction, it was felt that the Deputy with responsibility would be given the opportunity to reduce the interest charge as much as she was able.*

*The PAC had also been informed that instructions were previously given for the payments to be made and that funds were available in the Vote for the financial year 2010/2011 to make the necessary payments, and. Consequently, payment would have to be effected by March 31 2011, the last date of the financial year and so, negotiations would have to be concluded and the cheque prepared by the end of the financial year. **This meant that the transaction would have to be initiated and concluded within seven (7) working days.***

- 2.1. DAG McKay was in attendance at the PAC, was also directed to initiate contact with the contractor with a view to negotiate interest charge which would be applicable. This was also documented to the supplier...*
- 2.2. The Chief Internal Auditor was also requested to calculate the interest which would be payable if the terms of the contract were strictly applied. The figure computed was US\$38,663.19 (approximately J\$3,320,781.39) as indicated...This information would give the upper limit of the charges and also indicate the extent of any discount/ concession received from the vendor.*
- 2.3. On checking with the Deputy on numerous occasions as to the progress of the negotiations at 2.1 above, it was verbally indicated that negotiations were not advanced as contact was not made with Mr. Johnson, and no attempts were made to negotiate with his staff.*



- 2.4. *Being mindful of the directive that payment be effected, on the 29th of March I made contact with Mr. Johnson of Syncon by telephone. Details of the discussion were documented in my email to him of even date ...*
- 2.5. *On the 31st of March, I invited Deputy McKay to the telephone negotiations with Ms. Thompson of Syncon (as directed by Mr. Johnson). After discussions with Ms. Thompson, the interest charge of \$2M was agreed as full and final settlement of the obligation ... it should be noted that the Deputy McKay indicated to me that although she was present “she was not a part of the negotiations”.*
- 2.6. *The bank was instructed to prepare a draft in the amount of J\$2M payable to Syncon Technologies Limited ...*
- 2.7. *The draft was sent to the Accounts Unit on April 1, 2011...*
- 2.8. *By letter dated April 5, 2011 the payment was dispatched to Syncon and copied to the Financial Secretary, the Auditor General and DAG Rose McKay...*

(b) The total sum paid to the contractor was J\$5,102,106.43 as under:

- *Principal J\$3,102,106.43 (US\$36,171.95)*
- *Interest J\$ 2,000,000.00... ”¹²²*

Consequent upon the foregoing, and in an effort to corroborate the aforesaid representations, the OCG has noted, *inter alia*, the following:

1. That by way of a letter which was dated 2011 March 10, the AGD was instructed by Dr. Wesley Hughes, Financial Secretary, Ministry of Finance, to immediately settle “...the

¹²² Response which was received from Ms. Millicent Hughes, which was dated 2011 December 12.



balance on the amount of US\$58, 586, so as to prevent further accrual of interest charges.”¹²³

Further, Dr. Hughes stated that, *“Notwithstanding the breaches identified by the Auditor General and on which the PAC will make appropriate recommendations, please ensure that all reasonable steps are taken to effect payment as soon as possible.”*

2. That by way of an email which was dated 2011 March 29, that was sent by Ms. Millicent Hughes to Mr. Dudley Johnson, which was entitled *“Interest Payable on PBX Outstanding Invoices”*, the following was documented :

“This serves to document our conversation today on the captioned.

Syncon’s Initial Positions:

- *Interest was not charged for the full period that the principal was outstanding*
- *The company was out of pocket not only for the period from January 2009 (the signing of the Project Completion Certificate) but from the year before*
- *Zero interest position not under consideration*
- *Full interest billed is payable*
- *Legal advice to the company indicated that interest is due and payable.*

The AGD is grateful for the accommodation by Syncon of not pursuing legal action despite our non-payment of the previous balance ...We appreciate that you are unable to accommodate our proposal of interest at Treasury Bill rate for the period as your cost capital exceeded that interest rate. Notwithstanding, we are requesting a review of Syncon’s position with a view to reducing the interest charge.

¹²³ Letter dated 2011 March 10, which was sent to Ms. Millicent Hughes by Dr. Wesley Hughes, Financial Secretary.



In light of the foregoing, the AGD is thankful for the proposed reduction of \$300,000.00. Is it possible to have a bigger reduction? Please advice.”¹²⁴

3. That by way of an email, which was dated 2011 March 31, and which was sent to Ms. Dainty Thompson of Syncon Technologies Limited and copied to Mr. Dudley Johnson and Mrs. Rose McKay by Ms. Millicent Hughes , the following, *inter alia*, was stated:

“This serves to confirm our (Hughes/Thompson) negotiations today by telephone with DAG McKay present, where you agreed, on behalf of Syncon, to the reduction of the interest charge to J\$2M in full and final settlement of the captioned obligation.

We appreciate the reduction and, as indicated, will be effecting payment in due course.”¹²⁵

4. That Syncon Technologies Limited prepared and submitted to the AGD an Invoice which was dated 2011 April 7, which reflected the “...*reduction of interest charge for the PBX System*”¹²⁶ in the amount of \$2,000,000.00.
5. That by way of cheque, which was dated 2011 March 31, the sum of \$2,000,000.00, representing the full payment of interest charges, was paid to Syncon Technologies Limited by the AGD.

¹²⁴ Email which was sent by Ms. Millicent Hughes to Mr. Dudley Johnson which was dated 2011 March 29.

¹²⁵ Email which was dated 2011 March 31, which was sent to Ms. Dainty Thompson of Syncon Technologies Limited and copied to Mr. Dudley Johnson and Mrs. Rose McKay by Ms. Millicent Hughes.

¹²⁶ Syncon Technologies Limited Invoice # 5490 which was dated 2011 April 7, and billed to the AGD.



The Failure of the AGD to file Quarterly Contract Award (QCA) Reports

The OCG, pursuant to Section 4 (2)(a) and 4(3) of the Contractor General Act (1983), requires that all Public Bodies, submit in the form of Quarterly Contracts Award (QCA) Reports, the particulars of all contracts which were awarded, between the value of J\$250,000.00 and J\$3,999,999.99, as at 2006 May 1.

Section 4(2)(a) of the Act provides as follows:

“For the purpose of the discharge of his functions under this Act, a Contractor General shall be entitled to be advised of the award ... of any government contract by the public body responsible for such contract.”

Section 4(3) of the Act provides as follows:

“For the purposes of subsection (2), the Contractor General shall have power to require any public body to furnish in such manner and at such times as may be specified by the Contractor General, information with regard to the award of any contract and such other information in relation thereto as the Contractor General considers desirable.”

In recognition of the foregoing, the OCG undertook a review of the QCA Reports, which were submitted by the AGD, in respect of contract(s) which were awarded to Syncon Technologies Limited, during the period which is under review.

The OCG’s perusal of its QCA consolidated database, as well as the certified hard copy submissions which were made by the AGD, revealed that the AGD failed to report the award of the referenced contract to the OCG. Considering the fact that a written contract was not in place, which would in effect, signify the date of the award of contract, the OCG undertook a review of all QCA submissions which were filed by the AGD from as early as the 2nd Quarter of 2006.



It is instructive to note that the procurement was reviewed by the AGD's Procurement Committee on 2007 February 27 and an Advance Payment, in the amount of \$1,593,554.60, was paid to Syncon Technologies Limited, by the AGD, on 2007 March 29.

Having regard to Section 4 of the Contractor General Act, and based upon the AGD's non-compliance and failure to report the referenced contract, the OCG has found that the Head of Entity of the AGD, Ms. Millicent Hughes, who is required to sign and submit the referenced QCA Reports, breached the provisions of Section 29 (a) and (b) (ii) of the Contractor General Act.



The Possibility of Conflicts of Interest and Unethical Conduct

Having regard to the overall process which was employed by the AGD, and in light of the circumstances surrounding the award of the contract to Syncon Technologies Limited, particularly, the extent of the involvement of the Accountant General, in the recommendation for the award of contract, the OCG thought it prudent to extend its Terms of Reference to determine whether there may have been a conflict of interest situation and/or unethical conduct on the part of the Accountant General and/or any other officer of the AGD.

In accordance with Section 1.6 of the then applicable GPPH (2001 May) which speaks to the Code of Conduct which must be observed by Public Officers involved in the procurement process, the following is stipulated:

“Public sector procurement proceedings shall be afforded the highest practicable degrees of objectivity. In circumstances of conflicting interests e.g., parties involved in the procurement process and who have connection(s) with participating tenderer(s), the GOJ party must so declare at the on-set of the procurement process or whenever the party becomes aware of the conflict, whichever is sooner, and shall immediately disqualify himself/herself from participation in the particular procurement process.”

In an effort to identify any pecuniary and/or undisclosed interest, which may have been held by any official of the AGD and which may have led to the unfair award of the contract to Syncon Technologies Limited, the OCG, in pursuit of its Investigation, undertook a company search, on the website of the Office of the Registrar of Companies of Jamaica (ORCOJ), for the company Syncon Technologies Limited. In this regard, the following, *inter alia*, was revealed:

- The company was incorporated on Tuesday, 1994 December 13.
- Listed as its Directors were Mr. Quilston Harrison, Mr. Dudley Johnson, Ms. Jennifer Johnson and Ms. Belva Porter.



- Listed as its Shareholders were Mr. Dudley Johnson and Ms. Jennifer Johnson.

The OCG, in its Statutory Requisition, which was dated 2010 March 15, requested that Ms. Millicent Hughes, Accountant General, respond to the following questions:

“Did any of the principals, shareholders, directors, partners, officers and/or employees of Syncon Technologies Ltd., or anyone acting on their behalf, approach you and/or any public official, soliciting assistance in getting approval for a contract to Syncon Technologies Ltd. to provide and install a telephone system for the AGD? If yes, please provide a comprehensive statement of all relevant particulars, inclusive of the name of the relevant principals, shareholders, directors, partners, officers and/or employees of Syncon Technologies Ltd., the date(s) assistance was/were sought, and the nature of the assistance sought.”¹²⁷

Ms. Millicent Hughes, in her sworn response which was dated 2010 March 30, stated, *inter alia*, the following:

“ No principals, shareholders, directors, partners, officers and/or employees of Syncon Technologies Ltd., or anyone acting on their behalf, approached me and/or any public official, soliciting assistance in getting approval for a contract to Syncon Technologies Ltd. to provide and install a telephone system for the AGD”¹²⁸

The OCG, by way of its Statutory Requisition, which was dated 2010 March 15, also posed the following question to Ms. Millicent Hughes:

¹²⁷ OCG Statutory Requisition which was dated 2010 March 15.

¹²⁸ Response which was provided to the OCG by Ms Millicent Hughes which was dated 2010 March 30. Response # 21



“Do you know, or do you have, or have you had a personal, business or other relationship with, any of the principals, shareholders, directors, partners, officers and/or employees of Syncon Technologies Ltd.? If yes, please indicate:

- a. The full name of the Syncon Technologies Ltd. Representative and his/her relationship with Syncon Technologies Ltd.;*
- b. The length of time that you have known the Syncon Technologies Ltd. Representative;*
- c. A full description of the nature of the relationship between yourself and the Syncon Technologies Ltd. Representative.”*

Ms. Millicent Hughes, in her response to the foregoing, which was dated 2010 March 30, stated as follows:

“I have a business relationship with employees of Syncon Technologies Limited as under:

- a) The full name of the Syncon Technologies Ltd. Representative and his/her relationship with Syncon Technologies Ltd.,*

Mr. Dudley Johnson – Managing Director, Syncon Technologies Limited

Mr. Rhoan Wood- Syncon Technologies Limited

Ms. Dainty Thompson, Syncon Technologies Limited

- b) The length of time that you have known the Syncon Technologies Ltd. Representative;*



I have known Messers Johnson and Wood for approximately 3 years, and Ms. Thompson for approximately 1 year.

- c) *A full description of the nature of the relationship between yourself and the Syncon Technologies Ltd. Representative.*

I have good relations with the Syncon Representatives: I have had to liaise with the officers on various occasions with respect to technical and accounts payable matters. In addition, because the bill has remained unpaid for a protracted period, I have had to respond directly to Mr Johnson on the matter.”¹²⁹

Similar questions were asked of Mr. Dudley Johnson, by way of the OCG’s Requisition which was dated 2010 July 13, to which he responded, *inter alia*, as follows:

“No principals, shareholders, directors, partners, officers and /or employees of Syncon Technologies Limited, or anyone acting on its behalf, approached any public official, soliciting assistance in getting approval for the award of any contract to Syncon Technologies Limited, to install a telephone system for the AGD.

I have a business relationship with officers of the AGD as under

- a) *Ms. Millicent Hughes – Accountant General*
Ms Dennese Smith – Director Information Technology
Mrs. Maria Clark Proute – Deputy Accountant General.
- b) *The first two officers named have been known for approximately 3 years. There was limited contact with the Deputy, who I met at a meeting which she chaired in 2008.*
- c) *Syncon is a commercial entity and the AGD officers are “clients”. ”¹³⁰*

¹²⁹ Response which was received from Ms. Millicent Hughes which was dated 2010 March 30. Response #22

¹³⁰ Response which was received from Mr. Dudley Johnson which was dated 2010 July 21. Response #13 and 14



Notwithstanding the flagrant breaches of the Government Procurement Procedures and the allegations which were launched, the OCG has found no evidence to indicate that any public officer of the AGD, held any pecuniary and/or undisclosed interest in the company Syncon Technologies Limited.



The Inability of the AGD to Secure Value for Money in the Referenced Procurement

The GOJ Policy on Public Sector Procurement as expressed in the then applicable Public Sector Procurement Governing Documentation (2001 July) holds as fundamental in the acquisition of goods, works and services, the pursuit of value for money, with particular attention “*to efficiency, effectiveness, quality and sustainable development for the long term*”.

The OCG has found, during the course of its Investigation, that the procurement process which was utilized by the AGD in procuring the referenced PBX system, exhibits flagrant breaches of the GOJ Procurement Guidelines, which has severely impacted the AGD’s ability to employ the best suited competitive procedures which would guarantee ‘value for money’.

The OCG also found that the AGD failed to produce a Tender Document for the referenced procurement and, as such, there were no written and/or formal Specifications which communicated the requirements of the AGD to the prospective suppliers and further, which could provide, in specific terms, the needs of the AGD.

The OCG has found that the inability to clearly establish the needs of the AGD, as it regards the referenced procurement, had significant implications on the determination of value for money, since, the absence of same essentially rendered both the OCG and the AGD incapable of ascertaining whether the deliverables made by Syncon Technologies Limited met the actual needs and/or requirements of the AGD.

In addition, consequent upon the costs which were proposed by the three (3) evaluated bidders, namely: Syncon Technologies Limited (J\$3,983,886.76), Compumart Jamaica Limited (J\$4,688,940.00) and Cable and Wireless Jamaica Limited (J\$3,641,370.08), the OCG found, that **the proposed cost of J\$3,641,370.08 which was made by Cable and Wireless would qualify as the lowest of the three (3) quotations which were reported as being received by the AGD.** (OCG Emphasis)



Having regard to the total payment of \$6,695,660.60, in respect of the referenced contract, of which interest charges amounted to \$2,000,000.00; the OCG found that the untidy state of affairs at the AGD resulted in approximately 30% of the total expenditure being attributed to the servicing of interest accrued.

Further, the OCG has found, based upon the irregular procurement process which was employed by the AGD, that value for money was not attained in the referenced procurement opportunity in light of the following:

- i. The failure of the AGD to produce and communicate the specifications of the tender.
- ii. The representations which were made by the members of the Procurement Committee that its review process was ‘hijacked’ by the Accountant General, Ms. Millicent Hughes.
- iii. The ‘Evaluation Matrix’ which was prepared by both Ms. Dennese Smith and Ms. Millicent Hughes, and which was reportedly used to pre-evaluate the three (3) aforementioned proposals, was submitted to the Procurement Committee **prior** to its evaluation, by Ms. Hughes, and which indicated Ms. Hughes’ recommendation of Syncon Technologies Limited.

In this regard, the referenced encroachment on the Procurement Committee compromised the independence and objectivity of the Committee in its endorsement of the recommendation for the award of contract.

- iv. The expressed views by the members of the Procurement Committee that the Procurement Committee’s endorsement was based upon the Evaluation Matrix which was received from Ms. Hughes.
- v. The fact that two (2) of the proposals which were reported as being received by the AGD, namely ‘755-PBXS’ and ‘Jamaica Electrical Technologies Limited’ were not included in the evaluation process.



The OCG found that the lack of transparency, which is apparent in the foregoing regard, indicates that the AGD is unable to prove and, in effect, guarantee that the award of contract to Syncon Technologies Limited, in the amount of J\$3,983,886.76, was value for money, since the AGD is unable to disclose and provide evidence of the quotations which were received from.



CONCLUSIONS

Based upon the documents which have been reviewed, as well as the sworn testimonies which have been received from the representatives of the AGD and Syncon Technologies Limited, the OCG has arrived at the following considered Conclusions:

1. The OCG has concluded that the award of a contract to Syncon Technologies Limited, for the supply and installation of a telephone system, was in breach of Section 4 of the Contractor General Act and the then applicable GPPH (2001 May).

The OCG is of the considered opinion that the process which was undertaken by the AGD, to award a contract to Syncon Technologies Limited, in no way mirrored and/or constituted a legitimate tender process as was required by the then applicable GOJ Public Sector Procurement Procedures (2001 May).

2. The OCG has concluded that the breaches of the GPPH 2001 included, *inter alia*, the following:

- a. The AGD acted in contravention of Section 2.11 of the GPPH (2001 May), which specifies, *inter alia*, the reporting requirements of a public body. Section 2.11 states, *inter alia*, that Procuring Entities “...are required, without exception, to report all procurements on a monthly basis using the GOJ standard form ...” Further, Section 2.11.3 provides that the Portfolio Ministry “... shall be apprised of procurements effected by that entity”.

The OCG has not seen any evidence to indicate that the contract, which was awarded to Syncon Technologies Limited was reported in accordance with the above referenced provision of the GPPH (2001 May).



- b. The OCG has concluded that the AGD failed to prepare and issue a Tender Document with detailed specifications which should have adequately indicated (a) the specific requirements of the procuring entity, (b) a clear description of the goods and services which were required, (c) the eligibility and responsiveness requirements, (d) the evaluation methodology and criteria and (e) other specific particulars with respect to the referenced procurement which would aptly assist the prospective bidders in the drafting of their Proposals.

The foregoing amounts to a breach of Sections 6.1 or Section 2.1.3.3 of the GPPH (2001, May) which provide, respectively, as follows:

- i Section 6.1 of the GPPH (2001 May) requires that a Tender Document be prepared by all public procuring entities and further provides that *“Procuring entities shall ensure that tender documents contain all the necessary information for the particular procurement...”*
- ii Section 2.1.3.3 of the GPPH states, *inter alia*, that *“Limited tender is a form of selective tender, whereby the procurement opportunity is open to a limited number of contractors included in the Register of Approved Contractors. **It includes the Request for Quotation (RFQ) and Sole Source procurement procedures** ...”* (OCG Emphasis)

It is instructive to note that, though the AGD indicated that the proposals were solicited from certain potential bidders, via emails and telephone calls, the OCG was not provided with any proof of same.

- c. The OCG has concluded that the failure of the AGD to properly file and record the proposals which were stated to have been submitted to the AGD by both



‘Jamaica Electrical Technologies Limited’ and ‘755- PBXS’, amounts to a breach of Section 2.10.1 of the GPPH (2001, May).

The referenced Section provides that “...*the procuring entity shall maintain records of each contract action for a minimum period of 10 years. Procurement process and expenditure records, although entrusted to the safeguard of the accounting officers, are the property of the Ministry of Finance and Planning and shall promptly be made available to the Ministry upon request in its carrying out of expenditure and/or compliance monitoring mandates.*”

- d. The OCG has concluded that the AGD, in its failure to complete and maintain as a part of the procurement record, a Tender Receival Form, contravened Section 6.8.2 of the then applicable GPPH (2001 May). In keeping with the referenced provision, Tender Receival Forms are required to be prepared by public procuring entities.¹³¹
- e. The OCG has concluded that the AGD failed to clearly establish and impart to the potential bidders the Evaluation Criteria which was to be utilized in the assessment and evaluation of the bids.

The foregoing amounts to a breach of Section 6.1.25 of the then applicable GPPH (2001 May), which states, *inter alia*, that the “... *method of evaluation should be detailed... The responsiveness of tenders will be determined during the evaluation. The currency in which price comparisons will be made should be stated, where relevant. The contract award criterion shall be the lowest evaluated tender.*”

¹³¹ A copy of the Form was also included in Appendix 1 of the referenced Handbook.



- f. The OCG has concluded, based upon the failure of the AGD to consummate a Form of an Agreement, in respect of the referenced procurement, that the Department contravened Section 6.10.3 of the GPPH (2001 May) which states the following:

“Once the successful contractor has provided his performance security and has put in place the requisite sureties and insurance the formal signing of the contract should be arranged... a copy of the signed contract agreement should be delivered to each of the following persons:

- *The Contractor;*
- *The Director of Finance of the procuring entity; and*
- *The Chief Procurement Officer of the procuring entity; and*

A copy of the executed contract should also be retained in the record of the procurement”.¹³² (OCG Emphasis)

- g. The OCG has also found that the AGD breached Section 6.10.4 of the GPPH (2001 May) which required that upon the selection of the successful bidder a letter be dispatched by the procuring entity to the other participating bidders, informing them of (a) the names of the bidders, (b) the amounts proposed by each bidder and (c) the successful bid.

3. Based upon the sworn representations which were received from the Officers within the AGD, the OCG has concluded that the referenced procurement was chiefly handled by the Accountant General, Ms. Millicent Hughes and the Network Administrator and then Director of Financial Information Systems, Ms. Dennese Smith.

¹³² Section 6.10.3 of the GPPH (2001 May).



4. Notwithstanding the disclosure by the Accountant General that the procurement method utilized was 'Limited Tender', the OCG re-iterates its position that the procedures which were undertaken by the AGD, in the solicitation of bids, were not in keeping with the relevant provisions of the then applicable GPPH (2001 May).

The OCG has concluded that the medium and methods which were used by the AGD, in the solicitation of bids, that is, via telephone calls and email correspondence (records of which could not be produced by the AGD), amounts not only to a breach of Section 2.1.3.3 and 6.1 of the GPPH (2001, May), but also affected the objectivity and transparency of the procurement process.

In the absence of an RFQ/ Tender Document, the OCG has seen no evidence of the information and criteria which was communicated to the prospective bidders and whether the same information and opportunity was disseminated to each bidder.

5. Based upon the representations which were made to the OCG, by the Accountant General, the OCG has found that the AGD was in receipt of five (5) proposals which were submitted by the following companies:

- Syncon Technologies Limited;
- Cable and Wireless Jamaica Limited;
- Compumart Jamaica Limited;
- 755-PBXS;
- Jamaica Electrical Technologies Limited.

It is, however, instructive to note that in the absence of, *inter alia*, a Tender Receival Form, the OCG is unable to verify the actual number of bids which were received by the AGD.



In light of the foregoing, the OCG is of the considered opinion that the process which was employed by the AGD was irregular and has compromised the level of transparency with which same was administered.

6. The OCG has concluded that only three (3) of the five (5) proposals were submitted to the Procurement Committee for its review. The OCG found that the proposals which were allegedly submitted by 'Jamaica Electrical Technologies Limited' and '755- PBXS' were the two (2) proposals which were not submitted to the Procurement Committee for review.

Based upon the inability of the AGD to provide any substantive justification for the exclusion of the referenced proposals, the OCG is of the considered opinion that the award process was discriminatory and raises serious questions as to the merit of the award of contract to Syncon Technologies Limited.

7. The OCG has found that the three (3) Proposals which were respectively submitted by Cable and Wireless Jamaica Limited, Compumart Jamaica Limited and Syncon Technologies Limited, were initially reviewed and evaluated by Ms. Dennese Smith and Ms. Millicent Hughes, prior to being submitted to the Procurement Committee for its review.

It is the considered view of the OCG that the foregoing actions which were carried out by Ms. Millicent Hughes and Ms. Dennese Smith, in their conduct of independent evaluations of the proposals, prior to the evaluation of same by the Procurement Committee, impeded the ability of the Procurement Committee to objectively and independently provide its endorsement of the recommendation to award the contract.

8. The OCG found that an Evaluation Matrix was submitted to the Procurement Committee, by the Accountant General, under the cover of a Memorandum which was dated 2007



February 27, and which was used as the basis upon which the Procurement Committee reviewed the proposals and provided its endorsement of Syncon Technologies Limited for the award of the contract.

Having regard to the foregoing, the OCG concludes that the Accountant General had imposed her judgment and decision upon the Procurement Committee for the recommendation to award the contract to Syncon Technologies Limited.

Noteworthy, is the fact that the OCG has seen no evidence which indicates that the responsibilities of the Procurement Committee, as outlined in Section 1.5.2.3 of the GPPH, to **“effect [an] objective evaluation [process] with respect to quotations, tenders and requests for proposals”** were divested to Ms. Millicent Hughes, the Accountant General, and, as such, her actions were irregular and improper and may have influenced and impeded the Procurement Committee’s ability to objectively decide upon the most suitable service provider.

9. The OCG has concluded that the Accountant General’s presence in the Meeting of the Procurement Committee on 2007 February 27, was inappropriate and improper.

The OCG found that the Procurement Committee was required to deliberate upon the award of the contract for the referenced telephone system, in the presence of the Accountant General, who was reportedly appointed as the “Resource Personnel”, in that particular meeting. The OCG noted that the Accountant General was not a member of the Committee.

The OCG has also noted that although the then applicable procurement guidelines did not expressly prohibit the Head of a Public Body from participating in the deliberations of the Procurement Committee, given the fact that the Accountant General, as the Head of Entity, is the final level of Authority in the approval for the award of contract within the



AGD, the practice is considered to be against the principles of good corporate governance.

Based upon the foregoing, and in light of Sub- Section 1.6 of the GPPH 2001, the OCG has concluded that the above mentioned actions of the Accountant General were not in keeping with the code of conduct which is expressly provided in the referenced section, in which it is stated that “*Public sector procurement proceedings shall be afforded the highest practicable degrees of objectivity.*”

10. The OCG has concluded that there is no evidence to suggest that there were any standard specifications, eligibility and/or qualification requirements that were issued by the AGD to any of the prospective Bidders, which were to be used in the preparation of their proposals. In point of fact, the OCG’s findings, upon a review of the proposals which were submitted and reportedly evaluated by the AGD, indicate that there was no uniformity in the manner in which the proposals were prepared.
11. Notwithstanding the OCG’s finding that the Proposals which were submitted to the AGD in respect of the referenced procurement were revised and re-submitted by the respective entities, the OCG has come to the conclusion that there was no direct evidence to substantiate the allegation which was made that the tender document was tailored to suit a specific supplier. In respect of this, the OCG has not evidenced the existence of any tender document and/or written tender specifications which were prepared by the AGD and distributed to the prospective Bidders.

Based upon the OCG’s findings that (a) two (2) proposals were submitted by Syncon Technologies Limited which were dated 2006 December 28 and 2007 February 12, (b) there were disparities between certain telephonic features which were proposed and quoted by Syncon Technologies Limited and (c) the absence of an Evaluation Report, the



OCG is unable to ascertain which of the two (2) referenced proposals was submitted to the Procurement Committee for its review and approval.

12. Based upon the finding that (a) there was no established tender period, (b) proposals were submitted to the AGD by the prospective Bidders at different intervals, (c) at least two (2) of the proposals were evaluated prior to the AGD's receipt of Syncon Technologies Limited proposal, the OCG has concluded that the procurement process which led to the award of a contract to Syncon Technologies Limited was irregular.
13. In spite of the OCG's finding that the AGD had signed, on 2009 January 15, the second proposal which was submitted by Syncon Technologies Limited, in the form of a "Statement of Works", the OCG has seen no contractual document which was prepared in accordance with the general and specific conditions which were provided for under Section 6.2 of the GPPH (2001 May).

In the foregoing regard, the OCG has concluded that there was no written legally binding contract which detailed the terms and conditions which were agreed upon by the AGD and Syncon Technologies Limited prior to the award of contract. The OCG is, therefore, unable to determine whether Syncon Technologies Limited failed to execute any contractually agreed terms for the supply of the referenced telephone system.

Further to same, the OCG notes that the 'Statement of Works' was, on the face of it, prepared by the Contractor and, therefore, could not be substituted in any way or form for a properly constituted contract document, in the prescribed form, expressing the terms and conditions which are to be honoured by the Public Body and the Contractor for the supply of the telephone system.

In the foregoing regard, the abovementioned actions and inactions of the AGD and, in particular, the Accountant General were improper, irregular and inappropriate as they



circumvented the process as defined by the then GOJ Procurement Guidelines and ran counter to the principles of good corporate governance.

14. The OCG has concluded that the AGD contravened Section 29 of the Contractor General Act in its failure to report, via its Quarterly Contract Awards Report, the referenced award of a contract to Syncon Technologies Limited.

15. The OCG has concluded, based upon the compendium of facts, that the total sum which was paid to Syncon Technologies Limited, for the provision of the telephone system, inclusive of interest charges, amounted to approximately J\$6,695,660.60.

It is instructive to note, that the initial proposed cost by Syncon Technologies Limited was in the amount of \$3,983,886.76.

16. The OCG has concluded that the AGD did not obtain value for money in the award of contract to Syncon Technologies Limited, based upon the following:

- i The failure on the part of the AGD to formally establish and document its needs;
- ii The fact that payments were made for 'additional services' which were based upon further demands of the AGD for 'certain' telephonic features;
- iii The delays in making payment to Syncon Technologies Limited, resulted in interest charges amounting to \$2,000,000.00, which caused an estimated 30% increase in the proposed cost for the telephone system; and
- iv The overall failure of the AGD to adhere to the provisions of the then applicable GPPH.



In point of fact, the OCG's findings have unearthed that, based upon the proposals which were reportedly evaluated by the AGD, namely: Cable and Wireless Jamaica, Syncon Technologies Limited and Compumart Jamaica Limited, the bid price which was submitted by Cable and Wireless Jamaica Limited, in the amount of J\$3,641,370.08, was the lowest proposed cost.

17. Notwithstanding the flagrant breaches of the Government Procurement guidelines and the lack of objectivity and equity which has marred the referenced procurement, the OCG has found no evidence to indicate that any Public Officer of the AGD, who was involved in the procurement exercise held any pecuniary and/or undisclosed interest in the company Syncon Technologies Limited.



REFERRALS

The OCG, in the conduct of its Investigation, is required to be guided by Section 21 of the Contractor General Act.

Section 21 of the Contractor General Act provides as follows:

“If a Contractor-General finds, during the course of his Investigations or on the conclusion thereof that there is evidence of a breach of duty or misconduct or criminal offence on the part of an officer or member of a public body, he shall refer the matter to the person or persons competent to take such disciplinary or other proceeding as may be appropriate against that officer or member and in all such cases shall lay a special report before Parliament.”¹³³ (OCG Emphasis)

1. Having regard to those of the Findings and Conclusions and concerns of the OCG which have been set out herein and, having regard, in particular, to, *inter alia*, (a) the significant governance deficiencies which have been identified in the operation and management of procurement at the AGD, inclusive of the highly irregular contract award, by the entity, to Syncon Technologies Limited; (b) the AGD’s flagrant breaches of the GPPH (2001 May) and the Contractor General Act; (c) the absence of transparency, merit and objectivity in the AGD’s award of the subject contract to Syncon Technologies Limited; (d) the absence of appropriate or satisfactory documentation to substantially evidence the process which led to the award of the subject contract to Syncon Technologies Limited; (e) the failure of the AGD to consummate a written contract prior to the award and execution of the contract (f) the subjective means by which contractors were invited to participate in the procurement opportunity (g) the independent evaluations which were carried out by the Accountant General, Ms. Millicent Hughes and the then Director of Financial Information Systems, Ms. Dennese Smith and (e) the undue influence and

¹³³ Contractor General Act. 1983



interference which the Procurement Committee was subjected to as a result of the Accountant General's recommendation, prior to its own evaluation; the matter is one which, pursuant to the mandatory statutory obligations which are imposed upon a Contractor General by Section 21 of the Contractor General Act, warrants the immediate attention of the Auditor General, and the Financial Secretary, on the basis that there is evidence which is recorded herein which would suggest that there was a breach of duty on the part of the Accountable Officer, and/or on the part of one or more Public Officers, of the AGD, and that one or more of the said Officers may have contravened, *inter alia*, the provisions of the Financial Administration and Audit Act. The matter is being referred to the Auditor General's Department and the Financial Secretary, particularly, in light of the provisions which are contained in Sections 2, 16, 19, 20, and 24 of the Financial Administration and Audit Act.

2. While the OCG is cognizant of the fact that the Auditor General had initiated and completed an Audit of the AGD and has specifically examined the referenced procurement, the OCG has, however, deemed it prudent to refer the matter in light of the remedial and other related actions which have already been reportedly taken by the AGD with respect to (a) its procurement activities, (b) its management and disbursement of public funds, (c) communications between the Accountant General and the AGD's Procurement Committee, (d) the appointment of a Procurement Officer, (e) the conduct of Procurement workshops and (f) sensitization of procurement officers with the upgraded procurement guidelines.

The OCG is also making this Referral to the Auditor General's Department and the Financial Secretary for them (a) to take such follow-up action as either or both of them may deem to be appropriate having regard to all of the circumstances of the matter and, (b) to conduct a follow-up assessment of the procurement activities of the AGD with a view to ensuring that the Department becomes compliant with the current and applicable GOJ Policy and Accounting Procedures.



3. In light of the questions and concerns which were raised by the PAC regarding the matter which is the subject of this OCG Investigation, and the Findings, Conclusions and concerns which have been detailed herein, the OCG is also hereby formally referring a copy of this Report to the Chairman of the PAC to facilitate any further action which the PAC might, in its discretion, deem to be appropriate in this matter.
4. Having regard to the failure of the AGD to report the award of the referenced contract to the OCG, by way of its QCA Reports, the OCG is hereby referring a copy of its Report of Investigation to the Office of the Director of Public Prosecutions (ODPP) for such action as the ODPP may deem to be applicable, against the Accountable Officer of the AGD, Ms. Millicent Hughes, for her failure to comply with a lawful requisition of a Contractor General, contrary to the provisions of Section 29 (b) (ii) of the Contractor General Act.



RECOMMENDATIONS

Section 20 (1) of the Contractor General Act mandates that “*after conducting an Investigation under this Act, a Contractor-General shall, in writing, inform the principal officer of the public body concerned and the Minister having responsibility therefore of the result of that Investigation and make such Recommendations as he considers necessary in respect of the matter which was investigated.*” (OCG’s Emphasis)

Having regard to the foregoing, the OCG now posits the following recommendations:

1. The OCG has found that there were several breaches of the procurement guidelines, by the AGD, specifically during the period of 2006 to 2007. The procurement breaches which have been identified include, *inter alia*, (a) the failure to consummate a legitimate written contract prior to the execution of a contract, (b) the failure to draft tender specifications and the failure to prepare a Tender Document/RFQ in the solicitation of bids, (c) the failure to prepare a Tender Evaluation Report, (d) the failure to utilize evaluation criteria in accordance with the then applicable GPPH (2001 May) and (e) the failure to strictly adhere to the procedures for the Limited Tender Procurement Methodology as articulated in the then applicable GPPH (2001 May).

While there are breaches, which have been identified herein, it should be noted that the then applicable rules, which were contained in the GPPH (2001 May), did not impose any criminal sanctions for breaches of the GPPH. In point of fact, criminal sanctions for breaches of the Government Procurement Rules were not imposed until 2008 December 12, effective with the promulgation of the 2008 Public Sector Procurement Regulations.

The OCG recognizes that the AGD, as asserted by its Accounting Officer, Ms. Millicent Hughes, by way of a letter which was dated 2009 April 8, has since taken steps to remedy some of the defects in its operations. Nonetheless, in the circumstances, the OCG feels



compelled to recommend that the Accounting and Accountable Officers of the AGD should ensure scrupulous compliance with the Handbook of Public Sector Procurement Procedures (2010 October) which came into effect on 2011 January 2, particularly with respect to the following matters:

- (a) Enforcing and administering the mandate, roles and responsibilities of the Procurement Committee and, in particular, the constitution of the said Committee, the oversight which it provides to the evaluation of tenders, and the proper maintenance of procurement records, in light of the provisions which are stipulated under Sections 2.2.5 and 2.2.5.1, Volume 1 of 4 of the RHPP;
- (b) Promoting the utilization of competent and specialized personnel with adequate knowledge and training in procurement as is mandated under Section 2.3, Volume 1 of 4 of the RHPP;
- (c) Observing and conforming to the provisions which govern the utilization of the Limited Tender Procurement Methodology as is laid out in Section 1.1.3 Volume 2 of 4 of the RHPP;
- (d) Recognizing the responsibility of the Procuring Entity in preparing and communicating Tender Specifications and Requirements, which the bidder must fulfill in order to demonstrate the ability to meet the standard required to execute the contract, in keeping with Section 1.3 Volume 2 of 4 of the RHPP;
- (e) Observing the provisions which highlight the eligibility and qualification requirements which ought to be satisfied to validate the participation of a contractor in the GOJ procurement process, which are detailed in Section 1.3.1 of Volume 2 of 4 of the RHPP;



- (f) Observing and conforming to the provisions which govern the timely execution of the tender process and the award and signing of a contract which is detailed in Appendix A8.17 and A8.14 Volumes 2 of 4 of the RHPP;
 - (g) Observing and conforming to the provisions which govern the preparation and submission of a Tender Report, disclosing the invitation for bids; the tender submission, the tender opening and the tender evaluation;
 - (h) Recognizing the oversight and functional responsibilities of, *inter alia*, the OCG, the NCC, the AGD's Procurement Committee and its Accounting and Accountable Officers, pursuant, *inter alia*, to Section 2 of Volume 1 of 4 of the RHPP, and adhering to the requirements thereof; and
 - (i) Promoting competition in the procurement process, whilst ensuring that AGD procurement opportunities are open to all appropriately registered and qualified contractors, in conformance with the requirements which are detailed in Section 1.1.2 of Volume 2 of 4 of the RHPP.
2. The OCG recommends that in instances where a Public Body has identified that there is a breach of the procurement procedures, the responsible Agency should seek to remedy the said breach in an expeditious and effective manner as opposed to continuing the implementation of the project in violation of the applicable GOJ Public Sector Procurement Procedures, the Regulations and/or other governing laws.
3. It is recommended that an immediate review of the accounting, procurement and public administration management practices at the AGD be undertaken by the Public Administration and Appropriations Committee of the House of Representatives, the Auditor General and the MOFPS.



4. The OCG recommends that the Procurement Committees of Public Bodies should be insulated from the direction and influence of management and/or the Boards of Public Bodies, as it regards the objective and impartial discharge of those of their responsibilities which are prescribed by the Government of Jamaica Procurement Guidelines.

Further, the OCG must recommend that the Ministry of Finance, in the drafting of the Government of Jamaica's Procurement Guidelines, and attendant Circulars, should consider and implement punitive and administrative sanctions against any Public Officer and/or Official who interferes with and/or attempts to instruct an Evaluation Committee and/or a Procurement Committee to act in a manner which would bring the procurement process into disrepute.

5. It is recommended that the AGD, if it has not yet done so, revamps its Procurement Committee, and undertake initiatives to ensure that the members of same become sufficiently knowledgeable with the procurement Regulations which are denoted in the now applicable Handbook of Public Sector Procurement Procedures 2010, October.
6. The OCG strongly recommends that procuring entities should plan their procurement activities in accordance with the Procurement Cycle, inclusive of the employment and application of an approved Procurement Plan. In this regard, contracts which are to be awarded should be properly packaged, tendered, evaluated and awarded within a specified timeframe hence removing the need, *inter alia*, to apply any undue haste to the procurement process.
7. The OCG strongly recommends that the Accounting and Accountable Officers of the AGD should be more proactive in the procurement activities of Public Bodies and ensure that contracts which are awarded are done so in a manner which is consistent with the full application of the Procurement Guidelines and must be, and appear to be, awarded fairly,



impartially and without any form of irregularity and/or impropriety, pursuant to Section 4 of the Contractor General Act.

8. The OCG recommends that the AGD implements an effective and efficient records keeping/filing system which will address the entity's inefficiencies in maintaining proper documentation. This will further facilitate greater levels of transparency in the entity's use of public funds and public administration.
9. It is recommended that frequent compliance reviews of the accounting, procurement and public administration management practices at the AGD be undertaken by the Public Administration and Appropriations Committee of the House of Representatives, the Auditor General and the Ministry of Finance and the Public Service.
10. The OCG recommends that in accordance with, *inter alia*, the Public Bodies Management and Accountability Act and the Financial Administration and Audit Act, the Cabinet, Accounting and Accountable Officers and Members of the Board of Directors of Public Bodies, should, at all times, ensure that the principles of good corporate governance are adhered to and promoted within the Public Sector.

In this regard, the OCG is of the considered opinion that within the respective organizations of the Public Sector, there should be adequate checks and balances mechanisms which are designed to promote transparency, integrity and probity in the management and administration of the affairs of the State.

11. Finally, the OCG is recommending that Public Officers and/or Officials, who are engaged by the GOJ, adhere to the strictest practices of professional ethics and conduct whilst in the employ of the GOJ and its agencies.