



The Integrity Commission of Jamaica

Anti-Corruption and Good Governance Sensitization Workshop Series

**Specially Developed by the Integrity
Commission for the Cabinet of the Government
of Jamaica**

Good Governance and Anti-Corruption Workshop

“Other Critical Areas Involving the Integrity Commission’s Oversight”

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Director of Investigation

List of Workshop Modules

- Overview of Jamaica's Anti-Corruption Framework
- The Problem of Corruption
- Principles of Good Governance and Integrity in Public Life
- Public Procurement Overview
- Other Critical Areas Involving the Integrity Commission's Oversight
- IC Process - Filing of Statutory Declarations
- IC Process - Protected Disclosures Act - Whistleblowing
- IC Process - Reporting Allegations of Corruption
- IC Process - Investigating Allegations of Corruption
- IC Process - Prosecuting Allegations of Corruption
- IC Process - Overview of Corruption Offences in Jamaica
- International Best Practices in Anti-Corruption and Anti-Bribery

Good Governance and Anti-Corruption Workshop

- a) The Integrity Commission's Licensing Monitoring Process;
- b) Integrity Commission's Land/Asset Divestment Monitoring Process;
- c) The Integrity Commission's Contract Monitoring Process:
 - I. QCA
 - II. CCOV
- d) The Constituency Development Fund Process;
- e) Constitutional Requirement for Parliamentarians to Disclose Contracts with the Government of Jamaica;
- f) Avoiding culpability and public criticism.

Good Governance and Anti-Corruption Workshop



Licensing Monitoring Process

Prescribed Licensing Monitoring Process

A Prescribed Licence is defined by the Integrity Commission Act as:

- *“Any licence, certificate, quota, permit, concession or authority or warrant issued or granted pursuant to any enactment by a public body or an officer thereof”*

The Commission is mandated under Section 33b(ii) of the Integrity Commission Act, 2017, to:

- *“monitor and where necessary investigate... the grant, issuance, variation, suspension or revocation of any prescribed licence with a view to ensuring that the circumstances of such grant, issue, variation, suspension or revocation does not involve impropriety or breach of any applicable law relating to procurement or other irregularity, and used in accordance with the terms and conditions thereof”*

Licensing Monitoring Process

- Objectives:

- To provide the public with reasonable assurance that Licences and Permits are awarded impartially and on merit.
- Enhance public confidence that acts of corruption and impropriety will be appropriately reviewed and dealt with.
- Promote transparency and equity in the award of licences and permits

Licensing Monitoring Process

- Objectives cont'd:
 - Ensure that licences are used in accordance with the prescribed terms and conditions
 - Establish and maintain a comprehensive database of all licences issued/revoked/suspended/varied
 - Ensure compliance with the relevant Legislation, Policy and Procedures

Licensing Monitoring Process

- Terminologies:
 - IPB – Issuing Public Bodies
 - Public Bodies involved in the issuance of prescribed licences
 - QLR – Quarterly Licencing Report
 - Statutory Report to be completed by all IPB's and submitted quarterly
 - PL – Prescribed Licence

Licensing Monitoring Process

- Monitoring / Audit Activity Initiated by the Following:

Advertisements

Newspaper publications

Complaints/Information received

Quarterly Licensing Report Analysis

Licensing Monitoring Process

- Monitoring Framework

- A tool to develop a planned approach to activities designed to:
 - Detect errors and/or weaknesses in the IPB's licencing process
 - Determine the level of compliance with regulatory requirements and procedures during the processing of the application
- To obtain reasonable assurance that:
 - Prescribed licences are awarded impartially and on merit
 - Internal Procedures are adequate and conforms to the relevant legislation.
 - Weaknesses/deficiencies identified by previous audits are adequately addressed
 - Information provided by the IPB in the QLR reports is complete and accurate

Licensing Monitoring Process

- **Quarterly Licensing Report (new Invention)**
 - Each Public Body involved in the issuance of any GoJ licence will be required to complete the Quarterly Licensing Report (QLR) and upload same to the IC Prescribed Licences platform by the end of the month following the relevant three-month period (quarter).
 - This will be a statutory requisition which will require the provision of certain pertinent information regarding the relevant licenses.

Licensing Monitoring Process

- The QLR will be analysed to determine, *inter alia*, whether:
 - The applicant meets the prescribed requirements
 - The fees paid are in accordance with the established rates
 - The appropriate approvals were obtained
 - The licence was approved by the authorized personnel
 - The number of licences issued is within the established quota
 - Prerequisite permits were obtained prior to the granting of the current licence, where applicable

Licensing Monitoring Process

- Types of Reviews
 - Sustained monitoring (on-going review)
 - Spot monitoring – periodic checks based on predetermined criteria
 - Formal Audits

Licensing Monitoring Process

- Sustained Monitoring

The Licence will be subjected to monitoring activity during the processing of the application and involves:

- Attendance at Tender Opening ceremonies where the licence is to be awarded on a competitive basis.
- Site visits
- Requisitioning of pertinent information/documentation
- Assessed to determine whether any objections lodged within the specific timeframe were duly considered.
- Review to determine whether the necessary external agency approvals were obtained , where applicable, in approving the licence application

Licensing Monitoring Process

- Spot Monitoring

- This is conducted periodically during the tenure of the licence.
- The objective is to ensure that the licence is being used in accordance with the established terms and conditions
- Documentary evidence will be collected from both parties and site visits made to corroborate any assertions made that the licence is being used in compliance with the terms and conditions

Licensing Monitoring Process

- Spot Monitoring cont'd
 - The Issuing Public Body is required to indicate its plan of action / all actions taken to-date where the licence is not being used in accordance with the established terms and condition
 - An assessment is conducted to determine whether appropriate sanctions were applied given the licensee's failure to comply with the terms and condition of the licence

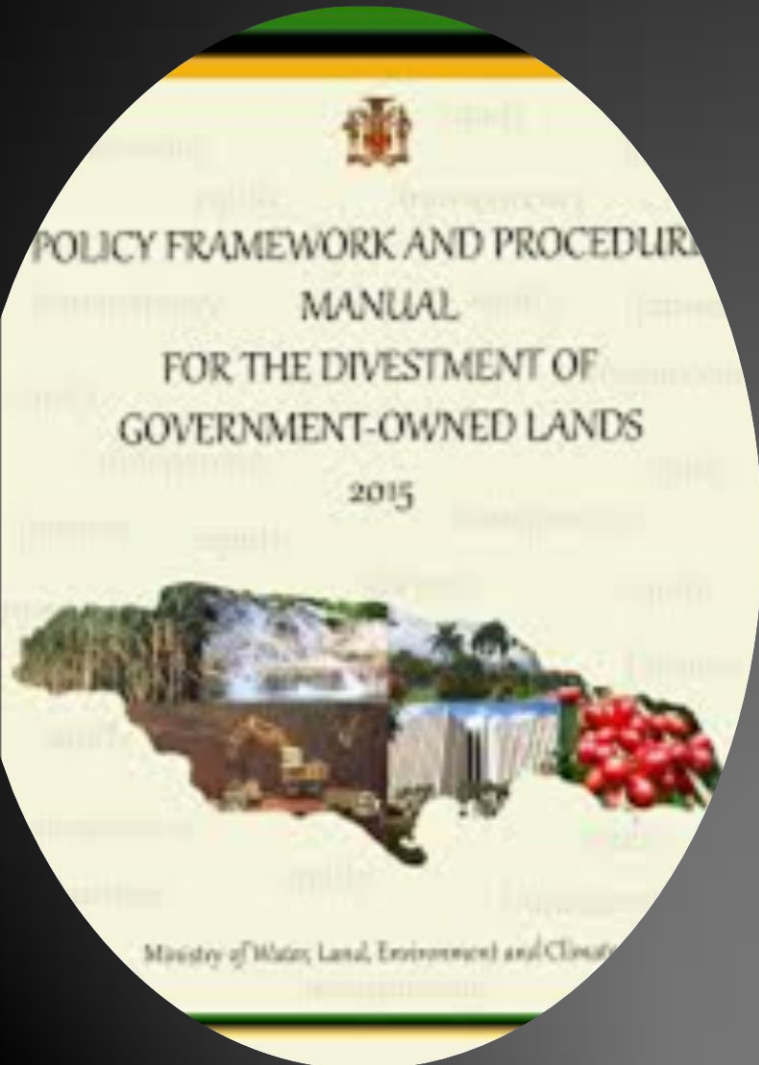
Licensing Monitoring Process

- Audit process involves:
 - Detailed review of licences issued over a specified period or based on sampling technique applied.
 - The verification of information previously submitted
 - Tests conducted on the internal control policies of the IPB governing the issuance/revocation/suspension of a licence and the implementation of same.
 - Making recommendations for improving systems and processes
 - The escalation of the matter to a full investigation where the appropriate.

Licensing Monitoring Process

- Responsibility of Members of Parliament:
 - The legislation for certain licences require Ministerial approval. In these instances the relevant Minister is encouraged, if required, to exercise good judgment and the highest level of integrity.
 - Transparency is always encouraged and therefore where the applicant is known personally by the Minister or the Minister is otherwise conflicted, this should be declared and the Minister assures him/herself that the necessary due diligence has been undertaken in the processing of the application.

Good Governance and Anti-Corruption Workshop



Land Divestment /Acquisition Monitoring Process

Land/Asset Divestment and Acquisition Monitoring Process

- One of the functions of the Integrity Commission is to monitor the divestment process for Government owned lands and assets (including Public Private Partnerships –PPP) as well as the acquisitions undertaken by the Public Bodies.

Land/Asset Divestment and Acquisition Monitoring Process

Integrity Commission's Authority to Monitor

The newly enacted Integrity Commission Act
“redefined” a **government contract** as,

“...an agreement entered into by a public body for:

(a) the carrying out of building or other works;

(b) the supply of goods or services; or

*(c) **the sale or purchase of any property, and includes any prescribed licence, issued by a public body.**”*

Land/Asset Divestment and Acquisition Monitoring Process

Integrity Commission's Authority to Monitor

- The Integrity Commission Act further defines property as:
 - “...assets of every kind, whether corporeal or incorporeal, movable or immovable, tangible or intangible, and legal documents or instruments evidencing title to or interest in such assets”

Official Document Governing Land and Asset Divestment in Jamaica

- Land Divestment
- **Policy Framework and Procedures Manual for the Divestment of Government-Owned Lands (2015) (under review)**
- Deals specifically with the divestment of Crown Lands (Lands held in trust by the Commissioner of Lands)
- All entities which divest government lands are required to ensure divestments are in accordance with the framework and principles outlined in the Manual and with the Policy in general
- This Policy came into effect on March 27, 2015

Official Document Governing Land and Asset Divestment in Jamaica

Asset Divestment

- Policy Framework and Procedures Manual for the Privatisation of Government Assets: The Privatisation Policy
- This policy applies to the transfer of assets or shares held by a public body (that is, a “statutory body or authority or any government company”) or ministry or department of the Government to the private sector by way of sale, lease, concession, management contract or any other modality that transfers significant management control, risk or both, to a private firm.
- This policy also applies to Public-Private Partnership (PPP) contracts under which the government contracts with private firms to ensure the provision of public services, where these contracts transfer significant risk and management responsibility to the private party.

Land/Asset Divestment and Acquisition Monitoring Process

- Monitoring is based on advertisements , media reviews and the examination of websites of Public Bodies which are custodian of Land or are involved in the divestment of assets.
- Information is requested throughout the life of the transaction for sales.
- Monitoring activities are completed:
 - When Sales Agreement has been signed.
 - Full payment made.
 - Transfer is complete.

Land/Asset Divestment and Acquisition Monitoring Process - Acquisitions

- The monitoring of acquisitions undertaken by the Integrity Commission is a new initiative.
- **The Commission monitor's the Purchase and/or Lease of property by the GOJ to ensure :**
 - Valuation of property was undertaken;
 - Purchase price is in keeping with the valuation, and where there is deviation, justification for such
 - Where there are connected parties that the relevant disclosures are made.

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Contract Monitoring Process

Contract Monitoring Process

- Section 6 of the Integrity Commission Act, 2017 details the functions of the Commission which include, at subsection (f), to monitor and where necessary investigate the award, implementation and termination of government contracts.
- The Commission monitors the contract award process to ensure compliance with the Public Procurement Act, the related Regulations and any Circulars/ Handbooks issued by the Ministry of Finance.
- Monitoring may commence at any stage of the tender process and/or during contract implementation.

Contract Monitoring Process – Prior to Receipt of Bids

To ensure:

- That the appropriate method of procurement is being utilised based upon the estimated procurement contract value [See First Schedule of the Public Procurement Regulations].
- That the use of restricted bidding is appropriately justified in keeping with Section 24(1) of the Public Procurement Act.
- For single source procurement, in the event that the estimated value of the procurement exceeds the procurement method threshold, that the prior written approval of the Head of the Procuring Entity is received [See Section 25(2) of the Public Procurement Act].
- In addition, with respect to single source, that justifications for emergency or extreme urgency, are in keeping with Section 7(1) of the Regulations.

Contract Monitoring Process-

Prior to the Receipt of Bids

To ensure:

- That the appropriate Standard Bidding Document is utilised based upon the type of contract and the procurement methodology being utilised [See Ministry of Finance website].
- That the Bidding Document clearly outlines, among other things, the eligibility, evaluation and criteria for award of contract.
- That the procurement opportunity is advertised in the appropriate manner, contained the minimum information required and has provided the minimum time-frame for notification prior to the submission of bids [See Third Schedule of the Regulations].

* Please note directive from the Ministry of Finance that procurement opportunities are to be advertised on the GOJ Public Procurement Page, which is facilitated by the Jamaica Information Service (JIS). The Page appears in the local print media on Tuesdays (Jamaica Observer) and Saturdays (Jamaica Gleaner) [See Ministry of Finance Circulars].


Contract Monitoring Process

Receipt and Evaluation of Bids

That the Tender Opening Ceremony is in accordance with procedural guidelines and the requisite Opening Reports are prepared.



That the eligibility criteria, as applicable, are checked [tax compliance and registration with the Public Procurement Commission] and if required, bid security is presented.



Bid is duly signed by an authorised representative of the supplier and is valid for the required period of time.



That the evaluation of bids is in keeping with the criteria outlined in the Bidding Document, and that only eligible bids are evaluated.

Contract Monitoring Process

Receipt and Evaluation of Bids

- That the relevant approvals are received based upon the relevant tiered contract value [See Section 43 (1) of the Public Procurement Act and Second Schedule of the Regulations].
- Standstill period, where applicable, was applied and any objections were treated in the appropriate manner [See Section 44 of the Public Procurement Act].

Contract Monitoring Process

Award and Implementation of Contract

- That the contract is signed, dated and contains the requisite terms and conditions.
- That, as applicable, the required permits, planning and building approvals, bonds, insurance, performance and advance payment securities are in place.
- That the contract is executed in keeping with the deliverables therein
 - For works projects- the Site Meetings and Visits are attended.
 - For goods/services- that the items are delivered in keeping with the contractual timelines.

Contract Monitoring Process

Award and Implementation of Contract

We monitor to ensure:



Variations to the contract are appropriate and are approved – time/cost/scope.



That payments are made in keeping with contractual obligations.



That liquidated damages are applied where appropriate.



That the conditions of the warranty and/or defects liability period are satisfied.

Contract Monitoring Process

Other points to note



The Head of Entity has overall responsibility for the conduct of procurement within the Entity [See Section 20 of the Public Procurement Act].



The Head of Entity is responsible for the development of an Annual Procurement Plan [See Section 20(a) of the Public Procurement Act].



There is a Procurement Committee in keeping with Section 21 of the Public Procurement Act.



Proper record keeping [See Section 47 of the Public Procurement Act and the Financial Administration and Audit Act].

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Contract Monitoring Tools/aids!

Parliamentary Exemption Motions

Section 41(1)(g)(i) of the Constitution of Jamaica

(g) if any firm in which he is a partner, or any company of which he is a director or manager, becomes a party to any contract with the Government of Jamaica for or on account of the public service or if he becomes a partner in a firm, or a director or manager of a company which is a party to any such contract:

Provided that-

(i) if in the circumstances it appears to the Senate (in the case of a Senator) or to the House of Representatives (in the case of a member of that House) to be just so to do, the Senate or the House of Representatives (as the case may be) may exempt any Senator or member from vacating his seat under the provisions of this paragraph if that Senator or member, before or as soon as practicable after becoming interested in such contract (whether as a partner in a firm or as director or manager of a company), discloses to the Senate or to the House of Representatives (as the case may be) the nature of such contract and the interest of such firm or company therein;

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Quarterly Contracts Award (QCA) Report

What is the QCA report?

The QCA is a quarterly report that is submitted by requisitioned Public Bodies (PB). Public Bodies are required to submit all procurement related contracts that have been awarded for the corresponding quarter.

The quarters are calculated by calendar year (January to March, April to June, July to September and October to December).

Approximately 197 PBs report on the QCA

The Director of Investigation is guided by Section 6 and Section 51 (b) in the collection of the information

Quarterly Contract Awards



ALTHOUGH THE THRESHOLD FOR THE USE OF DIRECT CONTRACTING IS IN EXCESS OF J\$1,500,000, PBS ARE, NONETHELESS, REQUIRED TO REPORT ON ALL PROCUREMENT RELATED CONTRACTS WHICH WERE AWARDED ABOVE J\$500,000.00.



TO DATE, THE OFFICE HAS COLLECTED INFORMATION RELATING TO 174,205 CONTRACTS WITH A CUMULATIVE VALUE OF J\$772,929,505,021.73.

Reporting Form (21 items of info)

OCG Web Portal https://portal.ocg.gov.jm/owp/qca/submission/create/period_id/46 OCG Web Portal Office of the Contractor General Current User: **Kimaya Golding-Randall** | [Logout](#) | [Profile](#) [Close This Screen](#)

Create a new QCA Report for 2016 Quarter 1
Contracts between 2016-01-01 and 2016-03-31

Declare that no contracts were awarded

Contract Input Form

Procurement Start Date:	Contract Award Date:	Contract Description:	Name of Contractor:
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Contractor ID:	Type Of Contract:	Contract Value:	Principal Site of Contract:
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Procurement Method:	Number of Tenders/Quotes Requested:	Number of Tenders/Quotes Received:	Head Of Entity Pre-Approval Date:
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
NCC Pre-Approval Date:	Tender Opening Date:	Procurement Committee Approval Date:	Head of Entity Approval Date:
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
NCC Endorsement date:	Cabinet Approval Date:	Justification for the use of the Limited Tender Procurement Method:	Justification for the use of the Direct Contracting Procurement Method:
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Additional Comments:	<input type="text"/>		

QCA Reports

- Once the quarter is closed, the reported information is consolidated into a single database, that are accessible from the Office's website.
(<https://integrity.gov.jm/qca-consol>)

Uses of the QCA



The QCA is used as a guide when conducting Enquiries, Investigations and Audits.



In the near future it is anticipated that it will be used as one of the tools to determine how PBs will be monitored.

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Contracts Cost Overruns and Variation (CCOV) Reports

What is Cost Overrun?

- The GOJ Handbook of Public Sector Procurement Procedures define Cost Overrun as “...an increase in the contract sum resulting from escalation in the price of labour and/or material.”

What is a Variation?

- The GOJ Handbook of Public Sector Procurement Procedures define a Variation as “...a change to the deliverable(s) under a contract caused by an increase or decrease in the scope of work to be performed, amount/type of goods to be supplied or services to be provided and must be directly related to the specific contract.”

What is the CCOV Report?



The CCOV is a yearly report that is submitted by requisitioned Public Bodies (PB). Public Bodies are required to declare all Cost Overruns, Variations and/or Any Other Price Adjustments for all projects valued greater than \$500,000 during the financial year.



The initiative commenced in 2012 when the then Office of the Contractor General, in an effort to gather data from Public Bodies with regard to cost overruns and variations incurred from the procurement of goods, works and services, requisitioned all Permanent Secretaries and Heads of Public Bodies to submit information regarding same.

CCOV Continued

- The information is captured in a spreadsheet format, that Public Bodies can download from our website, including adequate instructions which is accessible at <https://integrity.gov.jm/content/public-sector-contracts-cost-overruns-and-variations-prescribed-form>.

Use of CCOV



USED AS A GUIDE WHEN CONDUCTING INVESTIGATIONS AND AUDITS.



PROVIDES NUMERICAL DATA ON THE EFFICIENCY AND INEFFICIENCY OF HOW PROJECTS ARE PLANNED BY PB FOR PROCUREMENT OF GOODS, SERVICES AND WORKS.

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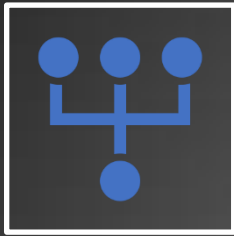
Constituency Development Fund (CDF)

Monitoring Process

Constituency Development Fund (CDF)

- The CDF is a Fund established by the GOJ to provide Members of Parliament with financial resources to execute approved social and economic programmes within their constituency. The main objective is to promote human and infrastructure development at the community and constituency level.
- The Fund is divided equally for each constituency and is provided for under Recurrent Head - Office of the Prime Minister (OPM). Currently \$20 Million is allocated to each MP annually.
- The CDF-Parliamentary Committee (CDF-PC) is a sub-committee of the House of Representatives, responsible for the final approval of all CDF projects and constituency plans.

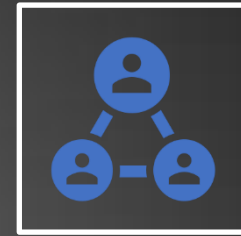
Constituency Development Fund (CDF)



The CDF-Project Management Unit (CDF-PMU) is an office established in the OPM for coordinating the operations of the Fund.



Weekly CDF-PMU Project Evaluation meetings are held whereby the Committee receives and reviews activities/projects from the MP ensuring that they satisfy all conditions for approval/funding and that the overall Fund's annual budget for constituencies is not exceeded.



The Integrity Commission's CDF Portfolio coordinators attend the CDF-PMU weekly meeting as observers.

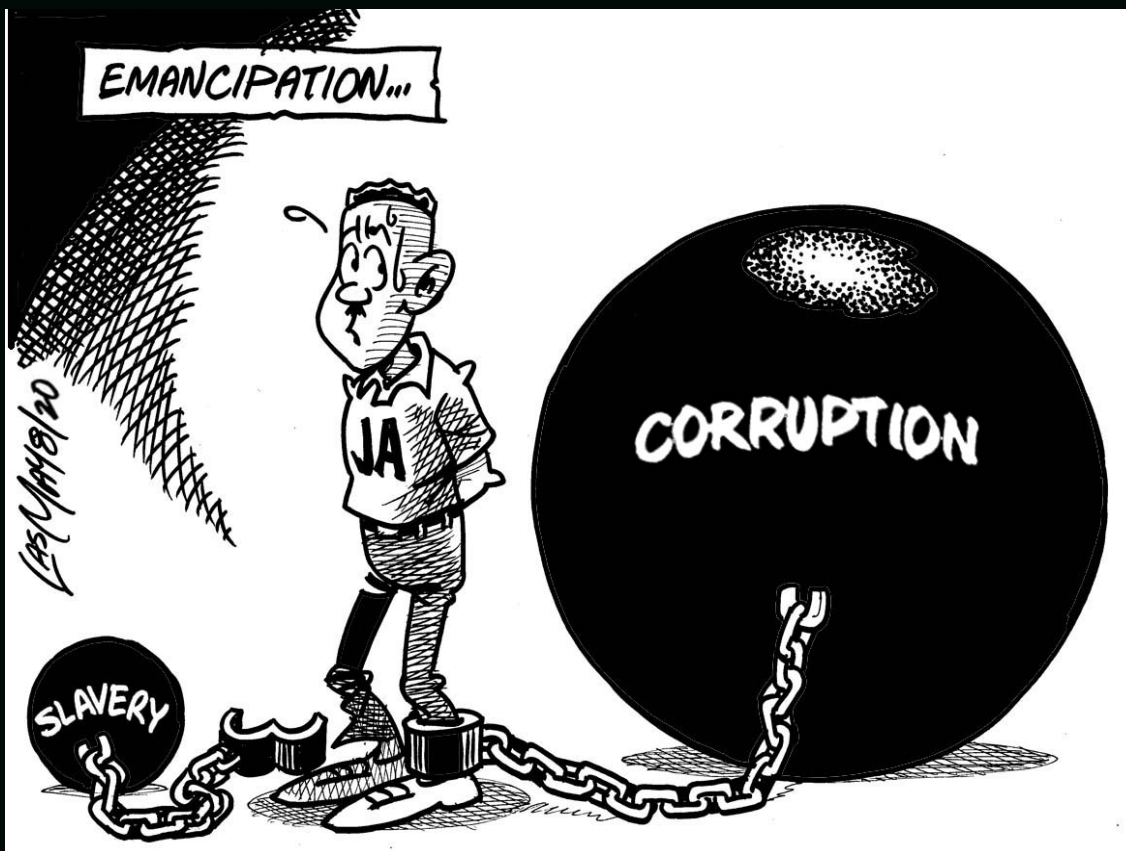
Constituency Development Fund (CDF)

- Types of projects –
 - Physical Infrastructure
 - Human and Social Development
 - Economic Enablement
 - Welfare and Emergency Assistance
 - Social (Indigent) Housing Assistance
 - Disaster Mitigation
- Monitor to ensure adherence with the CDF Operational Procedures Manual.

Constituency Development Fund (CDF)

- Implementing Agencies are responsible for ensuring that procurement undertaken complies with the relevant GOJ Guidelines [Clause 8.1 of CDF Operational Procedures Manual].
- Special Guidelines for use of CDF Funds, Section 4.24 of the CDF Operational Procedures Manual outlines that projects approved for CDF funding shall not “*bear the name of a Member of Parliament or a political party, political party insignias or colours*”.
- Section 4.26 of the Manual also states that
 - “*Paraphernalia related to a CDF funded project shall not bear the following inscription*
‘UNDER THE PATRONAGE OF (NAME OF MP)...’”

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*What Must
Parliamentarians and
Cabinet Ministers do
to Avoid Becoming
Culpable of Criticism
in the Public Domain?*

What must Parliamentarians and Ministers do to avoid Becoming Culpable?

- Knowledge of the relevant laws, rules and procedures.
- Request, and follow when prudent to do so, the opinion and expert advice of Technocrats.
- Do not insert yourself into the **licensing/ land divestment/ procurement/** contract award process.
- Ensure that there are no conflicts of interest – declare any potential conflict of interest situation and recuse yourself.
- When in doubt, request the opinion and advice of other persons/entities which possess expertise such as the Office of Public Procurement Policy in the Ministry of Finance, the Public Procurement Commission and the Integrity Commission.

What must Parliamentarians and Ministers do to avoid Becoming Culpable?

- Ministers/Public Officials are strongly encouraged not to:
 - “Walk” an application through any established system;
 - Exert influence in the approval process to ensure a “favourable” outcome (in their own interest);
 - Seek to have an application expedited (jump the queue) above other applications currently within the particular system.
 - Dissuade the IPB’s from carrying out proper due diligence to shorten the processing time.
 - Disclose conflict and obtain the necessary parliamentary exemption.

Thank you!



END OF
PRESENTATION



QUESTIONS