



Special Report of Investigation

**Allegations of Acts of Irregularity, Impropriety, Conflict
of Interest and Corruption in the Award of Certain
Contracts by Petrojam Limited**

Report No. 3

Integrity Commission



This Publication until tabled in Parliament shall be confidential.

Sections 55 (4) and (5) of the Integrity Commission Act states:

"(4) Anything said or information supplied or any document or thing produced by any person for the purpose or in the course of any investigation by or proceedings before the Commission under this Act, shall be absolutely privileged in the same manner as if the investigation or proceedings were proceedings in a court of law.

(5) For the purposes of the Defamation Act, any report made by the Commission under this Act and any fair and accurate comment thereon shall be deemed to be privileged."

Section 56 of the Integrity Commission Act states:

"Subject to section 42(3)(b), every person having an official duty under this Act, or being employed or otherwise concerned in the administration of this Act (hereinafter called a concerned person) shall regard and deal with as secret and confidential, all information, statutory declarations, government contracts, prescribed licences and all other matters relating to any matter before the Commission, except that no disclosure made by the Commission or other concerned person in the proceedings for an offence under this Act or under the Perjury Act, by virtue of section 17(2) of that Act, shall be deemed inconsistent with any duty imposed by this subsection.

(2) The obligation as to secrecy and confidentiality imposed by this section, in relation to any documents, or information obtained under this Act continues to apply to a person despite the person having ceased to have an official duty, be employed or otherwise concerned in the administration of this Act.

(3) Every concerned person who is required under subsection (1) to deal with matters specified therein as secret and confidential who at any time communicates or attempts to communicate any such information, declaration, letter and other document or thing referred to in subsection (1) disclosed to him in the execution of any of the provisions of this Act to any person —

- (a) other than a person to whom he is authorized under this Act to communicate it; or
- (b) otherwise than for the purpose of this Act,

commits an offence and shall be liable on summary conviction in a Parish Court to a fine not exceeding one million dollars or to a term of imprisonment not exceeding one year.

Integrity Commission
1st Floor, PIOJ Building
16 Oxford Road
P.O. BOX 540
Kingston 5
Telephone: 876-929-6460/876-929-8560/876-929-6466
Fax: 876-929-7335



INTEGRITY COMMISSION

First Floor, PIOJ Building, 16 Oxford Road, Kingston 5, Jamaica W.I.
Tel: (876)-929-6460, (876)-929-8560, (876)-929-6466
Fax: (876)-929-7335
Website: www.integrity.gov.jm
Email: kevon.stephenson@integrity.gov.jm

URGENT & CONFIDENTIAL

December 29, 2020

Mr. Greg Christie
Executive Director
Integrity Commission
1st Floor, PIOJ Building
16 Oxford Road
Kingston 5

Dear Mr. Christie:

Re: Special Report of Investigation conducted into Allegations of Irregularity, Conflict of Interest, and Corruption in the award of Certain Contracts by Petrojam Limited- Petrojam Report No.3

The then Office of the Contractor General (OCG) initiated an investigation into the captioned matter and I now inform you, that a draft report has been completed.

In the instant regard, I hereby submit a copy of the referenced Report, pursuant to Section 54 of the Integrity Commission Act.

Yours faithfully,

Kevon A. Stephenson, JP
Director of Investigation
for and on behalf of the Integrity Commission

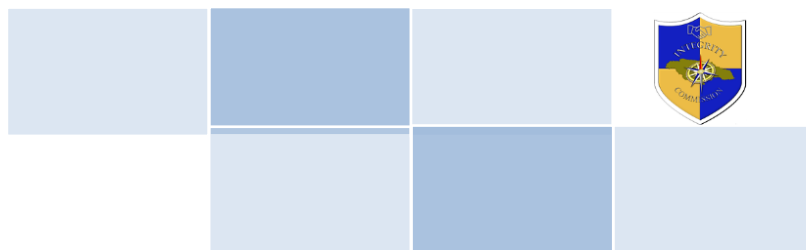
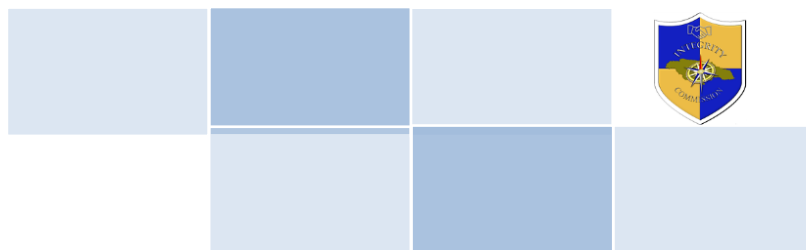
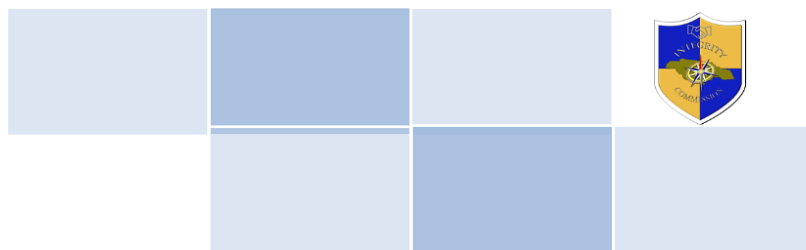


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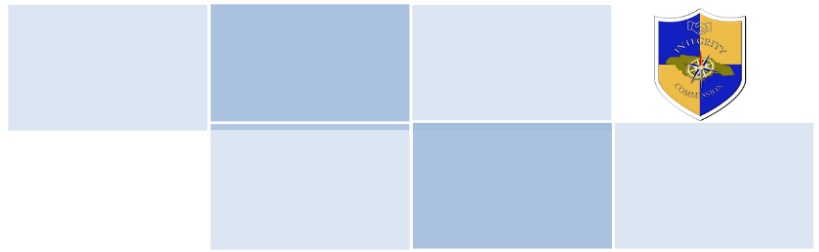
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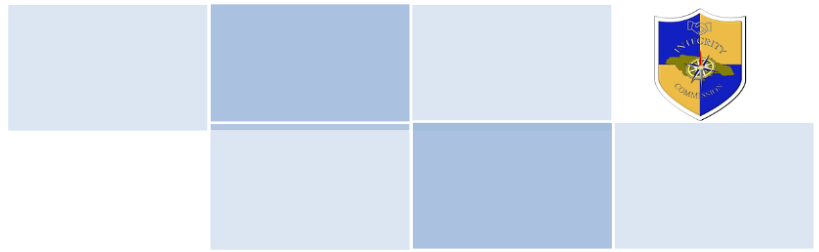
Summary of Investigation

- 1.1 The decision to commence an Investigation into the subject matter was prompted by the receipt of several allegations concerning, *inter alia*, the following:
- (a) Cost overruns on the construction of the North Perimeter Fence/Crash Wall at Petrojam Limited. It was alleged that the referenced Fence/Crash Wall was estimated by the NWA to cost approximately \$29 million, however, the wall ended up costing approximately \$91 million.¹
 - (b) The engagement of Asha Corporation as a consultant to provide, *inter alia*, financial analyses and managerial support to Petrojam. It was specifically alleged that the cost of the agreement was in the amount of \$2.1 million per month and that Petrojam's parent company, the Petroleum Corporation of Jamaica (PCJ), was able to provide these same services to Petrojam. The complainant also indicated that the payments were made directly to Rodney Davis and not to Asha Corporation.²
 - (c) That Main Event Entertainment Group Limited has a retainer of \$13.9 million with Petrojam Limited and that Main Event provides entertainment/event management services to Petrojam Limited. It was further alleged that the oil refinery does not have a monthly entertainment schedule which would require such services.³

¹ Ibid.

² Allegation received by the IC on June 19, 2018 from an anonymous source.

³ Ibid.



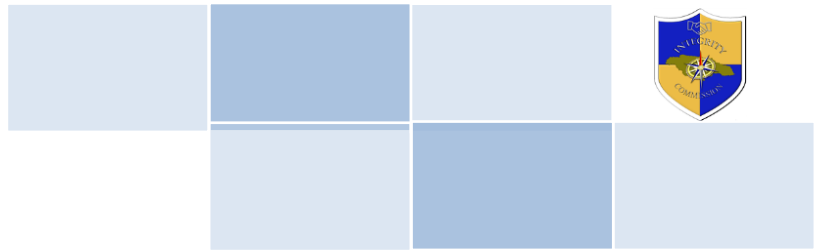
- (d) Procurement breaches and conflict of interest involving Mrs. Ronique Budram-Ford, Former Procurement Unit head, Petrojam Limited and the award of several contracts to the entity ASC Business Services.
- (e) Irregularities and impropriety with respect to the engagement of Shalk Electronic Security Limited to provide security services to Mr. Perceval Bahado Singh, former Chairman of the Board of Directors, Petrojam Limited.⁴
- (f) Irregularities concerning the procurement process for the construction of Petrojam Limited's New Petroleum Testing Laboratory.
- (g) Procurement irregularities in relation to a draft contract, dated November 28, 2017, between Petrojam Limited and West Indies Petroleum Limited for the sale of petroleum products.
- (h) The estimated cost for the Vacuum Distillation Unit upgrade.⁵

1.1.2 The investigation commenced on January 23, 2018, under the jurisdiction of the then Contractor General, and pursuant to the provisions of Sections 4 (1), 15(1) and 16 of the then applicable Contractor-General Act.

1.1.3 The investigation sought to ascertain (a) the veracity of the allegations concerning acts of irregularity, impropriety, conflict of interest and corruption, in the award of certain contracts by Petrojam Limited; (b) the

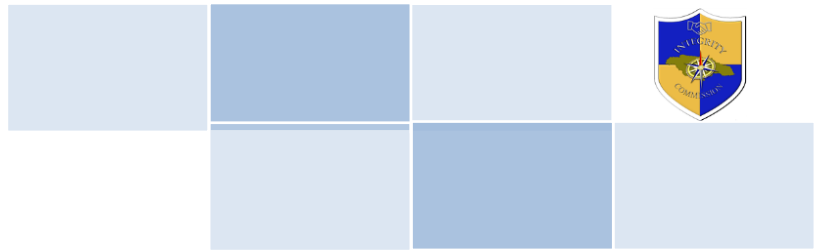
⁴ Transcript of hearing held on March 4, 2019. Pages 82-83.

⁵ Jamaica Gleaner article dated June 27, 2018 and entitled "Petrojam Raid - MOCA, Integrity Commission Seize Documents, Computers".



process(es) by which a 'north perimeter fence/crash wall' was constructed at Petrojam Limited; (c) the circumstances in which a consultancy agreement was entered into between Petrojam Limited and Asha Corporation to supply financial analyses and managerial support; and (d) the circumstances in which government contract(s) was/were awarded to (i) Main Event Entertainment Group Limited, (ii) ASC Business Services (iii) Seal Construction Company Limited and (iv) Shalk Electronic Security Limited.

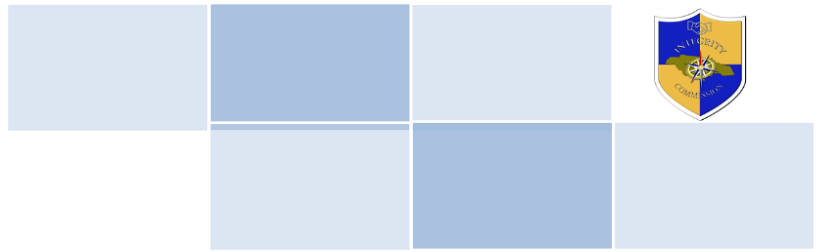
- 1.1.4 The foregoing objectives formed the basis of the DI's Terms of Reference which were developed in accordance with the provisions contained in Section 4 (1) and Section 15(1) (a) to (d) of the Contractor-General Act and Sections 33 and 52 of the Integrity Commission Act.
- 1.1.5 During the period January 23, 2018 to July 23, 2018, two (2) persons were summoned to appear before the Director of Investigation to give evidence pursuant to Section 48 of the Integrity Commission Act. Requisitions were also dispatched to approximately thirteen (13) individuals inclusive of certain officers and officials, at Petrojam Limited and other persons deemed pertinent to the DI's Investigation.
- 1.1.6 This report is the third of three (3) Investigation reports undertaken by the DI concerning allegations of acts of irregularity and/or impropriety, conflict of interest, and corruption at Petrojam Limited.



Summary of Key Findings

Construction Solutions Limited

- 1.1.7 Petrojam Limited entered into a contract with Construction Solutions Limited, on January 25, 2017, for the replacement/construction of the North Perimeter Fence on the premises of Petrojam Limited, in the amount of \$96,760,986.95.
- 1.1.8 Construction Solutions Limited completed the replacement/construction of the north boundary wall with chain link fence. A Certificate of Final Completion was issued on March 23, 2018, for works having been completed on March 19, 2018.
- 1.1.9 Petrojam Limited utilized the Emergency Contracting procurement methodology to engage Construction Solutions Limited, for the referenced contract.
- 1.1.10 The justification which was provided by Petrojam Limited for the use of the Emergency Contracting procurement methodology included, *inter alia*, inadequate security and protection for the Refinery, the risk of financial loss due to illegal trespassing and the risk that the Refinery's assets would be unprotected.
- 1.1.11 Petrojam Limited justified the selection of the contractor by asserting, *inter alia*, that Construction Solutions Limited was the only contractor on the NCC register that met the organization's requirements.



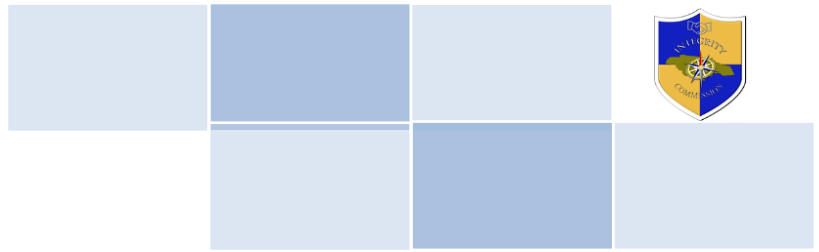
1.1.12 The Head of Entity's Approval for the utilization of the Emergency Contracting procurement methodology was granted on January 11, 2017, by the then General Manager, Mr. Floyd Grindley, Petrojam Limited.

1.1.13 The Comparable Estimate determined by Petrojam Limited for the replacement of the North Perimeter Fence was in the amount of \$76,321,016.75. However, the value of the contract awarded to Construction Solutions was in the amount of \$96,760,986.95. The disparity between the comparable estimate and the eventual contract sum was in the amount of \$20,439,970.20 or 26.78% more than the comparable estimate.

1.1.14 An architectural drawing/design for the replacement of the Petrojam Limited's North Perimeter Fence, which was prepared by the NWA and provided to Petrojam Limited on March 23, 2016, was dated February 2016.

1.1.15 A request was made by Petrojam Limited to the NWA on August 18, 2016, for the replacement of the referenced perimeter fence.

1.1.16 Mr. Winston Watson, then General Manager, Petrojam Limited, advised the NWA in a letter dated November 15, 2016, that Petrojam Limited acknowledged receipt of the quotation submitted by the NWA, which was in the amount of \$29,770,939.95, to supply all labour, supervision, material, equipment, tools and transportation and carry out the works as described in the Scope of Works, Drawings and Bill of Quantities.



1.1.17 Mr. Floyd Grindley, then General Manager, Petrojam Limited, wrote to the NWA, on December 13, 2016, and advised that further to its letter dated November 15, 2016 at which time Petrojam Limited accepted the NWA's quotation in the amount of \$29,770,939.95, Petrojam Limited had subsequently decided not to pursue this project through the NWA/China Harbour Engineering Company (CHEC).

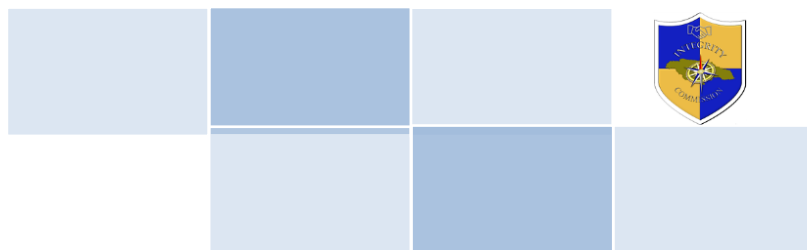
1.1.18 Mr. Floyd Grindley, advised the Director of Investigation, by his response dated July 23, 2019 that Petrojam Limited had received, by email, a non-responsive bid proposal from the NWA to construct the wall in November 2016 and that this was not in compliance with GOJ procurement policy.

1.1.19 In relation to the referenced crash wall, Mr. Grindley further advised the Director of Investigation that Petrojam Limited developed a subsequent estimate on December 15, 2016, in the amount of \$43.6M, and that an update to the estimate was done in January, 2017 which revised the estimate to approximately \$76.3M.

The primary variance between Petrojam's 2nd estimate and the value of the contract awarded to Construction Solutions Limited involved additional scope of works and design.⁶

1.1.20 Mr. Grindley advised the DI that he was instructed by Dr. Perceval Bahado-Singh, former Chairman, Petrojam Limited, to engage

⁶ Response which was received from Mr. Floyd Grindley dated July 23, 2019. Response No. 5



Construction Solutions Limited utilizing the emergency procurement procedures to construct the North Perimeter Fence/Crash Wall at Petrojam Limited.

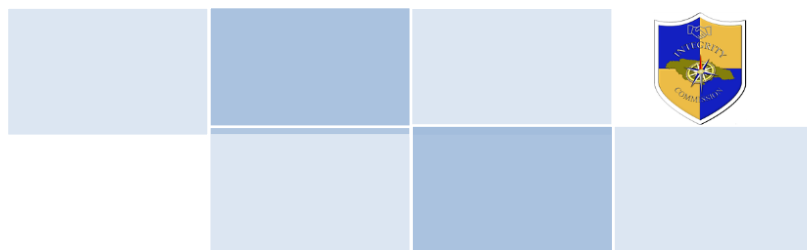
1.1.21 Dr. Perceval Bahado-Singh advised the DI that he “...*had no involvement and/or influence in the award of contract by Petrojam Ltd...*” to Construction Solutions Limited for the construction of the north perimeter fence/crash wall.

Asha Corporation

1.1.22 The Quarterly Contracts Award (QCA) Database revealed that seven (7) contracts were entered into between Petrojam Limited and Asha Corporation for the period January 2017 to December 2018, with a cumulative contract sum of \$27,578,763.83.

1.1.23 Petrojam Limited entered into contracts with Asha Corporation for the following services during the period January 2017 to December 2018:

- a) Provision of consultancy services in relation to the Financial & Future Sustainability of Petrojam Limited in the amount of \$7,173,670.56;
- b) Provision of consultancy services in relation to the financial and Market Assessment of Petrojam Limited in the amount of \$6,130,609.76; and
- c) Emergency procurement of consultancy services and advisory support in the amount of \$2,373,123.69.



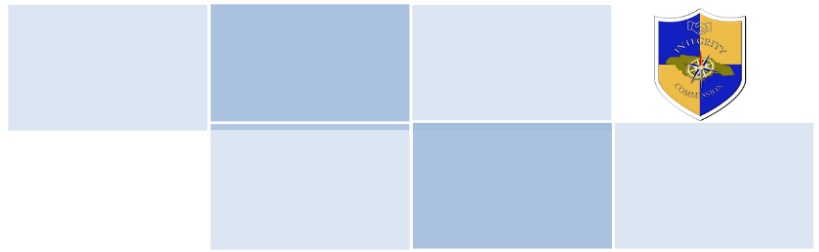
1.1.24 The following representations were also noted on the QCA database as contracts awarded to Asha Corporation:

- a) Variation for Financial Support Services in the amount of \$3,180,492.60;
- b) Variation for Financial and Market Assessment in the amount of \$732,147.54;
- c) Provisional Sum for additional expenses (travelling & Subsistence) in the amount of \$514,996.08; and
- d) Financial and Market Assessment of Petrojam Limited - Phase II in the amount of \$7,473,723.60.

1.1.25 Mr. Russell Hadeed, Chairman, PCJ, advised the DI that "*...the PCJ is supported by a staff complement that has the capacity to execute financial consulting services*". However, Mr. Hadeed also informed the DI that "*the capacity to execute any such service would have been limited due to continuing obligations of the officers*".

1.1.26 Mr. Grindley advised the DI that he was given a "*directive*" by Dr. Perceval Bahado-Singh, former Chairman, Petrojam Limited, to engage Asha Corporation for the provision of financial consultancy services.

1.1.27 Dr. Perceval Bahado-Singh advised the DI that he had no involvement of the procurement of services by Asha Corporation.



Main Event Entertainment Group Limited

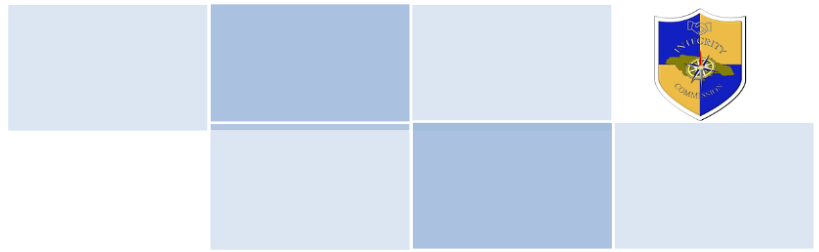
1.1.28 A review of the QCA database revealed that Petrojam Limited reported four (4) contracts which were awarded to Main Event Entertainment Group Limited, for the period January 2017 to December 2018, with a cumulative value of \$43,320,113.52.

1.1.29 Petrojam Limited entered into contracts with Main Event Entertainment Group Limited during the period January 2017 to December 2018, for the following services:

- a) Provision of Public Relations Consultancy Services in the amount of \$13,985,825.00;
- b) Provision of Event Planning Services in the amount of \$26,999,500.00;
- c) Provision of service Re: Team Work Month Breakfast in the amount of \$1,085,528.00; and
- d) Variation to the provision of Event Planning Services in the amount of \$1,249,260.52.

Contract in relation to Public Relations Consultancy Services.

1.1.30 On March 15, 2017, Petrojam Limited invited Main Event Entertainment Group Limited to submit a bid in relation to the provision of Public Relations Consultancy Services. Main Event Entertainment Group Limited initially submitted a proposal in the amount of \$17,894,400.00 for the



referenced services. The figure was 28% above the comparable estimate of \$13,985,825.00.

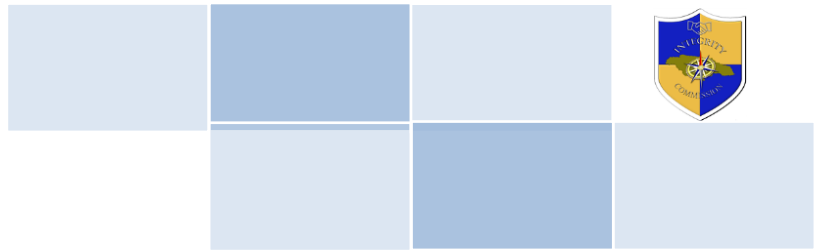
1.1.31 Subsequent to the submission of the abovementioned proposal made by Main Event Entertainment Group Limited, a negotiation ensued between the parties with the result that Main Event Entertainment Group Limited agreed to match Petrojam Limited's comparable estimate of \$13,985,825.00.

1.1.32 Petrojam Limited utilized the Direct Contracting procurement methodology in the award of contract to Main Event Entertainment Group Limited for the provision of Public Relations Consultancy Services.

1.1.33 The Justification provided by Petrojam Limited for the utilization of the Direct Contracting procurement methodology was as a result of "*extreme urgency brought about by unforeseen events and the product/ service could not be obtained in time through a competitive bidding process*".

1.1.34 The Justification provided by Petrojam Limited for the selection of the Main Event Entertainment Group Limited to provide public relations consultancy services was, *inter alia*, that "*Main Events Entertainment Group Limited is well-known for the high standard of service in event planning, public relations and other services*".

1.1.35 By way of a Memorandum dated February 24, 2017, Mrs. Ronique Budram-Ford advised Mr. Floyd Grindley that the justification for utilizing



the Direct Contracting methodology is aberrant to S. 1.1.4 of the Government of Jamaica Handbook of Public Sector Procurement Procedures.

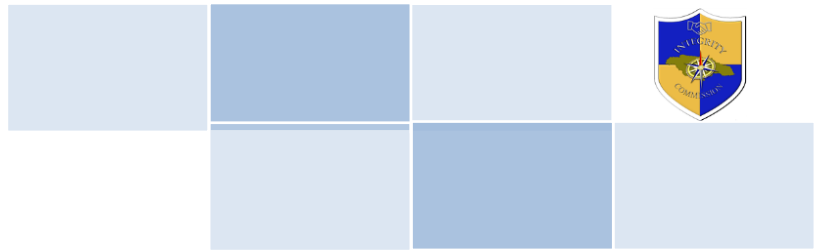
1.1.36 Notwithstanding the advice from Mrs. Ronique Budram-Ford, Mr. Floyd Grindley approved the award of contract to Main Event Entertainment Group Limited.

Contract in relation to Event Planning Services

1.1.37 On September 27, 2017, Petrojam Limited invited Main Event Entertainment Group Limited to submit a proposal for the provision of event planning services utilizing the Direct Contracting procurement methodology.

1.1.38 The justification provided by Petrojam Limited for the utilization of the Direct Contracting procurement methodology was that Main Event Entertainment Group Limited was contracted earlier to provide Public Relations services for its 35th Anniversary activities and that a follow on procurement would be more efficient and economical for the execution of activities for the referenced event.

1.1.39 Main Event Entertainment Group Limited submitted a proposal in the amount of J\$29,989,881.00 for the provision of Event Planning Services. The Tender Opening Form prepared by Petrojam Limited revealed that the Comparable Estimate for the services was J\$24,524,007.25.



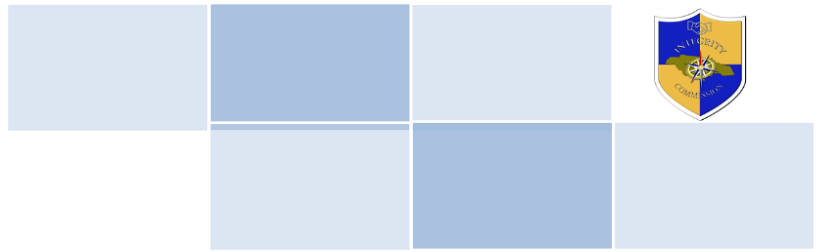
1.1.40 Subsequent to the submission of Main Event Entertainment Group Limited's proposal, Petrojam Limited entered into negotiations with the entity for the provision of Event Planning Services on October 17, 2017.

1.1.41 On November 3, 2017, Petrojam Limited and Main Event Entertainment Group Limited entered into a contract agreement for the provision of event planning services in the amount of J\$26,999,500.00, for a duration of four (4) months.

1.1.42 By way of a Memorandum dated August 16, 2017, Mrs. Ronique Budram-Ford advised Mr. Floyd Grindley that the justification for utilizing the Direct Contracting methodology is aberrant to S. 1.1.4 of the Government of Jamaica Handbook of Public Sector Procurement Procedures.

1.1.43 On December 24, 2017, Mr. Floyd Grindley approved a Procurement Change Request which detailed a variation to the contract sum and scope of services to account for the inclusion of plaques, gifts, adjustments in catering, police presence, transportation, memorabilia and additional drink.

1.1.44 The variation resulted in an increase of J\$1,249,260.52 to the original contract value and increased the total contract sum to J\$28,248,760.52.



Contract in relation to Petrojam Limited's Teamwork Month Breakfast

1.1.45 Petrojam Limited engaged the services of Main Event Entertainment Group Limited to provide Catering and Decorative Services for Petrojam Limited's Teamwork Month Breakfast, utilizing the Direct Contracting procurement methodology.

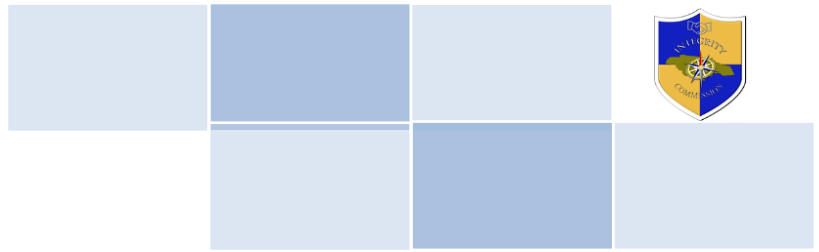
1.1.46 The Director of Investigation has not gleaned any evidence to suggest that a justification for the utilization of the Direct Contracting procurement methodology was provided by Petrojam Limited.

1.1.47 The DI has gleaned no evidence of a written contract in relation to the services provided by Main Event Entertainment Group Limited for Petrojam Limited's Teamwork Month Breakfast.

1.1.48 A Bid Evaluation Approval Control Sheet was signed and approved by Mr. Floyd Grindley on October 19, 2017, in the amount of J\$1,085,528.00.

1.1.49 In relation to whether he was directed or influenced to make any decisions concerning the award of contracts to Main Event Entertainment Group Ltd., Mr. Grindley advised the DI, *inter alia*, that he was provided with the list of three (3) companies by a Board Director, however, he was unable to recall the name of the Board Director or the details of same.

1.1.50 Having regards to the above representations made by Mr. Grindley, Dr. Perceval Bahado-Singh informed the Director of Investigation that, "...it

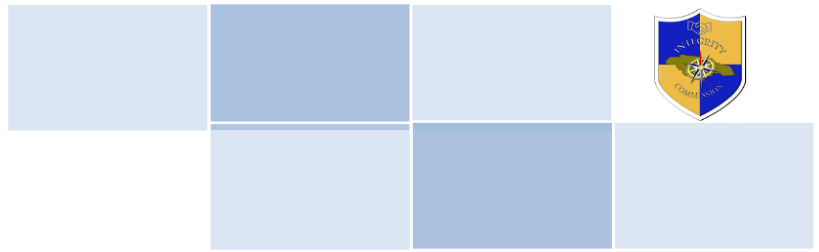


was not the Practice of the Board to recommend any particular company, for any particular work, or contract. The Board, however, had a responsibility to share **advice** and **guide** Management, in accordance with GOJ procurement guidelines and policies of the Contractor General Office....Therefore, it was Management's responsibility to properly evaluate, vet, and procure services; **NOT the Board...**At ALL times, the Board expected management to follow all due processes, in accordance with the GOJ procurement guidelines for the proper evaluation and selection of contractors".

1.1.51 Mr. Richard Creary, in his response dated October 9, 2019, indicated, *inter alia*, that his "...recollection [was] that in an informal discussion surrounding the engagement of Public Relations Services [he] made suggestions of three possible companies that could have been considered by way of the procurement process... [and that he] ... therefore give no directives or instructions to any employee of Petrojam Limited whether past or current".

ASC Business Services

1.1.52 ASC Business Services is registered with the Companies Office of Jamaica as a sole trader which engages in the core activity of marketing, management and accounting services. ASC Business Services was first registered on April 21, 2017, with one, Robert Phillip Chin, recorded as the sole proprietor.



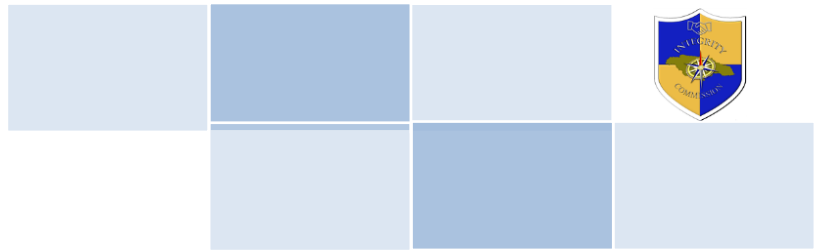
1.1.53 Petrojam Limited utilized the Direct Contracting procurement methodology in engaging ASC Business Services on approximately fourteen (14) occasions during the period May 2017 to June 2018, for the provision of memorabilia.

1.1.54 The total value of contracts awarded and payments made by Petrojam Limited to ASC Business Services for the provision of memorabilia during the period May 2017 to June 2018 was \$9,838,144.80.

1.1.55 With respect to the fourteen (14) contracts which were awarded by Petrojam Limited to ASC Business Services, on at least nine (9) occasions, the date on which the bidding document was issued, the bid submission deadline and the date on which the bid quotation was submitted, were the same.

1.1.56 Petrojam Limited issued bidding documents for at least four (4) contracts to ASC Business Services over the period of four (4) business days in June 2017.

1.1.57 No justification was observed for undertaking separate procurements to the same company or for issuing procurement opportunities to the same company for very similar items days apart. Cumulatively, the value of the four (4) contracts amounted to \$2,207,506.89, which exceeded the direct contracting threshold of \$1,500,000.00.



1.1.58 Mrs. Ronique Budram-Ford provided instructions for contracts to be awarded to ASC Business Services by way of Direct Contracting procurement methodology.

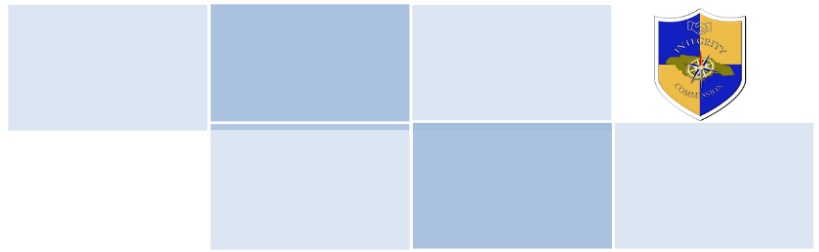
Shalk Electronic Security Limited

1.1.59 A total of three (3) contracts were awarded to Shalk Electronic Security Limited by Petrojam Limited for the provision of security services for the former Chairman and General Manager, culminating in a total of \$3,960,000.00 as evidenced by payments made to the entity.

1.1.60 The Direct Contracting procurement methodology was utilised by Petrojam Limited in the award of contracts to Shalk Electronic Security Limited. A justification was not provided by Petrojam Limited for the utilisation of the referenced procurement methodology, with the exception of the contract which was awarded on September 27, 2017 in which the justification was stated as *“procurement is of a confidential nature”*.

West Indies Petroleum Limited

1.1.61 West Indies Petroleum Limited was not awarded a contract for the provision of petroleum products by Petrojam Limited during the period 2017 to 2018.



Seal Construction Company Limited

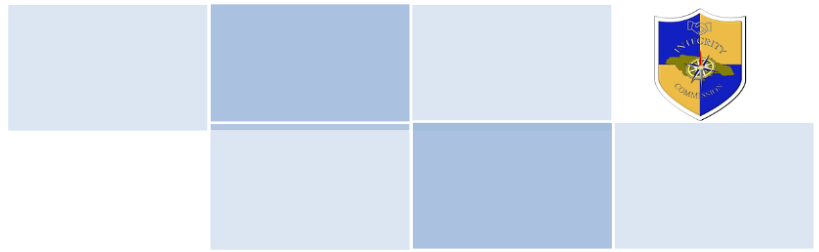
1.1.62 Petrojam Limited utilized the Local Competitive procurement methodology for the engagement of a contractor for the construction of a new petroleum laboratory at the Petrojam Limited refinery.

1.1.63 Petrojam Limited and Seal Construction Company Limited entered into a contract for the construction of Petrojam Limited's new petroleum testing laboratory on April 29, 2015, in the amount of \$337,341,149.04, with a scheduled start date of June 1, 2015, and a completion date of May 31, 2016.

1.1.64 The Certificate of Final Completion for the construction of the new petroleum testing laboratory was issued on November 19, 2018, approximately two (2) years after the projected completion date.

1.1.65 The quantity surveyor's pre-tender estimate as at April 2012, for the construction of Petrojam Limited's New Petroleum Laboratory was in the amount \$320,698,000.00.

1.1.66 Notwithstanding the award of the contract to Seal Construction Company Limited, the National Contracts Commission (NCC), at its meeting held on October 17, 2013, advised that the methodology and evaluation criteria utilized for the engagement of the contractor were not appropriate, given the value and nature of the procurement opportunity. In particular, the Committee was of the view that Petrojam Limited should



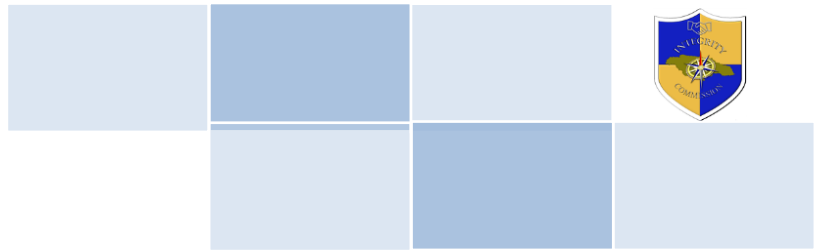
have undertaken a pre-qualification evaluation exercise, instead of the post-qualification process.

1.1.67 The Government of Jamaica Handbook of Public Sector Procurement Procedures (GPPH, 2014) states that it is mandatory to utilize the pre-qualification bidding process for all procurement which exceeds \$150 Million.

1.1.68 Petrojam Limited's "*Instructions to Bidders*" document, mandated that a bidder must meet the "**minimum qualifying criteria**" in order to qualify for the referenced procurement opportunity.

1.1.69 On May 30, 2016, Mr. Everald Samuels, Project Manager, Seal Construction Company Limited, wrote to Mr. Stephen McMorris, MSR Designs Studios Ltd., the company sub contracted as the Project Manager, and provided a revised work programme and justifications for the extension of time regarding the completion of the laboratory. The extension of time requested was 29 weeks with the result that the new completion date for the project would be December 24, 2016.

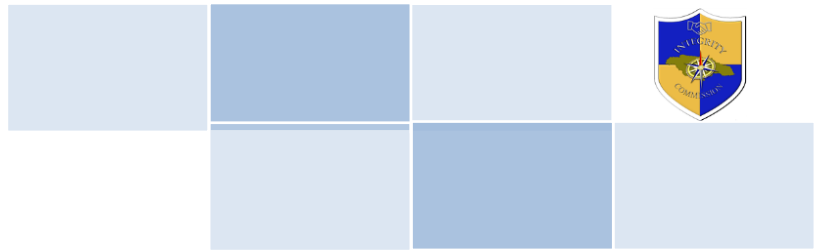
1.1.70 The claim was submitted to MSR Designs Studios Ltd., on May 30, 2016, one day before the agreed completion date of May 31, 2016, as indicated in the contract.



1.1.71 The major factors which were said to be responsible for the delays in the implementation of the contract for the construction of Petrojam Limited New Petroleum Testing Laboratory are as follows:

- a) The non-payment of workers who intermittently withdrew their services;
- b) The preparation and re-tendering of electrical and mechanical procurement opportunities;
- c) The redesigning of the electrical system to accommodate new voltage supply (215V change to 260V);
- d) The foundation works for the project was affected by excessive water flowing above normal into the foundation trenches, which resulted in the relocation of the construction site and delayed the project by some four (4) to five (5) weeks;
- e) The cash flow challenges encountered by the main contractor, Seal Construction Company Limited;
- f) The delay in the importation of electrical equipment and material; and
- g) The delay in the signing of the two (2) nominated sub-contractors.

1.1.72 There were five (5) variations in relation to the contract which was awarded to contract MSR Design Studio for the provision of consultancy services. The initial original contract sum was \$10,500,000.00, which was increased to \$39,243,763.25, or by 274%.



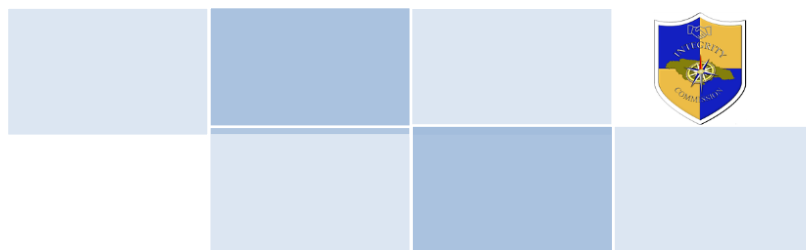
1.1.73 A Notice of Default of Contract was served on Seal Construction Company Limited on December 7, 2015, by Mr. Stephen McMorris, Director/Project Manager, MSR Design Studios Ltd., for failure to consistently and diligently proceed with the works on the New Petrojam Testing Lab, at the Petrojam Refinery, 96 Marcus Garvey Drive. The Notice was served in relation to Clause 25(1)(b) of the contract, which states that “if he (contractor) fails to proceed regularly and diligently with the works” the referenced clause should be invoked.

1.1.74 Mr. Julian McMorris, Director, MSRDS Architecture & Engineering, by letter dated August 5, 2016, wrote to Mr. Donald Johnson, Project Manager, Petrojam Limited, and made a recommendation, *inter alia*, for the termination of the referenced contract.

1.1.75 Petrojam Limited did not follow the recommendation of MSRDS Architecture and Engineering, to terminate the contract awarded to Seal Construction Company Limited despite lack of progress in the execution of the works.

1.1.76 Based on payment records provided to the DI, the total payments that were made payable to Seal Construction Company Limited and sub-contractors, for the construction of the New Petroleum Testing Laboratory, amounted to \$310,512,158.32, exclusive of consultancy services and other associated costs.

1.1.77



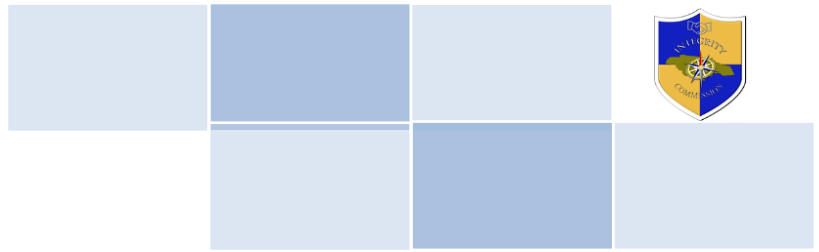
Vacuum Distillation Unit (VDU)

1.1.78 Ms. Chevril Shaw, Chemical Engineer, former Manager, Strategic Planning and Business Support, Petrojam, was seconded to manage the VDU upgrade project. In the capacity of Project Manager, Ms. Shaw was responsible for the overall execution of the project.

1.1.79 The following cost proposals, *inter alia*, were made by Sinohydro to undertake the upgrade of the VDU at Petrojam Limited:

#	Date Proposal Submitted	Cost Proposal Amount Submitted by Sinohydro
1	February 2015	US\$79,870,000.00
2	August 28, 2017	US\$91,390,000.00 (based on Chinese Standards) US\$102,000,000.00 (based on Western Standards)
3	January 16, 2018	US\$121,630,000.00
4	March 2018	US\$119,240,000.00

1.1.80 In September 2017, Petrojam Limited's Board of Directors granted approval to execute the VDU project in the amount of US\$102,000,000.00.



1.1.81 Sinohydro presented its final 'offer of US\$113 million with 20% (total cost of USD 135.6M)' which exceeded the following cost estimates obtained by Petrojam Limited with respect to the upgrade of the VDU:

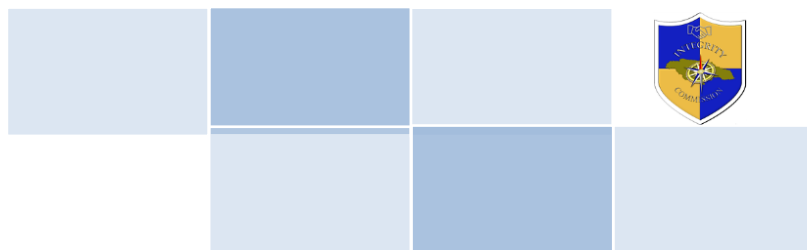
- a) Petrojam Limited's in house cost estimate amounted to US\$79,870,000.00; and
- b) The cost estimate prepared by 'Becht Engineering Co. Inc' in March of 2018 amounted to US\$79,500,000.00.

1.1.82 Ms. Chevril Shaw, former Project Manager, VDU, indicated, *inter alia*, that the proposal submitted by Sinohydro did not represent value for money and did not appear to be in the best interest of the project or Petrojam Limited and recommended that the contract for the upgrade of the VDU be awarded by way of competitive tender.

1.1.83 As at March 20, 2019, Mr. Winston Watson, General Manager, Petrojam Limited, advised the DI that "A *contract Agreement has not been executed between Petrojam and Sinohydro*"⁷ for the upgrade of the VDU, and as such, no work has commenced.

1.1.84 As at March 20, 2019, Mr. Winston Watson, General Manager, Petrojam Limited, advised the DI that the total amount expended to date on the VDU Project is approximately US\$1,262,824.94 "*...on project development and preparation activities.*"

⁷ Response of Mr. Winston Watson, General Manager, Petrojam, dated March 20, 2019, to the IC. Response #1(a)



1.1.85 Petrojam Limited indicated that payments were made to sixteen (16) contractors with respect to the upgrade of the VDU, however, the DI was provided with documentary evidence in support of payments being made to ten (10) contractors.

1.1.86 At the time of this Investigation, the VDU Project was on hold pending the report of the Petrojam Review Committee.

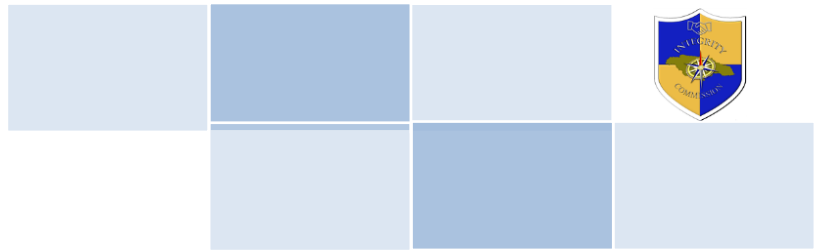
Allegations of Conflict of Interest

1.1.97 At this time, the Director of Investigation's review has found no evidence of a conflict of interest which resulted in the award of contract(s) to the following contractors:

- i. Construction Solutions Limited;
- ii. Seal Construction Company Limited;
- iii. Asha Corporation;
- iv. Main Event Entertainment Group Limited;
- v. Shalk Electronic Security Limited; and
- vi. West Indies Petroleum Limited.

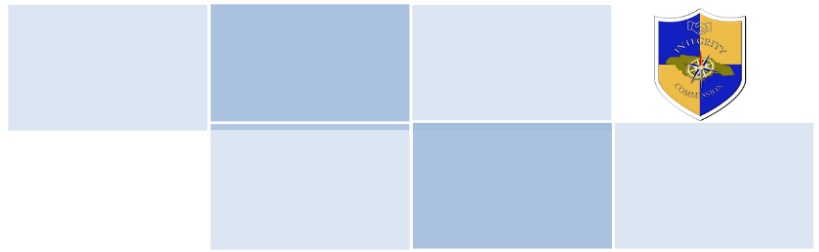
1.1.87 Mrs. Ronique Budram-Ford, former Procurement Head, Petrojam Limited and Ms. Rishka Budram are sisters.

1.1.88 The DI has seen evidence which indicates that Ms. Rishka Budram is associated with and acted on behalf of ASC Business Services.



1.1.89 The proprietor of ASC Business Services is Mr. Robert Chin, who fathers a child with Ms. Rishka Budram.

1.1.90 Mrs. Ronique Budram-Ford played a role in the procurement process for the award of contract to the entity ASC Business Services.



Chapter 1 – Background

2.1 This chapter outlines the background information concerning the investigation.

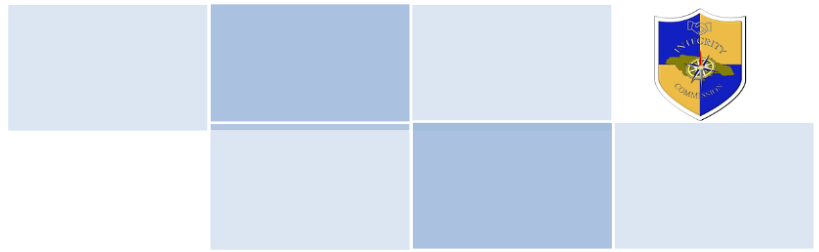
Initiation of Investigation

2.1.1 The then Office of the Contractor General (OCG), acting on behalf of the Contractor General and pursuant to Sections 15(1) and 16 of the Contractor-General Act, on January 23, 2018, initiated an Investigation into allegations concerning acts of impropriety and/or irregularity concerning negotiations for the sale of petroleum products between West Indies Petroleum Limited and Petrojam Limited.

2.1.2 Subsequent to the functions of the OCG being subsumed into the Integrity Commission (IC) and the initiation of the foregoing investigation, the Director of Investigation (DI) received further allegations concerning acts of impropriety and/or irregularity, conflict of interest, corruption, nepotism, cronyism and favouritism in the award of contracts by Petrojam Limited.

2.1.3 Petrojam Limited, Jamaica's only petroleum refinery is a limited liability company; jointly owned by PDVCaribe, a subsidiary of Petr leos de Venezuela (PDVSA) and the Petroleum Corporation of Jamaica (PCJ). The PCJ is a statutory body created and wholly owned by the Government of Jamaica⁸.

⁸ Accessed on August 12, 2019 at <http://www.petrojam.com/about-us>



Jurisdiction

2.1.4 The jurisdiction of the Integrity Commission (IC) to investigate allegations concerning acts of impropriety and/or irregularity, conflict of interest and corruption at Petrojam Limited as well as the circumstances surrounding the award of certain GoJ contracts by Petrojam Limited is grounded in Sections 6(1) (a), 33(1)(a) 52 (1) (a) and 63 of the Integrity Commission Act (ICA).

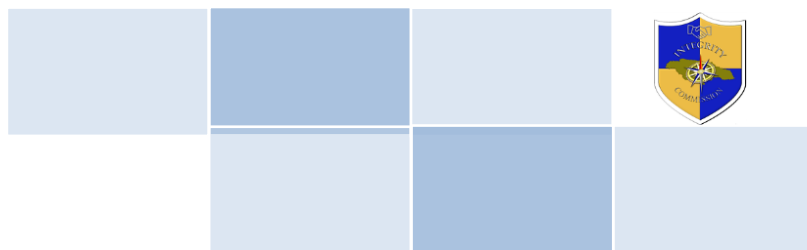
2.1.5 Further, the jurisdiction of the then Contractor General enabled the then OCG to enquire into the circumstances surrounding the negotiations for the sale of petroleum products between West Indies Petroleum Limited and Petrojam Limited in keeping with Sections 4 (1), 15 (1) and 16 of the Contractor General Act (CGA).

The Investigation

2.1.6 In the course of its Investigation, the Office of the Contractor General (OCG) and the Integrity Commission (IC) convened hearings with the following persons:

1. Mr. Floyd Grindley, former General Manager, Petrojam Ltd.; and
2. Ms. Chevril Shaw, former Project Manager, Vacuum Distillation Unit, Petrojam Limited.

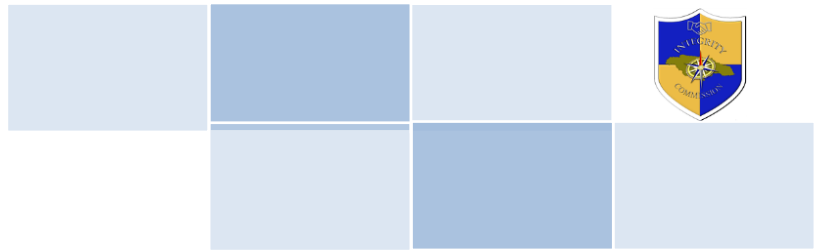
2.1.7 The Director of Investigation (DI)issued statutory requisitions to the following persons:



1. Mr. Gordon Shirley, Chairman, West Indies Petroleum Limited;
2. Mr. Courtney Wilkinson, Director, West Indies Petroleum Limited;
3. Mr. Vincent Taylor, Managing Director, Construction Solutions Co. Ltd.;
4. Mr. Robert Thomas, Managing Director, Seal Construction Co. Ltd.;
5. Mr. Solomon Sharpe, Managing Director, Main Event Entertainment Group Ltd.;
6. Mr. Robert Chin, Managing Director, ASC Business Services;
7. Mr. Rodney Davis, Director, Asha Corporation;
8. Mr. Winston Watson, General Manager, Petrojam Limited;
9. Mr. Floyd Grindley, former General Manager, Petrojam Limited;
10. Mr. Perceval Bahado-Singh, former Chairman, Petrojam Limited;
11. Mr. Paul Tyndall, former Procurement Unit Head (Acting), Petrojam Limited;
12. Mrs. Ronique Budram-Ford, former Procurement Unit Head, Petrojam Limited; and
13. Mr. Donald Johnson, Project Director, Petrojam Limited.

2.1.8 A detailed review of the responses and supporting documentation was undertaken by the Director of Investigation (DI).

2.1.9 In addition to the foregoing responses and supporting documentation, the DI also conducted a review of the QCA Database. The then OCG required that all Public Bodies, submit in the form of QCA Reports, the



particulars of all contracts which are awarded, above Five Hundred Thousand and One Dollars (J\$500,001.00) and upwards⁹.

Subjects of the Investigation

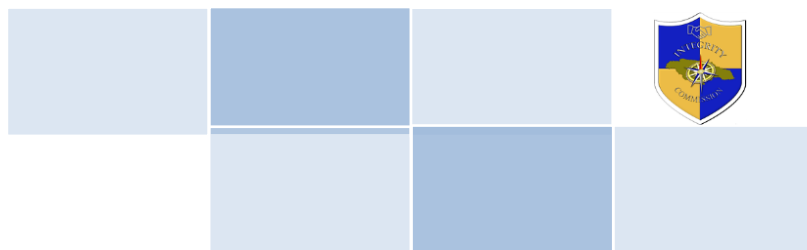
2.1.10 The following individuals, who at the time, were public officers within the meaning of the Corruption Prevention Act:

1. Mr. Floyd Grindley, former General Manager, Petrojam Limited;
2. Mr. Perceval Bahado-Singh, former Chairman, Petrojam Limited;
- and
3. Mrs. Ronique Budram-Ford, former Procurement Unit Head, Petrojam Limited;

The following entities:

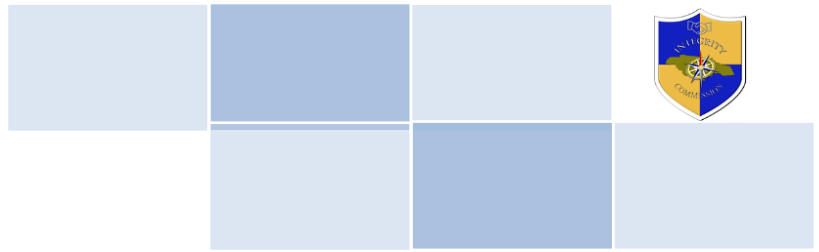
1. West Indies Petroleum Limited;
2. Construction Solutions Co. Ltd.;
3. Seal Construction Co. Ltd.;
4. Main Event Entertainment Group Ltd.;
5. ASC Business Services; and
6. Asha Corporation.

⁹ OCG's revised requisition dated June 25, 2012, which was issued to all Public Bodies.



Chapter 2 – Terms of Reference

- 3.1 This chapter sets out the scope of the investigation and the issues that were explored.
- 3.1.1 In the Investigation into the circumstances surrounding acts of alleged irregularity, impropriety, conflict of interest and corruption in the award of certain GoJ contracts by Petrojam Limited, the Director of Investigation (DI) sought to ascertain, *inter alia*, the following:
- 3.1.2 Whether the alleged acts of irregularity, impropriety, conflict of interest and corruption, breached the procurement guidelines as well as any other applicable Government of Jamaica (GoJ) laws and/or policies;
- 3.1.3 The process(es) employed by Petrojam Limited which resulted in the construction of a 'north perimeter fence/crash wall' at Petrojam Limited by Construction Solutions Limited;
- 3.1.4 The circumstances in which a consultancy agreement was entered into between Petrojam Limited and Asha Corporation for the provision of financial analyses and managerial support;
- 3.1.5 The circumstances in which government contract(s) was/were awarded to Main Event Entertainment Group Limited;
- 3.1.6 The circumstances in which government contract(s) was/were awarded to ASC Business Services for the provision of memorabilia to Petrojam Limited;
- 3.1.7 The circumstances in which government contract(s) was/were awarded to Seal Construction Company Limited in relation to the



construction of a new petroleum testing laboratory at Petrojam Limited;

- 3.1.8 The circumstances in which government contract(s) was/were awarded to Shalk Security Services by Petrojam Limited during the period of 2017-2018 for the provision of security services for Mr. Floyd Grindley, the former General Manager, Petrojam Limited and Dr. Perceval Bahado Singh, former Board Chairman, Petrojam Limited;
- 3.1.9 The circumstances surrounding the 2017 proposed contract between Petrojam Limited and West Indies Petroleum Limited for the procurement of petroleum products;
- 3.1.10 The circumstances surrounding the upgrade of the Vacuum Distillation Unit (VDU) at Petrojam Limited;
- 3.1.11 The circumstances, if any, in which, relatives and/or associates of Mrs. Ronique Budram-Ford, former Procurement Unit Head, Petrojam Limited, received benefits from the entity and whether such acts amounted to a conflict of interest and/or an act of corruption;
- 3.1.12 Whether recommendations ought to be made to the Director of Corruption Prosecutions in keeping with Section 54(3)(b) of the Integrity Commission Act; and
- 3.1.13 Whether any anticorruption initiatives arise for consideration.

Chapter 3 –Law, Evidence, Findings and Discussion

4.0 This chapter sets out the discussion of the findings and the relevant legislation in respect of the investigation.

The Award of Contract by Petrojam Limited to Construction Solutions Limited for the Construction of the North Perimeter Fence/Crash Wall

4.1.1 On January 25, 2017, Petrojam Limited entered into a contract with Construction Solutions Limited for the replacement/construction of the North Perimeter Fence/Crash Wall. The Director of Investigation (DI) has summarized, hereunder, the details of the referenced contract and Scope of Works¹⁰:

Table 1

Contract Particulars	Details
Contract Date	January 25, 2017
Scope of Works	<p>The contractor was required to:</p> <ul style="list-style-type: none"> Design a: <ul style="list-style-type: none"> Reinforced concrete crash-wall/retaining wall to prevent vehicles using Marcus Garvey Drive, from running off the road and unto Petrojam Limited's compound, where it can damage tanks and pipelines. The wall will be 525 meters long. The wall is to be designed by engineer(s) registered with the Professional Engineers Registration Board (Jamaica). Chain link fence as shown on attached drawings. Prepare drawings and priced bill of quantities for crash –wall. To supply all labour, supervision, material, equipment, tools and transportation and carry out the works as described in the Construction Scope of Works, Drawings and Bill of Quantities.
Contract Value	\$96,760,986.95
Procurement Methodology	Emergency Contracting

¹⁰ Petrojam Limited's Scope of Works, attached to the response of Mr. Vincent Taylor, Managing Director, Construction Solutions Limited, dated March 8, 2019.



Contract Particulars	Details
Justification for use of Procurement Methodology	Petrojam Limited "...would have been exposed to inadequate security and protection for the Refinery, as the risks of (1) intruders from tapping into tanks/pipelines to access fuel would be increased (2) financial loss due to illegal trespassing and(3) the risk that the refinery assets ...would be unprotected specifically the ones that are located close to the perimeter fence..." ¹¹
Contract Approval(s)	Mr. Floyd Grindley (25/1/2017)
Payment(s)	Payment Certificate #0001 - \$9,676,098.70; Payment Certificate #0002 - \$8,808,042.97; Payment Certificate #0003 - \$11,737,552.70; Payment Certificate #0004 - \$19,791,656.15; Payment Certificate #0005 - \$10,135,741.45; Payment Certificate #0006 - \$28,379,056.29; Payment Certificate #0007 - \$2,419,024.67; Payment Certificate #0008 - \$1,459,569.62; Electronic Funds Transfer – dated April 6,2018: \$3,878,594.29 Based on the DI's calculation of the aforementioned Payment Certificates and electronic funds transfer record, the total payments made by Petrojam Limited to Construction Solutions Limited was in the amount of \$96,285,336.84
Status of Contract	Completed as at March 19, 2018(Certificate of Completion - March 23, 2018)

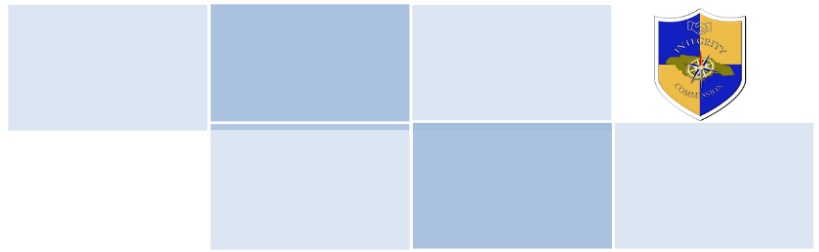
4.1.2 Based on information obtained from the Companies Office of Jamaica¹², the table below provides details of the particulars of the entity Construction Solutions Limited:

Table 2

Company Name	Company Address	Date of Incorporation	Company Directors	Company Shareholders
Construction Solutions Limited	Lot 5 Port Henderson, Bridgeport, Saint James	16 May 1996	Vincent Taylor Muriel Taylor Herma Miller	Kemar Taylor Vincent Taylor Muriel Taylor Herma Miller Keris Taylor Verona Miller Vince-Andrew Taylor

¹¹ Response dated September 6, 2017, of Mr. Floyd Grindley, former General Manager, Petrojam Limited. Response # 2

¹² Accessed on www.orcjamaica.com on May 9, 2019



Background to the Award of Contract by Petrojam Limited to Construction Solutions Limited

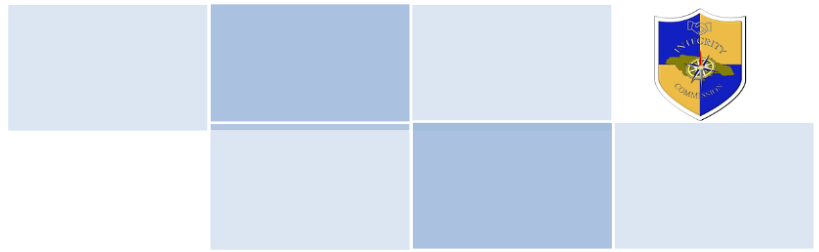
4.1.3 Mr. Floyd Grindley, then General Manager, Petrojam Limited, advised the Director of Investigation that prior to the award of contract to Construction Solutions Limited, Petrojam Limited had commenced discussions with the National Works Agency (NWA) regarding the elevation of Marcus Garvey Drive Road Network and the replacement of Petrojam Limited's North Perimeter Fence/Crash Wall. However, Mr. Floyd Grindley, also advised the then Office of the Contractor General (OCG) that up to December 2016, Petrojam and the NWA were unable to finalize an agreement.¹³

4.1.4 The DI reviewed the content of an email correspondence dated March 23, 2016, in which the NWA advised Petrojam Limited that the design and preliminary estimate to construct the crash wall was completed. The referenced email correspondence was addressed to Ms. Chevril Shaw, then Manager, Strategic Planning and Business Support, Mr. Telroy Morgan, Mr. Donald Johnson and copied to Mr. Earl Patterson, Mr. Roger Smith, Mr. Patrick Rose, Ms. Stephanie Bromfield and Ms. Katherine Sharpe-Smith.¹⁴

4.1.5 Mr. Everton Hunter, Chief Executive Officer, NWA, noted the following in his September 7, 2017 response to the DI:

¹³ Response dated September 6, 2017 which was addressed to the then OCG from Mr. Floyd Grindley, then General Manager, Petrojam Limited. Response 3.

¹⁴ Email correspondence dated March 23, 2016, from Mr. Rae Parchment, Manager, Network Planning and Research, NWA, to Ms. Chevril Shaw et al.



“Petrojam expressed concerns regarding additional risk of crashes along the rehabilitated roadway and how best the tanks and pipes could be safe guarded.”¹⁵

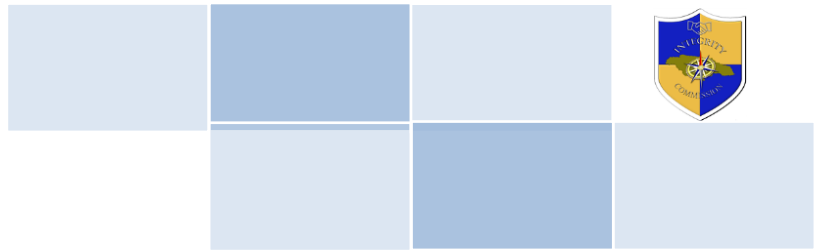
4.1.6 Further to the concerns that were expressed by Petrojam Limited and the discussions held with the NWA to construct the reinforced perimeter fence/crash wall, the DI is in possession of a letter dated November 15, 2016, which was addressed to Mr. Earl Patterson, NWA, from Mr. Winston Watson, General Manager, Petrojam Limited. The letter acknowledged receipt of the NWA's quotation in the amount of “**\$29,770,939.95**” and indicated, *inter alia*, that “...**The construction [would] be done by China Harbour Engineering Company (CHEC) as a variation to the ongoing contract for the road works being done on Marcus Garvey Drive**”.¹⁶ (DI Emphasis)

4.1.7 Subsequent to the referenced letter from Mr. Winston Watson, then General Manager, Petrojam Limited, accepting the quotation from the NWA, Mr. Floyd Grindley, in his capacity as General Manager, Petrojam Limited, on December 13, 2016, wrote to the NWA and advised Mr. Earl Patterson, *inter alia*, that “...**Petrojam Limited has subsequently decided not to pursue this project through the NWA/China Harbour Engineering Company (CHEC)**”.¹⁷ (DI Emphasis)

¹⁵ Response dated September 7, 2017 which was addressed to the then OCG from Mr. Everton Hunter, Chief Executive Officer, NWA. Response 3d.

¹⁶ Letter dated November 15, 2016, from Mr. Winston Watson, General Manager, Petrojam Limited, to the attention of Mr. Earl Patterson, NWA.

¹⁷ Letter dated December 13, 2016, from Mr. Floyd Grindley, then General Manager, Petrojam Limited, to the attention of Mr. Earl Patterson, NWA.



4.1.8 Based on the foregoing letter, the DI observed that Petrojam Limited did not provide the NWA with a reason for its decision not to pursue the contract award utilizing the NWA/China Harbour Engineering Company to construct the reinforced concrete north perimeter fence/crash wall.

4.1.9 The aforementioned decision by Petrojam Limited was corroborated by Mr. Everton Hunter, Chief Executive Officer, NWA, in his September 7, 2017 response to the then OCG.¹⁸

4.1.10 Further, Mr. Earl Patterson, an officer from the NWA, appeared before the then Contractor General, Mr. Dirk Harrison on September 20, 2017, and advised that the NWA was unaware of the reason(s) which accounted for Petrojam Limited's decision to discontinue the arrangements which were being undertaken for the NWA/China Harbour Engineering Company to construct the referenced perimeter fence.¹⁹

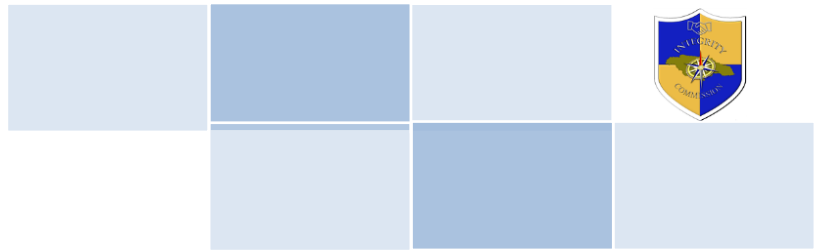
4.1.11 Mr. Everton Hunter also confirmed that *"...there was communication between the NWA and Petrojam regarding the design height/elevation of Marcus Garvey Drive, as was the case with the other key stakeholders."*²⁰

4.1.12 By way of his response dated July 23, 2019, Mr. Floyd Grindley confirmed his awareness of the award of the contract to Construction Solutions

¹⁸ Response dated September 7, 2017 which was addressed to the then OCG from Mr. Everton Hunter, Chief Executive Officer, NWA. Response 6.

¹⁹ Transcript of hearing held on September 20, 2017 with Mr. Earl Patterson. Page 19.

²⁰ Response dated September 7, 2017 which was addressed to the then OCG from Mr. Everton Hunter, Chief Executive Officer, NWA. Response 3.



Limited by Petrojam Limited for the construction of a wall and perimeter fence.²¹

4.1.13 In relation to the award of contracts under emergency circumstances
"...The handbook permits the Head of Entity (General Manager) to approve contracts up to a maximum value of J\$100 million, whereby any emergency approvals shall be in writing and shall form part of the procurement record to be kept by the Entity".²²

4.1.14 In addition to Mr. Grindley reiterating the safety concerns relating to the referenced perimeter fence/wall, he also advised of the following:

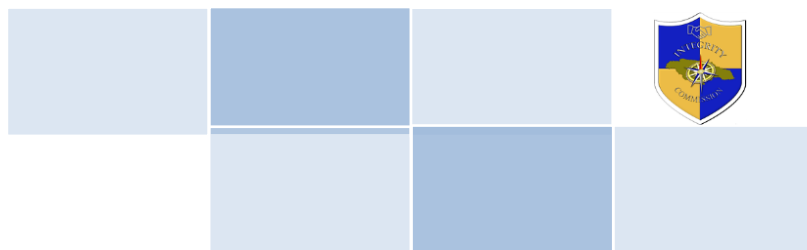
"...

The process between Petrojam Limited and NWA failed several times, prior to my arrival as GM, NWA was unable to finalize an agreement within the time constraints of the safety emergency. Upon being apprised of the continuous back and forth between Petrojam and NWA, it did not prove beneficial to Petrojam for me to repeat the same failed process over and over again, as the previous General Manager (Winston Watson) at the time intervened and tried to get NWA to submit a formal proposal. Watson also elevated the matter to NWA's CEO Mr. E.G. Hunter and still reached a stalemate."²³

²¹ Response dated July 23, 2019, which was addressed to the Director of Investigation by Mr. Floyd Grindley. Response 5.

²² Response dated July 23, 2019, which was addressed to the Director of Investigation by Mr. Floyd Grindley. Response 5.

²³ Response dated July 23, 2019, which was addressed to the Director of Investigation by Mr. Floyd Grindley. Response 5b.



The Circumstances Surrounding the Award of Contract to Construction Solutions Limited

4.1.15 Mr. Floyd Grindley, then General Manager, Petrojam Limited, by way of correspondence dated December 7, 2016, gave instructions for the use of the Limited Tender procurement methodology, as well as, the solicitation of proposals from the following companies:

“... Fencing Associates Limited;

F.S.C. Construction Works,

HS Haulage and Construction Services,

Brighton Engineers Limited,

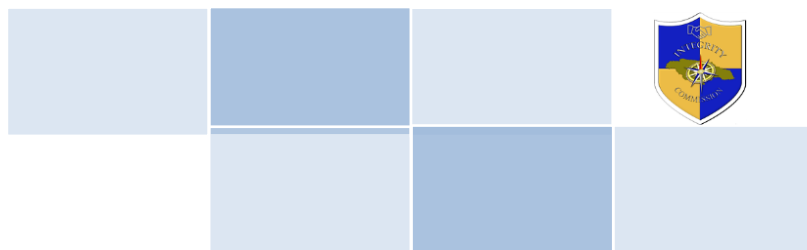
Shane Gibbon McCalla T/as SM Quality Construction,

J&L Equipment & Construction Services Limited”²⁴ (DI Emphasis)

4.1.16 In response to the foregoing, Ms. Chevrl Shaw, former Project Manager, Vacuum Distillation Unit, Petrojam Limited, in a response dated December 7, 2016, to Mr. Grindley, indicated, *inter alia*, that:

- a) The construction of the ‘fence/wall’ should be ‘constructed at once’ and any deviation from same could be seen as ‘splintering’, especially considering that the same contractors were being proposed for both phases;

²⁴ Email correspondence dated December 7, 2016, from Mr. Floyd Grindley, then General Manager, Petrojam Limited, to Mrs. Chevrl Shaw, Strategic Planning and Business Support, Petrojam Limited



- b) The contractors indicated were all either Grade 3 or Grade 4 in the relevant National Contracts Commission (NCC) categories (Civil Engineering Works and/or Fencing;
- c) **New Era Fencing had installed fencing for Petrojam in the past and perhaps, should also be included on the list;** and (DI Emphasis)
- d) That given the requirements for the utilization of the Limited Tender procurement methodology, 'a basis would need to be provided ... since none of the ... reasons apply'²⁵ (DI Emphasis)

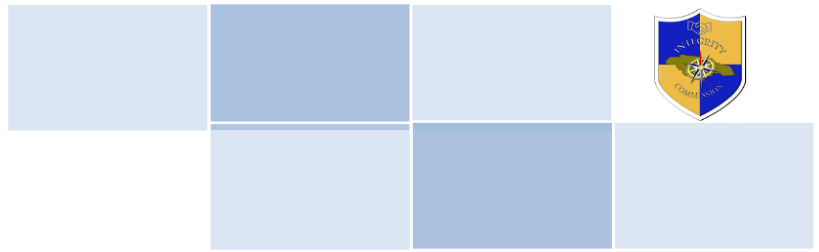
4.1.17 The DI also notes the contents of another email correspondence which was addressed to Mr. Grindley, by Ms. Shaw, in which, she sought to formalize the following instructions that were advanced by Mr. Grindley:

- a) That the 'emergency procurement methodology should be used';
- b) The project for the design and construction of the wall should be single phase; and
- c) That the contractor should be Construction Solutions Limited.²⁶ (DI Emphasis)

4.1.18 In relation to the circumstances which also led to the award of the referenced contract to Construction Solutions Limited, Mr. Vincent Taylor,

²⁵ Email correspondence dated December 7, 2016 from Ms. Chevril Shaw, Strategic Planning and Business Support, Petrojam Limited to Mr. Floyd Grindley, then General Manager, Petrojam Limited.

²⁶ Email correspondence dated December 9, 2016 from Ms. Chevril Shaw, Strategic Planning and Business Support, Petrojam Limited to Mr. Floyd Grindley, then General Manager, Petrojam Limited.



Managing Director, Construction Solutions Limited, advised the DI in his March 8, 2019 response that "... **On or about December 16, 2016 Mr. Donald Johnson called to ask for our services.**"²⁷ (DI Emphasis)

4.1.19 Mr. Vincent Taylor, Director, Construction Solutions Limited, also advised the DI in the referenced response, that the following individuals were integral in the contract negotiation and award process:

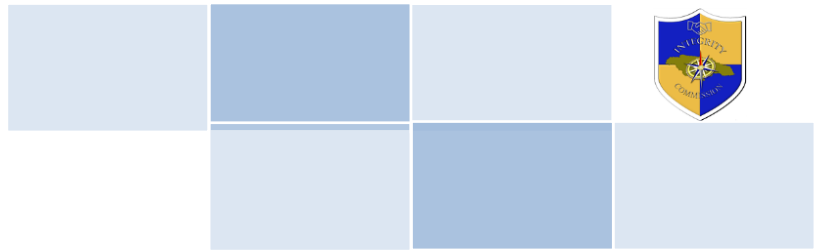
1. Mr. Donald Johnson, Project Engineering, Petrojam Limited;
2. Mr. Vincent Taylor, Director, Construction Solutions Limited;
3. Mr. Duane Thompson, Senior Project Manager, Construction Solutions Limited; and
4. Mr. Vince-Andrew Taylor, Project Manager, Construction Solutions Limited.

4.1.20 Having regard to the foregoing assertions made by Mr. Vincent Taylor that "On or about December 16, 2016 Mr. Donald Johnson called to ask for our services"²⁸, the DI by way of a statutory Requisition required Mr. Donald Johnson to respond to certain questions with a view to determine the veracity of the referenced assertions. Mr. Johnson confirmed, *inter alia*, that he made contact with Construction Solutions Limited requesting their services for the construction of the perimeter fence/ crash-wall.²⁹

²⁷ Response dated March 8, 2019 which was addressed to Mr. David Grey, JP, Director of Investigation, from Mr. Vincent Taylor, Director, Construction Solutions Limited. Response 4.

²⁸ Response dated March 8, 2019, from Mr. Vincent Taylor, Managing Director, Construction Solutions Limited, Response 4(1).

²⁹ Response dated March 20, 2019, from Mr. Donald Johnson, Civil Project Engineering Coordinator, Petrojam Limited. Response 2(a).



4.1.21 In relation to Mr. Floyd Grindley's decision to discontinue the arrangements which were advanced by the Petrojam Limited and the NWA to construct the referenced perimeter fence/crash wall, Major Philip Campbell, former Director Safety and Security, Petrojam Limited also expressed the following concerns during his attendance at a hearing convened by the DI on March 4, 2019:

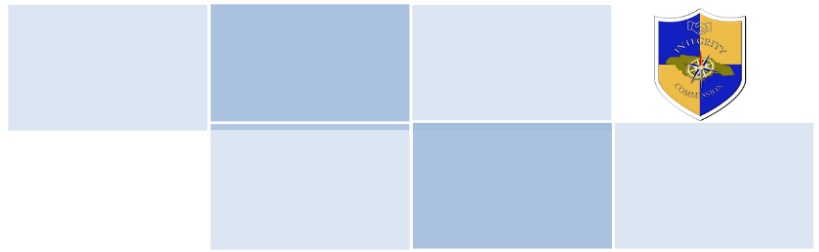
"... We negotiated with NWA because of the time constraints so it was Government to Government to build such a fence and wall and they subcontracted the Chinese. Mr. Winston Watson was still the General Manager and we negotiated ... So Mr. Grindley came along and he told me pointedly and I can quote, he said he doesn't want any Chinese doing any work, Jamaicans must get the work. Shortly after, as the project sponsor, I got a document to approve and it had Construction Solutions for a sum in excess of \$100 million and I told him I would not sign this.."³⁰

(DI Emphasis)

The Increase of the Budgetary Allocation for the Construction of the North Perimeter Fence/Crash Wall

4.1.22 The DI is in possession of a memorandum dated January 12, 2017 which was addressed to Mr. Floyd Grindley, then General Manager, Petrojam

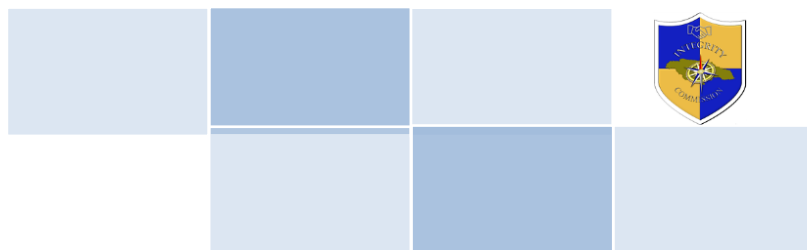
³⁰ Extract from Transcript of hearing convened by the IC on March 4, 2019, pgs. 77-78



Limited, regarding a request to increase the budgetary allocation for the construction of the north perimeter fence/crash wall. The request was made by Mr. Donald Johnson, Civil Project Engineering Coordinator, and detailed the following:

- 1) Approval for an increase in the budget for the construction of 'the North Perimeter Fence Replacement Project, from US\$420,000 (approximately J\$54 million), approved at Gate 2 to US\$878,000 (J\$114.14 million)';
- 2) The realization emanating out of a discussion with Construction Solutions Limited, **that certain items that would be necessary for the installation of the fence were not included in the initial comparable estimate for the Emergency Procurement Pre-approval and "the quantities included in the estimate for Bill #4 which were derived from the preliminary designs, were lower than those resulting from the detailed design developed by CSL";** and
- 3) That a further detailed design was accepted by the Petrojam team and the contingency sum was increased as a result of the risk/uncertainties involved in the excavation works; and
- 4) Certain **adjustments were made to the estimate which revised the comparable estimate to \$76.32M.**³¹ (DI Emphasis)

³¹ Memorandum dated January 12, 2017, addressed to Mr. Floyd Grindley, then General Manager, Petrojam Limited, under the caption "*REQUEST FOR INCREASED BUDGET FOR THE NORTH PERIMETER FENCE*"



4.1.23 The DI notes that the variance between the comparable estimate and the contract sum was approximately 27%, which falls outside the allowable variation margin of 15%.³²

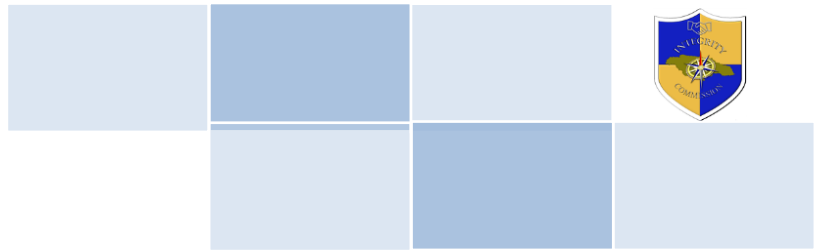
4.1.24 In addition, the National Contracts Commission (NCC) had also expressed several concerns regarding the utilisation of the Emergency Contracting procurement methodology by Petrojam Limited and the variation in the engineer's estimate. The concerns were expressed in a letter dated March 10, 2017, which was addressed to Mrs. Hillary Alexander, then Permanent Secretary, Ministry of Science, Energy and Technology, from Mr. Raymond McIntyre, Chairman, NCC, and which is appended, hereto, as Appendix 1."³³ (DI Emphasis)

4.1.25 In response to the NCC's letter, the DI considers it prudent to note that Mr. Floyd Grindley responded by way of a letter dated March 23, 2017, to the concerns expressed by the NCC. Mr. Grindley's response noted, *inter alia*, that "**Petrojam Limited has been communicating with National Works Agency (NWA) since August 2016 in an effort to construct a new perimeter fence with a crash wall. Up to December 2016 Petrojam and NWA was unable to finalize an agreement...and that despite multiple requests to the**

REPLACEMENT (REFINERY) PROJECT" and copied to Ms. Chevril Shaw, Manager- Strategic Planning and Business Support and Mr. Roderick Codner, Senior Supervisor – Projects Group.

³² Government of Jamaica Handbook of Public Sector Procurement Procedures, March 2014, Volume 2. Page 88.

³³ Letter dated March 10, 2017, addressed to Mrs. Hillary Alexander, Permanent Secretary, Ministry of Science, Energy and Technology, from Mr. Raymond McIntyre, Chairman, NCC, under the caption "*Emergency Contracting – Petrojam Limited - Contracting Under Emergency Circumstance: North Perimeter Fence Replacement (Refinery)*"



NWA, to date we have not been provided with any elevation drawings detailing the final height of the road.³⁴ (DI Emphasis)

4.1.26 In relation to the justification for the selection of the Contractor, Construction Solutions Limited, Mr. Grindley stated the following:

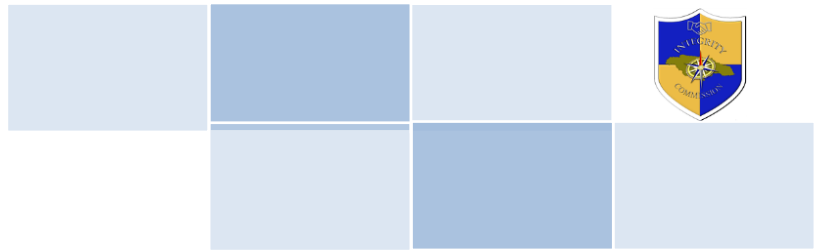
*“The National Contracts Commission (NCC) list was checked for Civil Engineering Works, Grade 1 contractors, with recent experience at Petrojam (less than 2 years). Such a contractor would have been familiar with Petrojam's safety/work permit system and hence be in a better position to expedite the works. Construction Solutions was the only contractor on the NCC register that met those requirements.”*³⁵

4.1.27 The DI conducted a review of the National Contracts Commission Contractor Registration Database and confirmed that the following companies were not registered as Grade 1 contractors in the category of Civil Engineering Works, at the time of the award of the contract (January 25, 2017) to Construction Solutions: a) Fencing Associates Limited; b) F.S.C. Construction Works; c) HS Haulage and Construction Services; d) Brighton Engineers Limited; e) Shane Gibbon McCalla T/as SM Quality Construction; and f) &L Equipment & Construction Services Limited.

4.1.28 Having regard to the issue of value for money, Mr. Grindley, in his response to the NCC, reiterated concerns regarding the security risks to Petrojam

³⁴ Letter dated March 23, 2017, addressed to Mr. Raymond McIntyre, Chairman, NCC, from Mr. Floyd Grindley, then General Manager, Petrojam Limited, under the caption “*Emergency Contracting – Petrojam Limited - Contracting Under Emergency Circumstance: North Perimeter Fence Replacement (Refinery)*”

³⁵ Ibid.

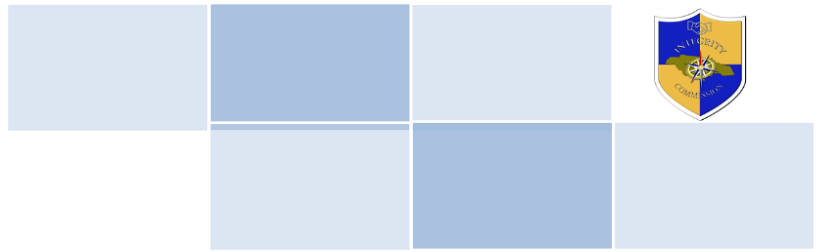


Limited, risks to the Refinery's assets and the possibility of financial loss due to illegal trespassing as among the factors which necessitated the use of the emergency procurement procedures. Mr. Grindley further acknowledged that "**Although the Contractor's price was 27% above the Engineers estimate the higher cost was not considered significant when compared to the potential losses associated with the above mentioned risks.**"³⁶ (DI Emphasis)

4.1.29 The DI reiterates that the General Manager of Petrojam Limited, Mr. Winston Watson, had accepted the quotation from the NWA on November 15, 2016, which included, *inter alia*, the cost for construction and supervision for the construction of the referenced wall. The DI has seen no evidence that Petrojam Limited had made a request to the NWA to provide elevation drawings. Further, Mr. Everton Hunter, CEO, NWA, in his response to the DI dated September 7, 2017, stated that "**...there was communication between the NWA and Petrojam regarding the design height/elevation of Marcus Garvey Drive...**" **including several meetings held with Petrojam Limited where the "road design, inclusive of elevation was discussed and design drawings shared"**". (DI Emphasis)

4.1.30 The DI reiterates that Petrojam Limited's letter advising the NWA of their decision to terminate the agreed arrangements provided no justifications or concerns.

³⁶Ibid.



The Government of Jamaica Guidelines Governing the Utilization of the Emergency Contracting Methodology

4.1.31 Section 1.1.5 of the GOJ Handbook of Public Sector Procurement Procedures outlines the circumstances under which the Emergency Contracting procurement methodology may be utilized. **The GoJ's Procurement Guidelines only authorizes the utilization this methodology if the procurement situation is sudden, unexpected, and there is a pressing necessity or exigency, which if not attended to, would result in financial loss, great social harm or compromise national security.**³⁷ (DI Emphasis)

4.1.32 It is instructive to note that Mr. Floyd Grindley also provided the DI with the following responses in relation to the award of contract to Construction Solutions Limited for the construction of the Northern Perimeter Fence/Crash Wall, *"Frequent updates to the Board on Petrojam Limited matters were mandated by my direct supervisor, Dr. Singh and this matter being a priority, **I was then instructed by the former Chairman, Dr. Perceval Bahado-Singh to proceed with getting the work done and to engage Construction Solutions Limited on an emergency basis** [and that] ... **The Contractor was suggested by the Board Chairman and subsequently evaluated internally based on several factors (qualifications, NCC certifications, experience working at the refinery, etc.**"³⁸*

³⁷ Section 1.1.5, Government of Jamaica Handbook of Public Sector Procurement Procedures. Volume 2.

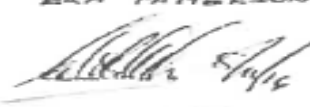
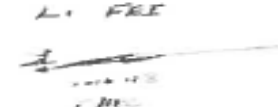
³⁸ Response dated July 23, 2019, which was addressed to the Director of Investigation by Mr. Floyd Grindley. Response 5c and 5iv.

4.1.33 Mr. Grindley also noted that the bid submitted to Petrojam Limited, by the NWA, in the amount of Twenty-nine Million Dollars (JA\$29M), was not an acceptable bid as required by the GOJ Procurement guidelines.

4.1.34 Mr. Grindley, by way of his referenced response further provided the DI with the following image which was described as the “Exact copy of the non-responsive bid received from NWA/CHEC”:

PETROJAM RETAINING WALL

DESCRIPTION	UNIT	QTY	RATE (US)	AMOUNT (US)
C3000 Concrete	m3	300.67	31,430.56	9,450,734.86
2mm Steel	kg	20,506.58	274.35	5,621,480.59
6mm Steel	kg	1,837.07	274.35	503,597.29
Backfill	m3	780.75	2,644.42	2,064,640.35
Excavation	m3	2,178.75	1,117.79	2,435,597.81
Chain Link Fencing & Razor Wire	m	581.00	6,568.64	3,810,379.84
Expansion Joint	Nr.	58.00	2,254.00	129,132.00
Sub-Total				24,068,057.74
Contingency				3,400,000.00
Sub-Total				26,468,057.74
Contractor's OH&P (12.5%)				3,307,882.22
GRAND TOTAL				\$ 29,775,939.95

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4.1.35 In relation to the subsequent internal estimate that was developed by Petrojam, Mr. Grindley advised that 1) the estimate was developed on December 15, 2016, for approximately forty-three Million, six hundred thousand dollars (\$43.6M) or 46.3% higher than NWA/CHEC's estimate; and that 2) a further update was done in January, 2017, by the same engineer to reflect additional works and design (to include an additional ramp at Gate 2, an automatic sliding gate at Gate 5 and an additional two hundred metres (200m) of perimeter wall between Gate 5 and the Greenwich Farm Fishing Complex).

4.1.36 A further revised estimate, in the sum of approximately \$76.3M or -170% over the estimate received from “CHEC”, was also prepared for the



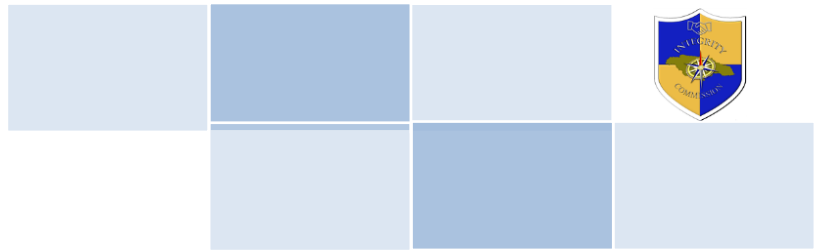
construction of the perimeter fence.

4.1.37 The following table was also provided by Mr. Grindley which reflects a comparison of the Estimates and Bill of Quantities which were prepared in relation to the referenced Northern Perimeter Fence /Crash Wall:

	CHEC-Nov-16 Estimate	Petrojam-Dec- 2016 Estimate (1st)	Petrojam- Jan- 2017 Estimate (2nd)	CSL-Jan-2017 Estimate
Concrete, cubic meter	301	422	688	688
Steel, Kg	22,343	19,509	63,769	63,808
Chain link fencing, m	581	1670	2900	2900
Gates 2 & 5 modifications	Did not include	Did not include	Included	Included
Security	Did not include	Did not include	Did not include	Included
Worker's welfare	Did not include	Did not include	Did not include	Included
Mobilization Bond	Did not include	Did not include	Did not include	Included
Prov. Sum/Contingency	\$2.4M	\$0.5M	\$2.5M	\$5.0M
Insurance	Did not specify	0.05%	0.05%	3.0%
Site Supervision	Did not specify	Did not include	Did not include	Included
Total	\$29.8M	\$43.6M	\$76.3M	\$96.8M

4.1.38 Mr. Floyd Grindley, by way of his response of July 23, 2019, further stated, inter alia, that the estimates must be examined in context, given that Petrojam Limited's engineers did not do an estimate prior to engaging the NWA.³⁹

³⁹ Response date July 23, 2019 from Mr. Floyd Grindley addressed to the Director of Investigations. Response #5.



4.1.39 Reference was also made by Mr Grindley to the installation of new ramps at Gates 2 & 5 and new sliding gate at Gate 5, which were not included in the initial estimate. Also, Petrojam's 2nd estimate did not include the required indirect costs for insurance, performance bonds, workers' welfare and mobilization bond.⁴⁰

4.1.40 In addition, a 5% provisional sum of \$5,000,000.00 was discussed with Construction Solution Limited, to cover unforeseen works, which was not included in Petrojam Limited's estimate.⁴¹

4.1.41 Mr. Grindley noted that "**the Emergency procurement that was utilized and Petrojam Limited's General Manager had the authority to approve Emergency contracts up J\$100M. Therefore, there was no need to seek external approvals (such as Sector Committee, National Contracts Commissions and Cabinet).**"⁴² (DI Emphasis)

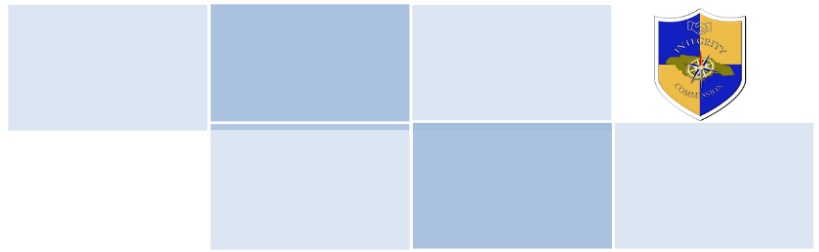
Representations made by Dr. Perceval Bahado-Singh, then Chairman, Petrojam Limited, in relation to the Award of Contract to Construction Solutions Limited

4.1.42 In response to the allegation that Dr. Perceval Bahado-Singh, former Chairman, Petrojam Limited, instructed Mr. Floyd Grindley to 'engage the services of Construction Solutions Limited on an emergency basis', Dr. Bahado-Singh, stated, *inter alia*, that he "... had no involvement and/or influence in the award of contract by Petrojam Ltd. **Based on objective**

⁴⁰ Ibid.

⁴¹ Ibid.

⁴² Response date July 23, 2019 from Mr. Floyd Grindley addressed to the Director of Investigations. Response #5.



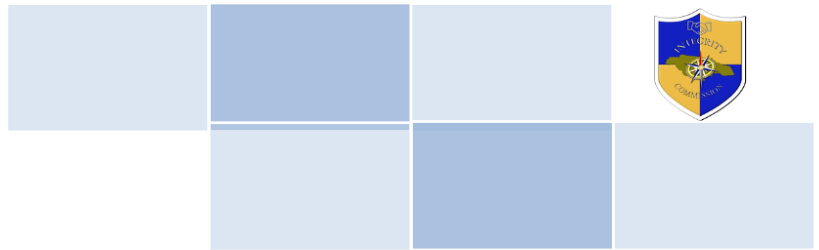
data, in my capacity as Chairman of the Board of Directors, I suggested to the leadership of Petrojam a few well-known companies to be considered."⁴³ (DI Emphasis)

4.1.43 Dr. Bahado-Singh further advised the DI, inter alia, that "It was not the Practice of the Board to recommend any particular company, for any particular work, or contract. The Board, however, had a responsibility to share **advice** and **guide** Management, in accordance with GOJ procurement guidelines and policies of the Contractor General Office ... **It must be noted that final approval of the contract in question - for repairs/construction of the perimeter fence - was in fact approved by the Cabinet Office of the GOJ - NOT the Board...** The Board carefully considered the safety and security concerns raised by the Management Team and offered our **advice; NOT INSTRUCTIONS nor Policy Directives**, and suggested that Management take immediate and appropriate actions to ensure the safety and security of the Refinery, in accordance with governance policies of the company."⁴⁴

4.1.44 At this juncture, the DI highlights the following provisions of the 2012 Corporate Governance Framework for Public Bodies in Jamaica as it relates to the role of the Chairman of a public Board and the CEO, "...**The Board should retain full and effective control over the strategic direction of the Public Body while allowing the CEO to take full responsibility for its day**

⁴³ Response dated September 24, 2019 which was addressed to the DI by Dr. Perceval Bahado-Singh, then Chairman, Petrojam Limited. Response 1.

⁴⁴ Ibid, Response 2.



to day operations ... The position of Chairperson should at all times be separated from that of CEO, consistent with the GOJ Accountability Framework ... ⁴⁵ (DI Emphasis)

⁴⁵ 2012 Corporate Governance Framework for Public Bodies In Jamaica. Pages 22-25.



Circumstances Surrounding the Award of Contracts to Asha Corporation by Petrojam Limited during the Period January 2017 to December 2018

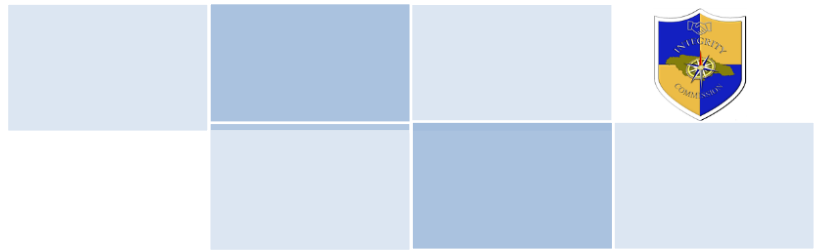
4.2.1 A review of the Quarterly Contract Awards (QCA) submissions which were made by Petrojam Limited, in relation to the award of contracts to Asha Corporation, revealed that seven (7) contracts were entered into between the entities, with an accumulative contract sum of \$27,578,763.83⁴⁶.

4.2.2 The particulars of the contracts entered into between Asha Corporation and Petrojam Limited are detailed, hereunder:

Table 3

Contract Description	Procurement Methodology	Date of Contract	Contract Value
Provision of Consultancy Services in relation to the Financial & Future Sustainability of Petrojam Limited	Direct Contracting	2017-09-07	\$7,173,670.56
For the provision of Consultancy Services in relation to the financial and Market Assessment of Petrojam Limited	Direct Contracting	2017-06-05	\$6,130,609.76
Emergency Procurement of Consultancy Services and Advisory Support	Direct Contracting - Emergency Procedures	2018-04-04	\$2,373,123.69
Variation- Financial Support Services	Direct Contracting	2018-01-04	\$3,180,492.60
Variation re: Financial and Market Assessment	Direct Contracting	2017-06-27	\$ 732,147.54
Provisional Sum for additional expenses (travelling & Subsistence)	Direct Contracting- Emergency Procedures	2018-05-07	\$514,996.08

⁴⁶ QCA Database, Searchable Database 2018 Q 3 accessed on March 20, 2019



Financial and Market Assessment of Petrojam Limited - Phase II as per contract #PJ2018/1367	Direct Contracting	2018-05-07	\$7,473,723.60
TOTAL			\$27,578,763.83

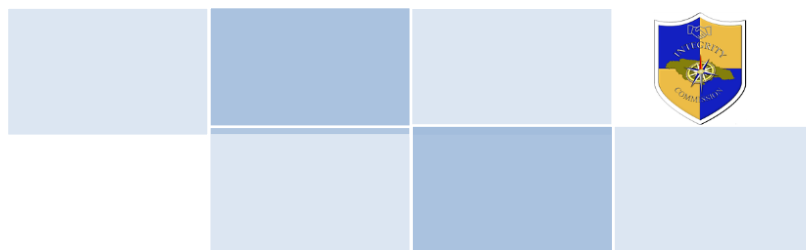
Circumstances Surrounding the Award of Contract to Asha Corporation by Petrojam Limited in Relation to the Financial and Future Sustainability Assessment of Petrojam Limited

Details of the Contract in Relation to the Financial & Future Sustainability Assessment of Petrojam Limited

4.2.3 The DI conducted a detailed review of the contract dated September 8, 2017, which was entered into between Petrojam Limited and Asha Corporation for the Financial & Future Sustainability Assessment of Petrojam Limited. Petrojam Limited utilized the Direct Contracting Methodology in the award of contract to Asha Corporation. The following details concerning the referenced contract were noted by the DI:

Table 4

Name of Contractor	Asha Corporation
Contract Date	September 8, 2017

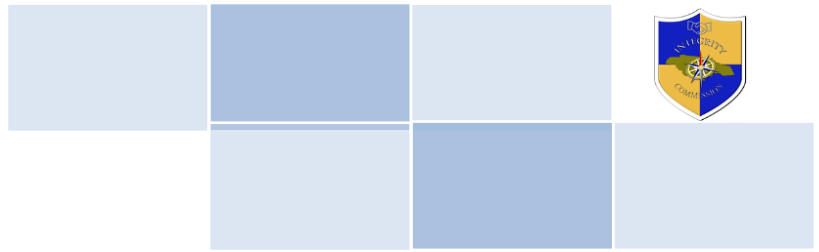


Contract Description	Provision of Consultancy Services in relation to the Financial & Future Sustainability Assessment of Petrojam Limited
Contract Value	US\$55,200.00 ⁴⁷
Procurement Methodology	Direct Contract Methodology
Justification for use of Procurement Methodology	<p><i>"The Consultant, Rodney Davis, was elated because of his experience and track record of performance. Rodney Davis is and [sic] experienced Chartered Accountant, qualified in both Canada and Jamaica.</i></p> <p><i>He was past CEO of a local Petroleum Company (Operators of Shell retail network and terminal operations) and CEO of a local Marketing Firm. In addition he was also past CEO of Cable and Wireless Jamaica and a former managing partner of Ernst & Young Jamaica and head of their Corporate Finance practice".⁴⁸</i></p>
Contract Endorsements	<p>Contract Administrator: Nicole Lewis - 18/8/17</p> <p>Requestor: Judith Jaggon – 21/8/17</p> <p>Department Manager: Floyd Grindley 21/8/17</p> <p>Procurement Unit Head: Ronique Budram – Ford 22/8/17</p> <p>Procurement Committee Chair: Richard Lowrie – 25/8/17</p> <p>Procurement Committee Member: Adrian Brown – 4/9/17</p> <p>Procurement Committee Member: Hugh C Hines - 4/9/17</p> <p>Procurement Committee Member: Rhonda [illegible] 4/9/17</p>
Contract Approval	Mr. Floyd Grindley

Scope of Services

⁴⁷ Petrojam Limited's Bid Evaluation Approval Control Sheet approved by Mr. Floyd Grindley, former General Manager, Petrojam Limited, on September 5, 2017 indicates the J\$ equivalent of \$7,176,000.00 (US\$1:J\$130)

⁴⁸ Procurement Request – Services (General and Consulting); Document titled ***Financial & Future Sustainability Assessment of Petrojam Limited*** sequestered from Petrojam Limited on June 26, 2018.



4.2.4 The scope of services, as outlined in Petrojam Limited's RFP addressed to Asha Corporation is as follows:

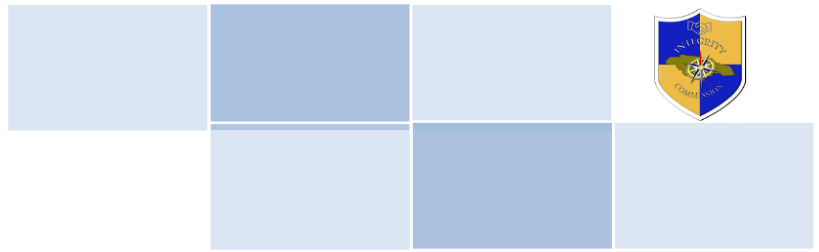
“

1. *Work directly with the Petrojam General Manager and Management Team to review existing organization structure and understand roles of respective senior management team members;*
2. *Review all existing financial, management and regulatory reports;*
3. *Determine opportunities within the current operations of Petrojam to increase revenues from all sources, to capitalize on and reduce costs and improve operating efficiencies.*
4. *Determine any company risks that could be detrimental to the country's energy supply and/ or the financial viability of Petrojam*
5. *Determine Petrojam strategy alignment with Jamaica's National Energy Policy / 2030 Vision.”*⁴⁹

Background

4.2.5 Asha Corporation was engaged to undertake a review of the existing three (3) Year Strategic Plan, which would assist in the development of a

⁴⁹ Scope of Services, as outlined in the RFP to Asha Corporation sequestered from Petrojam Limited on June 26, 2018



renewed ten (10) Year Strategic Plan, for Petrojam Limited. The proposed duration of the engagement was three (3) months⁵⁰.

Procurement Procedures Employed by Petrojam Limited in the Engagement of Asha Corporation for the Provision of Services in Relation to the Financial & Future Sustainability Assessment of Petrojam Limited

4.2.6 In relation to the referenced contract, entered into between Asha Corporation and Petrojam Limited, the Procurement Request document prepared by Petrojam Limited was approved on July 12, 2017⁵¹, by Mr. Floyd Grindley, former General Manager. The document indicated the request for a provisional sum for unplanned activities in the amount of \$1,950,000.00 for the purposes of research, experiment, study or development⁵². Of note, the provisional sum was approved prior to the signing of the contract on September 8, 2017⁵³.

4.2.7 Petrojam Limited invited Asha Corporation to submit a bid by way of a letter dated July 14, 2017⁵⁴. However, the process was aborted as per the Request to Abort Bidding Process which was endorsed on August 9, 2017, on the basis that the proposal was submitted with an invalid Tax Compliance Certificate (TCC)⁵⁵.

⁵⁰ Petrojam Limited's Request for Proposal for Financial & Future Sustainability Assessment of Petrojam Limited from documents sequestered from Petrojam Limited on June 26, 2018

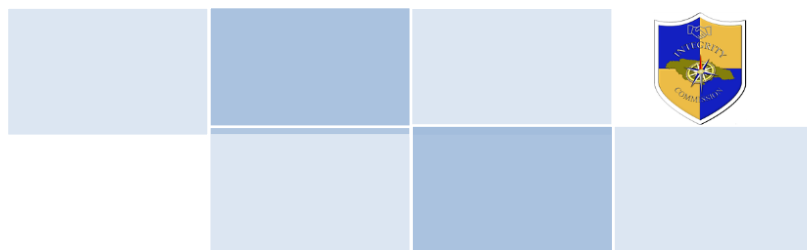
⁵¹ Petrojam Limited's "Procurement Request Services" form sequestered from Petrojam Limited on June 26, 2018

⁵² *ibid*

⁵³ Petrojam Limited's "Procurement Request Services" form sequestered from Petrojam Limited on June 26, 2018

⁵⁴ Letter dated July 14, 2017 from Mrs. Ronique Budram – Ford, Procurement Unit Head addressed to Mr. Rodney Davis, Principal, Asha Corporation sequestered from Petrojam Limited on June 26, 2018

⁵⁵ Petrojam Limited's "Request to Abort Bidding Process" sheet sequestered from Petrojam Limited on June 26, 2018



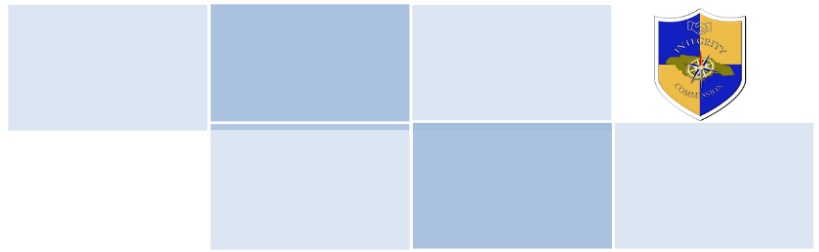
4.2.8 Subsequently, Petrojam Limited, by way of a letter dated August 14, 2017⁵⁶, invited Asha Corporation, to submit a proposal in relation to the referenced contract. Asha Corporation submitted their proposal by way of a letter dated August 16, 2017. Based on the Tender Opening Form and Bid Evaluation Control Sheet, the proposal was supported by a TCC reflecting an expiration date of November 8, 2017.

4.2.9 By way of a letter dated August 18, 2017, Petrojam Limited wrote to Asha Corporation advising of a discrepancy which was observed upon review of the tender. The referenced letter indicated that, *there was a discrepancy in the figure reflected on the Form of Bid which showed a sum of US\$ 51,000.00; the figure reflected on the Price Schedule was US\$55,200.00.* Upon further assessment, it was observed that the Provisional Sum for additional expenses of US\$4,200.00 was not included in the price quoted on the Form of Bid. Having regard to the foregoing, Petrojam Limited requested that Asha Corporation confirm in writing that the entity would stand by the price quoted on the Price Schedule inclusive of the Provision Sum of US\$ 55,200.00.⁵⁷

4.2.10 On even date, Mr. Rodney Davis, Principal, Asha Corporation, responded both by way of an email and a letter stating that he would “...stand by

⁵⁶ Petrojam Limited’s Letter dated August 14, 2017 from Mrs. Ronique Budram – Ford addressed to Mr. Rodney Davis sequestered from Petrojam Limited on June 26, 2018

⁵⁷ Letter from Mrs. Ronique Budram – Ford dated August 18, 2017 and addressed to Mr. Rodney Davis, Asha Corporation Re: Financial & Future Sustainability Assessment of Petrojam Limited sequestered from Petrojam Limited on June 26, 2018.



the quoted price on the Bills of Quantities inclusive of the Provisional Sum for additional expenses totalling...(US\$55,200.00)”⁵⁸.

4.2.11 Consequently, the bid was approved on September 5, 2017, by Mr. Floyd Grindley⁵⁹, and a contract signed between the parties on September 8, 2017⁶⁰.

Contract Award and Commencement of Contract

4.2.12 A letter dated September 5, 2017, was sent by Petrojam Limited to Asha Corporation advising of the award of contract in relation to the Financial & Future Sustainability Assessment of Petrojam Limited in the sum of US\$55,200.00⁶¹. The contract document was signed by Mr. Floyd Grindley, former General Manager, Petrojam Limited, for the Procuring Entity and Mr. Rodney Davis for the Consultant.

Variation to the Contract

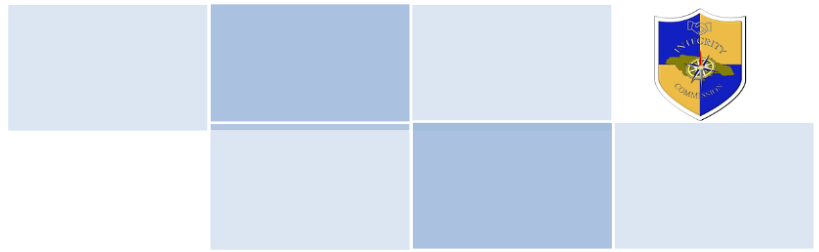
4.2.13 A variation to the scope of works of the contract was approved by Mr. Floyd Grindley based upon a request which was made by the Board for additional services. A review of the Procurement Change Request

⁵⁸ Letter from Mr. Rodney Davis dated August 18, 2017 and addressed Petrojam Limited Re: Financial & Future Sustainability Assessment of Petrojam Limited sequestered from Petrojam Limited on June 26, 2018.

⁵⁹ Petrojam Limited’s Bid Approval Control Sheet signed and approved by Mr. Floyd Grindley on September 5, 2017 retrieved from Petrojam Limited on June 26, 2018.

⁶⁰ Contract Agreement between Petrojam Limited and Asha Corporation signed on September 8, 2017.

⁶¹ Letter from Mrs. Ronique Budram-Ford dated September 5, 2017, addressed to Mr. Rodney Davis sequestered from Petrojam Limited on June 26, 2018.



document indicated that “... Additional funds are needed to perform financial analysis of JET A1 pricing to customers⁶²”. The referenced variation resulted in an increase of US\$25,500.00 to the contract sum⁶³. The variation increased the total contract sum to US\$80,700.00, reflecting a 46% increase of the original contract value⁶⁴.

4.2.14 The justification for the variation provided in the **Procurement Change Request** sheet was that the “current contract funds is exhausted⁶⁵”. It is to be noted that there is a discrepancy between the description of change and the reason for the change as reflected on the Procurement Change Request document.

4.2.15 The DI reviewed the contents of a Memorandum dated December 13, 2017, which was addressed to Mr. Floyd Grindley from Mr. Rodney Davis, under the caption “Financial Market Assessment Petrojam Limited-Contract Change Request”. The referenced memorandum outlined Asha Corporation’s proposed work fees as follows:

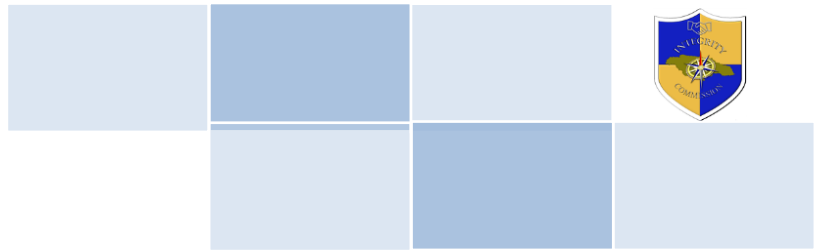
“Floyd, I estimate the above work would require a total of 42 days (calendar days). ASHA’s Estimated fees would be \$30,000.00, but I have discounted to US\$25,500 (labour- \$20,000 & Travel expenses - \$5,200)

⁶² Procurement Change Request Form requested on the December 13, 2017 sequestered from Petrojam Limited on June 26, 2018.

⁶³ Petrojam Limited’s **Procurement Change Request** in relation the **Financial & Future Assessment of Petrojam Limited** contract sequestered from Petrojam Limited on June 26, 2018.

⁶⁴ Ibid.

⁶⁵ Ibid.



given our longstanding relationship. I trust this is satisfactory."⁶⁶ (DI Emphasis)

Financial Assessment and Consultation Petrojam Limited⁶⁷

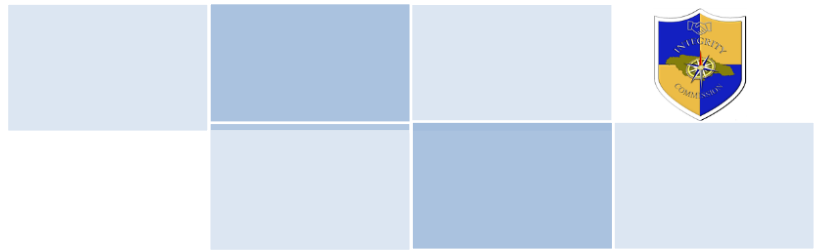
4.2.16 The DI reviewed a Request for Proposal entitled “**Financial Assessment and Consultation Petrojam Limited**” dated January 31, 2018⁶⁸. The document outlines the scope of services as follows:

1. Continue to evaluate and recommend changes to existing management reporting structure to effect more efficient and meaningful compilation and preparation and circulation off financial and operating reports for all stakeholders
2. Work with Petrojam finance team and relevant senior management to optimize data and reporting inputs from various departments into cohesive management reporting
3. **Review 2018- 19 Petrojam business plan and develop a reporting framework for monthly financial and operating reports to ensure monitoring and reaction to performance against plan**

⁶⁶ Memorandum dated December 13, 2017, from Mr. Rodney Davis Re: Financial Market Assessment Petrojam Limited – Contract Change Request to Mr. Floyd Grindley sequestered from Petrojam Limited on June 26, 2018

⁶⁷ It has been observed that the RFP entitled ***Financial Assessment and Consultation Petrojam Limited*** appears to be one and the same with the Procurement title indicated on the Procurement Request Sheet as ***Financial and Market Assessment of Petrojam Limited-Phase II***.

⁶⁸ Petrojam Limited’s RFP dated January 31, 2018, entitled “Financial Assessment and Consultation Petrojam Limited” sequestered from Petrojam Limited on June 26, 2018



4. Continue to provide support for RUP/VDU project management and financing efforts⁶⁹ (DI Emphasis)

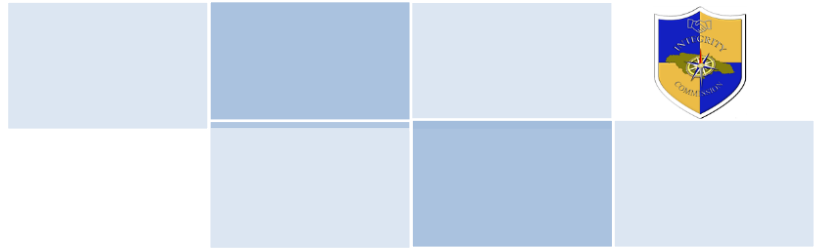
4.2.17 A subsequent “Procurement Request- Services” sheet was reviewed in relation to the referenced contract which was awarded through the direct contract procurement methodology under the circumstance of follow-on procurement and which was approved by Mr. Floyd Grindley as a provisional sum on January 23, 2018, in the amount of US\$8,500.00⁷⁰.

4.2.18 At this juncture, the DI observed that the two (2) “PROCUREMENT REQUEST- SERVICES (GENERAL and CONSULTING)”, inclusive of Phase 1 and Phase 2, had similar components with the exception of the justification for the use of the Limited Tender or Direct Contracting procurement methodology. Petrojam Limited provided the following justification for the selection of Asha Corporation for the award of contract in relation to the Financial & Market Assessment of Petrojam Limited-Phase 2:

*ASHA Corp has been providing financial support services to Petrojam since the start of this Financial Year. Primarily supporting the VDU project economic justification/ sensitivity analysis and other operational needs. **Additional professional services required to***

⁶⁹ Petrojam Limited’s RFP dated January 31, 2018, entitled “**Financial Assessment and Consultation Petrojam Limited**” sequestered from Petrojam Limited on June 26, 2018

⁷⁰ Procurement Request Services Sheet with an approval date of January 23, 2018 retrieved from Petrojam Limited on June 26, 2018



support the VDU project (financial model for loan applications) and other deliverables required as noted in the scope of work⁷¹. (DI Emphasis)

⁷¹ Procurement Request Services Sheet with an approval date of January 23, 2018 sequestered from Petrojam Limited on June 26, 2018



Circumstances Surrounding the Award of Contract by Petrojam Limited to Asha Corporation in relation to Consulting Services & Advisory Support

4.3.1 The DI observed a document entitled “**EMERGENCY FORM –APPROVAL TO PROCEED**” which requested the approval for the utilization of the emergency procurement methodology for Consultancy Services and Advisory Support.⁷² The particulars of the procurement activity were stated as follows:

Table 5

Name of Contractor	Asha Corp R2 (Financial Advisory) ⁷³
Contract Commencement Date⁷⁴	March 26, 2018
Contract description	To provide Urgent input and advice to Ministry of Finance and Petroleum Corporation of Jamaica regarding the purchase of Petrojam shares by PCJ/GoJ. Consultant would be a part of the GOJ team to meet with PDVSA Caribe financial representatives ⁷⁵
Contract Value	US\$18,900.00 - contract sum ⁷⁶ US\$4,100.00 - provisional sum ⁷⁷
Procurement Methodology	Direct Contracting –Emergency Contracting ⁷⁸

⁷² Petrojam Limited’s “**EMERGENCY FORM –APPROVAL TO PROCEED CONTRACTOR’S COPY**” from Ms. Judith Jaggon to Mr. Floyd Grindley dated March 28, 2018 under the subject “*Consulting and Advisory Support regarding Potential Purchase of Petrojam Shares from PDV Caribe*” from documents sequestered from Petrojam Limited on June 26, 2018

⁷³ Petrojam Limited’s Emergency Pre-Approval Form dated March 28, 2018 signed by Mr. Floyd Grindley on March 23, 2018.

⁷⁴ Ibid

⁷⁵ Purchase Order No. 4500041793 dated April 4, 2018 from documents sequestered from Petrojam Limited on June 26, 2018

⁷⁶ Ibid.

⁷⁷ Purchase Order No. 4500041992 dated July 5, 2018 from documents sequestered from Petrojam Limited on June 26, 2018

⁷⁸ Procurement Change request Form approved May 2, 2018 by Mr. Floyd Grindley from documents sequestered from Petrojam Limited on June 26, 2018



Justification for use of Procurement Methodology	<p><i>"Rodney Davis has been engaged by Petrojam since May 2017 to provide consultancy on Financial Assessment of Petrojam Limited as well as Vacuum Distillation Unit (VDU).</i></p> <p><i>GoJ currently in discussions to purchase PDV Caribe shares in Petrojam and Mr. Davis has been requested to participate in the process "</i>⁷⁹</p>
Contract Approvals	<p>Mr. Floyd Grindley signed as General Manager and Department Manager</p> <p>Signed for Mrs. Ronique Budram – Ford as Procurement Unit Head⁸⁰</p>
Other observations	<p>Start date: March 26, 2018</p> <p>Completion date: April 6, 2018⁸¹</p>

4.3.2 In contrast to the period for the completion of works referenced in the table above, the period for the completion of same which was indicated by R2 Financial Advisory in their proposal was three (3) months⁸².

4.3.3 The DI also notes that a quoted price of US\$23,000.00 was stated in the entity's proposal for *"Professional Financial Services as per Terms of Reference for three (3) months..."*⁸³ including *"...travel, accommodation, transportation and meals for up to 2 weeks out of each month working in Jamaica."*⁸⁴

⁷⁹ Petrojam Limited's Emergency Pre-Approval Form dated March 28, 2018 signed by Mr. Floyd Grindley on March 23, 2018.

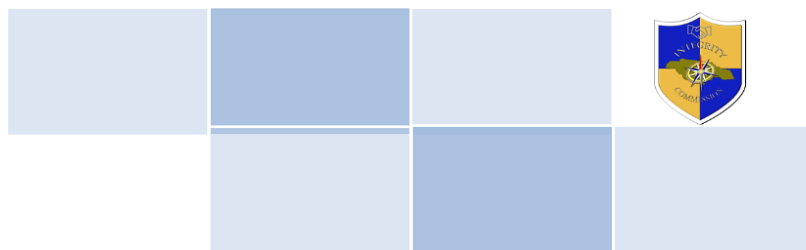
⁸⁰ Petrojam Limited's Emergency Form- Approval to Proceed dated March 28, 2018, signed by Mr. Floyd Grindley on March 23, 2018.

⁸¹ Ibid.

⁸² Proposal from R2 Financial Advisory dated March 23, 2017 Re PCJ/GOJ Request for Consulting and advisory support regarding Potential Purchase shares from PDV Caribe.

⁸³ Ibid.

⁸⁴ Ibid.

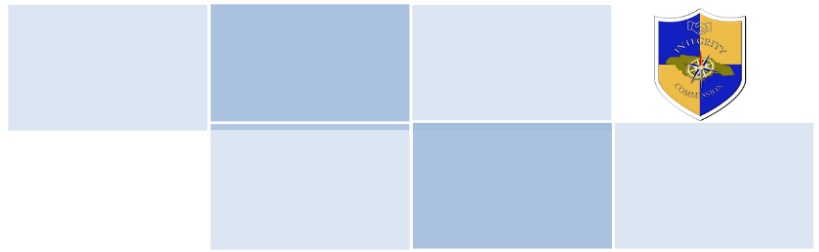


4.3.4 Subsequently, the DI observes what appears to be an additional request, by way of Procurement Change Request form, in the amount of US\$4,100.00, for expenses relating to travel and subsistence⁸⁵. The referenced form indicated that the amount was a provisional sum which was not included in the Bill of Quantities. A representation of the request is seen below:

Table 6

Procurement Title	Consulting and Advisory Support to Petrojam Limited
Contractor/ Supplier Name:	Asha Corporation
Initial Procurement Methodology	Direct Contracting- Emergency
Description of Change	Consulting and Advisory Support regarding Potential Purchase of Petrojam Shares from 'PDV Caribbean'
Change Request Type	Variation
Reason for Change	Provisional Sum was not included in Purchase Order
Cost of Change	US\$4,100.00
Original Contract Value	US\$18,900.00
Impact of Accumulated Change	22%
New Contract Value	US\$23,000.00
Approval Date	May 2, 2018
Approved By	Mr. Floyd Grindley

⁸⁵ Petrojam Limited Purchase Order dated July 5, 2018, in relation to the Provisional Sum for additional expenses (travelling & subsistence).



4.3.5 Having regard to the abovementioned approval date of May 2, 2018, it was observed that the Contract Change Notice was approved on May 1, 2018.⁸⁶

4.3.6 Further, the DI sought to ascertain whether Mr. Rodney Davis was aware of any immediate urgency, on the part of Petrojam Limited, which required the use of the Direct Contracting procurement methodology in relation to the referenced contract.

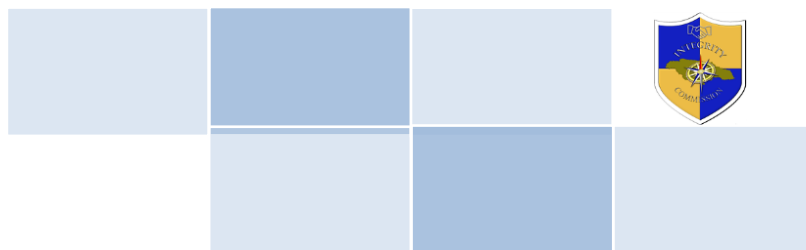
4.3.7 Having regard to the foregoing, Mr. Rodney Davis advised the DI, *inter alia*, that the the only assignment that he considered to be immediate and urgent was that which concerned PDVSA and as such he made himself available immediately to join Petrojam and PCJ teams to meet with the Venezuelans. He further indicated that **the request came from chairman of Petrojam and Chairman of PCJ as well as CEO of Petrojam**⁸⁷ (DI Emphasis)

4.3.8 The DI sought to obtain certain particulars in relation to contracts which were awarded to Asha Corporation inclusive of (a) description of the consultant services; (b) price schedule; and (c) key personnel and sub-consultants⁸⁸. In this regard, Mr. Watson advised, *inter alia*, that the

⁸⁶ Petrojam Limited Contract Change Notice in relation to the provision of **Consulting Services & Advisory Support** contract approved by Mr. Floyd Grindley on May 1, 2018, from documents sequestered from Petrojam Limited on June 26, 2018

⁸⁷ Response to IC's Requisition, from Mr. Rodney Davis, Principal, Asha Corporation, dated March 28, 2019 to the DI's requisition dated February 27, 2019, response #8.

⁸⁸ Requisition dated April 23, 2019 from the DI, and addressed to Mr. Winston Watson, General Manager at question #19



integrity Commission was provided with *all **procurement documentation** in relation to the contracts which were awarded to Asha Corporation on June 26, 2018.*⁸⁹

4.3.9 Consequently, the DI reviewed the scope of works as was proposed by R2 Advisory (a division of Asha Corporation).⁹⁰

Circumstances Surrounding the Award of Contract by Petrojam Ltd. to Asha Corporation in relation to Financial & Market Assessment

Particulars of the Contract

4.3.10 Petrojam Limited engaged the services of Asha Corporation to provide consultancy services in relation to the Financial & Market Assessment. The particulars of the contract are as follows:

Table 7

Name of Contractor	Asha Corporation
Contract Date	May 15, 2017
Contract Description	To provide Financial & Market Assessment of Petrojam Limited
Contract Value	US\$47,200.00

⁸⁹ Mr. Winston Watson, General Manager, Petrojam Limited, an undated response which was addressed to the DI, response #19

⁹⁰ R2 Advisory Proposal submission to Petrojam Limited for the contract in relation to the provision of **Consulting Services & Advisory Support** to Petrojam Limited from documents sequestered from Petrojam Limited on June 26, 2018



Procurement Methodology	Direct Contracting ⁹¹
Justification for use of Procurement Methodology	For the purpose of research, experiment, study or development ⁹² .
Approval Date	May 10, 2017 ⁹³
Contract Approval	Mr. Floyd Grindley ⁹⁴
Other observations	Start date: May 15, 2017 ⁹⁵ Works completed date: August 14, 2017 ⁹⁶

Procurement Procedures Employed by Petrojam Limited

4.3.11 The DI reviewed a letter of invitation from Petrojam Limited dated May 5, 2017, and addressed to Asha Corporation, initiating, by way of Direct Contracting, the procurement for services in relation to **Financial & Market Assessment**⁹⁷.

4.3.12 In addition, a copy of an email dated April 26, 2017, which was sent by Mrs. Ronique Budram-Ford was observed by the DI stating, *inter alia*, the following:

⁹¹ Petrojam Limited Bid Evaluation Approval Control Sheet approved by Mr. Floyd Grindley on May 10, 2017

⁹²

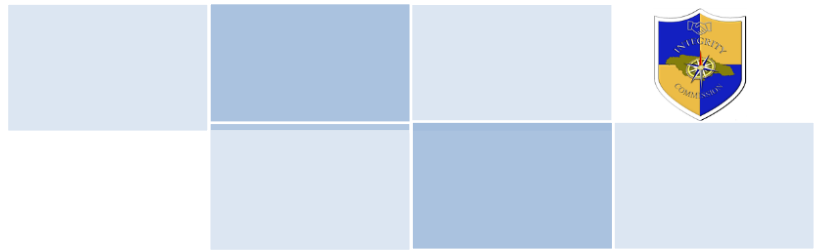
⁹³ Petrojam Limited Bid Evaluation Approval Control Sheet approved by Mr. Floyd Grindley on May 10, 2017

⁹⁴ Petrojam Limited Bid Evaluation Approval Control Sheet approved by Mr. Floyd Grindley on May 5, 2017

⁹⁵ Petrojam Limited Procurement Change Request form approved by Mr. Floyd Grindley on June 9, 2017

⁹⁶ Ibid.

⁹⁷ Letter of Invitation dated May 5, 2017 from Petrojam Limited sent to Asha Corporation from documents sequestered from Petrojam Limited on June 26, 2018



“As *discussed, the GM is requesting that we invite Asha Corporation via Direct Contracting for the captioned services.*”⁹⁸

4.3.13 The GoJ Procurement Guidelines 2014 permits the use of the Direct Contracting procurement methodology for the award of contracts over the value threshold of J\$1,500,000.00 in circumstances where **the purpose is for research, experiment, study or development; where the procurement is a follow- on procurement; and where a contractor has already provided goods, services or works of a similar nature or work and additional goods, services or works of a similar nature are required to complete the procurement requirements.**⁹⁹(DI Emphasis)

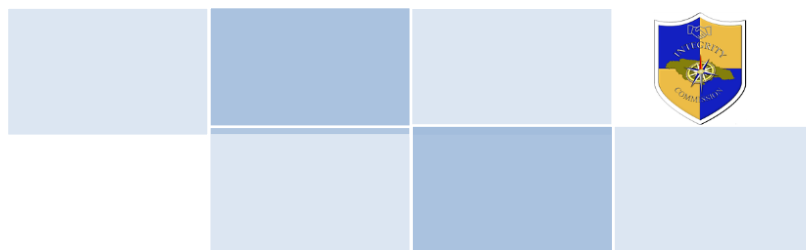
4.3.14 The particulars of an offer letter dated May 5, 2017 from Mr. Rodney Davis, to Petrojam Limited in relation to the Financial & Market Assessment of Petrojam Limited indicated a contract value of US\$43,000.00¹⁰⁰.

4.3.15 However, a Request to Abort Bidding Process form was completed based on the failure of Asha Corporation/ R2 Financial Advisory to conform to the following requirements stipulated by Petrojam Limited.¹⁰¹

⁹⁸ Email dated April 26, 2017, from Mrs. Ronique Budram – Ford to Ms. Sherene Newman from documents sequestered from Petrojam Limited on June 26, 2018

⁹⁹ Government of Jamaica Handbook of Public Sector Procurement Procedures March (2014) Volume 2 Section 1.1.4

¹⁰⁰ Cover letter dated May 5, 2017, from Mr. Rodney Davis, CA – Principal of R2 Financial Advisory to Petrojam Limited in relation to the Financial and Market Assessment of Petrojam Limited the sum US\$43,000.00 should include “*travel, accommodation, transportation and meals for up to 2 weeks out of each month working in Jamaica*”¹⁰⁰, from documents sequestered from Petrojam Limited on June 26, 2018



4.3.16 The Request to Abort Bidding Process was approved by Mr. Floyd Grindley, former General Manager, Petrojam Limited on May 5, 2017.

4.3.17 On May 9, 2017, Petrojam Limited advised Asha Corporation of an observed discrepancy in relation to the price quoted.¹⁰²

4.3.18 Having regard to the aforementioned discrepancy, R² Financial Advisory (Asha Corporation) advised Petrojam Limited that it would stand by the quoted price on the Bills of Quantities inclusive of the provisional sum for additional expenses totaling US\$47,200.00.¹⁰³

4.3.19 Consequently, the contract agreement for the Financial and Market Assessment of Petrojam Limited which was entered into between Petrojam Limited and Asha Corporation was signed in the amount of US\$47,200.00 on May 15, 2017¹⁰⁴.

Variation to the Contract

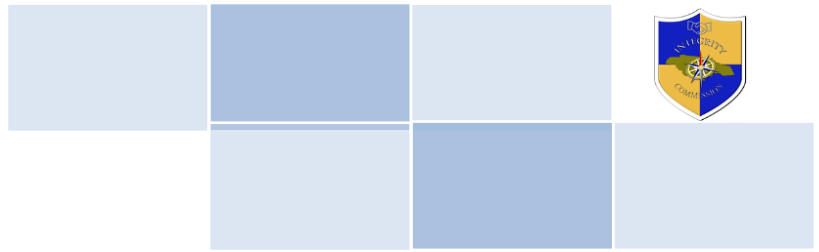
4.3.20 Subsequent to the signing of the contract, a procurement change request was prepared and approved by Mr. Floyd Grindley, General

¹⁰¹ A Request to Abort Bidding Process form approved on May 5, 2017, from documents sequestered from Petrojam Limited on June 26, 2018

¹⁰² Letter dated May 9, 2017 from Mrs. Ronique-Ford, former Procurement Unit Head, Petrojam Limited addressed Mr. Rodney Davis, Principal, R² Financial Advisory (Asha Corporation) from documents sequestered from Petrojam Limited on June 26, 2018

¹⁰³ Letter dated May 10, 2017, from Mr. Rodney Davis, Principal, R² Financial Advisory (Asha Corporation) which was addressed to Mrs. Ronique-Ford, former Procurement Unit Head, Petrojam Limited, under the caption “*RFP-Financial Market Assessment Petrojam Limited*” from documents sequestered from Petrojam Limited on June 26, 2018

¹⁰⁴ Contract Agreement between Petrojam Limited and Asha Corporation for Financial and Market Assessment of Petrojam Limited from documents sequestered from Petrojam Limited on June 26, 2018



Manager, Petrojam Limited, on June 9, 2017.¹⁰⁵ The reasons provided on the form for the change request were to facilitate “*Additional Meetings and scope items*”¹⁰⁶.

4.3.21 Having regard to the procurement change request, the following variations were made to the contract:

- 1) An additional cost of \$3200.00 for “*Labour/Fees*” and an increase of \$2,482.39 related to ‘other’ additions.¹⁰⁷
- 2) An increase in the original contract value by 12%;¹⁰⁸ and
- 3) An overall ‘new’ revised contract value of \$52,882.39.

4.3.22 The DI notes however, that the original completion date of August 14, 2017¹⁰⁹, was not affected.

4.3.23 The DI highlights that the then ‘Head of the Procuring Entity’, Mr. Floyd Grindley, gave **verbal** approval to the consultant, prior to the contract variation being actioned. The DI notes, however, that subsequent to the

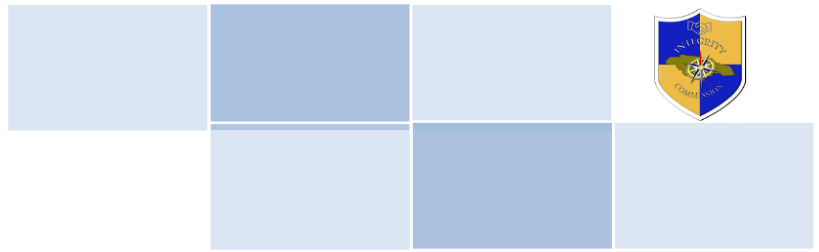
¹⁰⁵ Petrojam Limited’s Procurement Change Request form approved by Mr. Floyd Grindley on June 9, 2017 from documents sequestered from Petrojam Limited on June 26, 2018.

¹⁰⁶ Petrojam Limited’s Procurement Change Request form approved by Mr. Floyd Grindley on June 9, 2017 from documents sequestered from Petrojam Limited on June 26, 2018.

¹⁰⁷ Petrojam Limited’s Contract Change Notice dated June 8, 2017 in relation to the Financial and Market Assessment of Petrojam Limited from documents sequestered from Petrojam Limited on June 26, 2018

¹⁰⁸ Petrojam Limited’s Contract Change Notice dated June 8, 2017 in relation to the Financial and Market Assessment of Petrojam Limited from documents sequestered from Petrojam Limited on June 26, 2018

¹⁰⁹ Petrojam Limited’s Procurement Change Request approved by Mr. Floyd Grindley on June 9, 2017 from documents sequestered from Petrojam Limited on June 26, 2018



admitted verbal approval by Mr. Floyd Grindley, the required written approval of the then General Manager was provided on June 9, 2017.¹¹⁰

4.3.24 Pursuant to the provisions of the GPPH in relation to the requirements for the approval of variations the following is provided:

“APPROVAL REQUIREMENTS FOR CONTRACT VARIATION

The Head of the Procuring Entity shall give prior written approval for all contract variations. *No other Public Officer or project consultant shall approve the variation of a contract unless the Head of the Procuring Entity gives him/her written authorization to do so”¹¹¹. (DI Emphasis)*

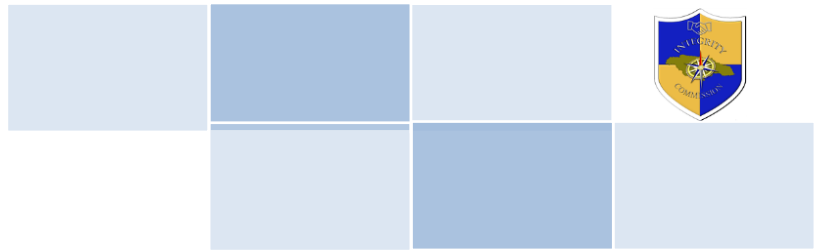
4.3.25 With regard to variation, the GPPH 2014 states, *inter alia*, the following:

“VARIATION

A variation is a change in 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 shall be specific to the particular contract.

¹¹⁰ The following email correspondences were reviewed by the DI, (1) email sent by Mr. Floyd Grindley to Ms. Chevril Shaw on June 5, 2017 from documents sequestered from Petrojam Limited on June 26, 2018, (2) Email dated June 6, 2017 from Ms. Chevril Shaw to Mr. Floyd Grindley, former General Manager, Petrojam Limited from documents sequestered from Petrojam Limited on June 26, 2018, (3) Email dated June 6, 2017 from Mr. Floyd Grindley to Mrs. Chevril Shaw from documents sequestered from Petrojam Limited on June 26, 2018

¹¹¹ GoJ Handbook of Public Sector Procurement Procedures (2014) Volume 2 Section 1.5



Variations shall relate to the subject of the specific deliverables contained in the original contract i.e. the said project site or road, except where in the determination of the Head of the Procuring Entity, the incorporation of new works in the existing contract would enhance the objective of value for money.

...

- a) Technical – where there is a need for additional goods, services or works to address unforeseen, unavoidable difficulties encountered during the implementation of the contract

...

- b) Functional – Where changes, which in the opinion of the Head of the Procuring Entity would enhance the achievement of project/ contract objectives and overall effectiveness, are deemed to be necessary.”¹¹²

(DI Emphasis)

¹¹² GoJ Handbook of Public Sector Procurement Procedures (2014) Volume 2 Section 1.4



Circumstances Surrounding the Award of Contracts by Petrojam Limited to Asha Corporation in relation to the Financial Assessment of Petrojam Limited Phase 2

Particulars of the Contract

4.3.26 Petrojam Limited engaged the services of Asha Corporation for the **Financial Assessment of Petrojam Limited Phase 2**, the particulars of which are hereunder outlined:

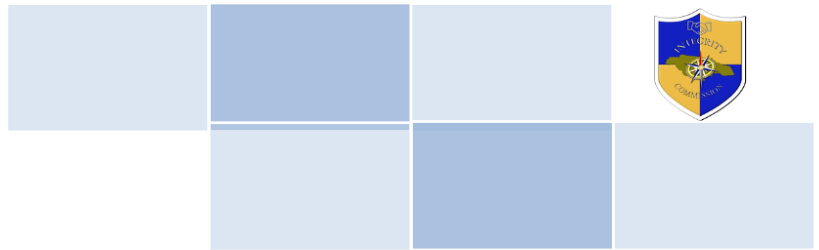
Table 8

Name of Contractor	Asha Corporation
Contract Date	May 10, 2018
Contract Description	Consultant Services – Financial & Market Assessment Phase 2
Contract value	US\$59,500.00 ¹¹³
Procurement Methodology	Direct Contracting ¹¹⁴
Justification for use of Procurement Methodology	There is no evidence seen by the DI, of any justification provided for the use of the Direct Contracting Procurement Methodology.
Contract Endorsements	Mr. Floyd Grindley Mr. Rodney Davis ¹¹⁵
Payments	<i>"Payments shall be made according to the following schedule: Petrojam Limited will pay the Consultant US\$17,000 per month upon submission and verification of invoices. The Procuring Entity shall settle all uncontested requests for payments Within</i>

¹¹³ Contract between Petrojam Limited and Asha Corporation in relation to the **Financial Assessment of Petrojam Limited Phase 2**, from documents sequestered from Petrojam Limited on June 26, 2018

¹¹⁴ Petrojam Limited's Bid Evaluation Approval Control Sheet, approved April 20, 2018 from documents sequestered from Petrojam Limited on June 26, 2018.

¹¹⁵ Contract between Petrojam Limited and Asha Corporation in relation to the **Financial Assessment of Petrojam Limited Phase 2**, from documents sequestered from Petrojam Limited on June 26, 2018



	<i>thirty (30) days of receipt of the relevant invoice"</i> ¹¹⁶
Other observations	A procurement change request was made on August 25, 2017 and approved by Mr. Floyd Grindley on the altering the original scope to include additional works and deferring portion of the original scope to subsequent procurement. Items included, but not limited to reporting format to General Manager by respective department managers, fuel oil price analysis, loyalty program analysis, and asphalt market. Initial contract start date was May 12 2017, and revised completion date July 19, 2017 ¹¹⁷

Particulars of Contract Award Letter to Asha Corporation

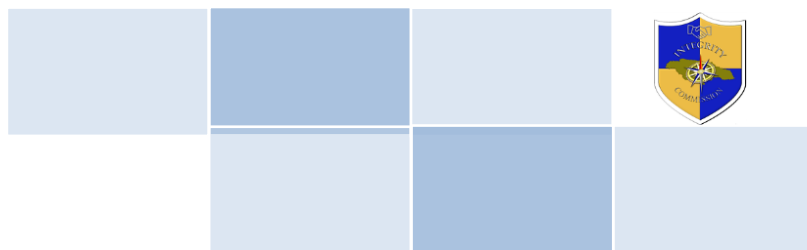
4.3.27 R² Financial Advisory (Asha Corporation) was notified of the award of contact by way of a letter dated April 24, 2018. The referenced letter outlined a contract sum of US\$59,500.00 inclusive of a provisional sum of US\$8,500.00. R² Financial Advisory (Asha Corporation) was also advised to obtain a valid Tax Compliance Certificate, which was a requirement as stipulated by the GPPH (2014).

Initial Proposal Submitted by Asha Corporation

4.3.28 By way of a letter dated January 30, 2018, Petrojam Limited invited 'Asha Corporation' to submit a proposal in relation to the Financial & Market Assessment of Petrojam Limited - Phase 2, no later than February 16, 2018 as indicated on the enclosed Request for Proposal (RFP).

¹¹⁶ Contract agreement between Petrojam Limited and Asha Corporation for the Financial and Market Assessment of Petrojam Limited phase 2 sequestered from Petrojam Limited on June 26, 2018

¹¹⁷ Petrojam Change Request form approved by Mr. Floyd Grindley on August 25, 2017 sequestered from Petrojam Limited on June 26, 2018



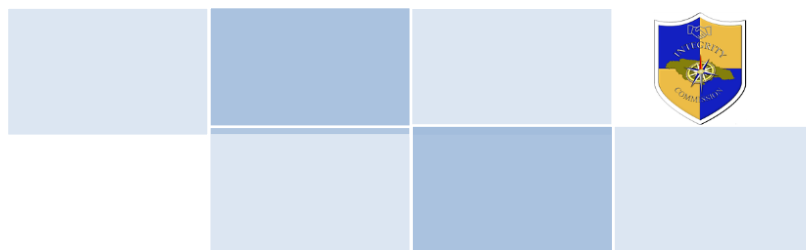
4.3.29 In response to the RFP, R² Financial Advisory (Asha Corporation) submitted its proposal dated February 23, 2018 which contained, *inter alia*, its recommendations and a quoted price of US\$51,000.00.

4.3.30 Having reviewed the proposal of R² Financial Advisory (Asha Corporation), Mr. Michael Thompson, Procurement Specialist, Petrojam Limited, on March 8, 2018, sent an email to Ms. Judith E Jaggon, indicating, *inter alia*, that the bid from Asha Corporation did not ascertain the minimum 75 points needed to qualify and the information submitted was not in line with what was requested. Mr. Thompson further indicated in the referenced email that Petrojam Limited was left with the only option of rejecting the bid submitted by Asha Corporation for the Financial and Market Assessment.¹¹⁸

4.3.31 Mr. Richard Lowrie, Finance and Accounts, Petrojam Limited, by way of memorandum dated April 20, 2018, which was addressed to Mr. Floyd Grindley expressed, *inter alia*, concerns in relation to observed similarities within certain items in the scope of services. Specifically, the observation that item #7 was a scope item in the previous procurement for the consultant.¹¹⁹

¹¹⁸ Email dated March 8, 2018 from Mr. Michael Thompson to Ms. Judith E Jaggon from documents sequestered from Petrojam Limited on June 26, 2018

¹¹⁹ Email dated April 20, 2018 from Mr. Richard Lowrie to Mr. Floyd Grindley



4.3.32 In relation to determining the evaluation criteria, the GPPH (2014) requires that the project objectives and the TOR determine the qualifications and experience required of the consultants who will carry out the assignment. The guidelines further specifies that “ **a qualifying mark in the range of 70 and 80 percent is typical. Any technical proposal with a score below this threshold is rejected...**” ¹²⁰ (DI Emphasis)

4.3.33 Having regard to the minimum required score, Mrs. Ronique Budram-Ford wrote to R² Financial Advisory (Asha Corporation), on March 19, 2018, advising of, *inter alia*, the rejection of its proposal on the basis of the entity's failure to achieve the minimum 75 points required to progress to contract award consideration.¹²¹

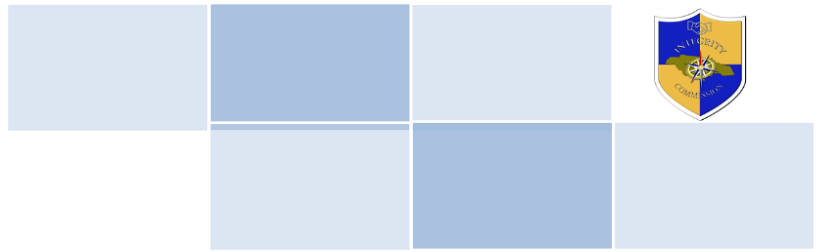
4.3.34 Notwithstanding R² Financial Advisory's (Asha Corporation) failure to amass the minimum technical score outlined in the RFP, the entity was invited by Petrojam Limited to submit a proposal for retender¹²².

4.3.35 With regard to Petrojam Limited's invitation to retender, the DI notes that the Scope of Services in the new RFP were identical to those outlined in the initial RFP.

¹²⁰ GoJ Handbook of Public Sector Procurement Procedures Volume 3 Section A3.2.

¹²¹ Rejection letter dated March 19, 2018 from Ronique Budram-Ford addressed to Mr. Rodney Davis, Asha Corporation from documents sequestered from Petrojam Limited on June 26, 2018

¹²² Letter dated March 23, 2018 from Mrs. Ronique Budram-Ford addressed to Asha Corporation for the Financial and Market Assessment of Petrojam Limited - Phase 2, from documents sequestered from Petrojam Limited on June 26, 2018.



4.3.36 R² Financial Advisory (Asha Corporation) submitted a proposal dated March 27, 2018. Subsequently, Mr. Michael Thompson sought the guidance of Ms. Lackeisha Nelson, Procurement Manager, Ministry of Finance, on whether Petrojam Limited could accept and evaluate the referenced bid, given that Asha Corporation was initially invited to submit a bid for the referenced contract.¹²³

4.3.37 Ms. Lackeisha Nelson, Procurement Manager, Ministry of Finance, stated, *inter alia*, that **"in keeping with the fundamental principles of public procurement, the proposal submitted by another entity cannot be accepted."** A recommendation was therefore made on behalf of PAPU advising Petrojam Limited to submit the requisite invitation to R2 for a proposal to be submitted by the said company.¹²⁴

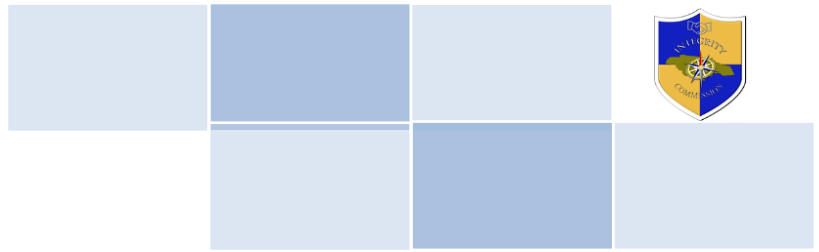
4.3.38 In response to the advice of PAPU, Petrojam Limited made contact with Mr. Rodney Davis concerning the referenced matter.¹²⁵ Mr. Rodney Davis advised Petrojam Limited, *inter alia*, that **"R2 is not a legal entity, but rather a Division of Asha Corporation."**¹²⁶

¹²³ Email dated March 1, 2018 from Michael Thompson, Procurement Specialist, Petrojam Limited to Lackeisha Nelson, Procurement Manager, Ministry of Finance. from documents retrieved from Petrojam Limited on June 26, 2018

¹²⁴ Email dated March 1, 2018 from Ms. Lackeisha Nelson to Mr. Michael Thompson from documents sequestered from Petrojam Limited on June 26, 2018

¹²⁵ Letter dated April 9, 2018, from Mrs. Ronique Budram-Ford, Petrojam Limited to Asha Corporation, attention for Mr. Rodney Davis, Principal, Asha Corporation, from documents sequestered from Petrojam Limited on June 26, 2018

¹²⁶ Letter dated April 9, 2018, from Mr. Rodney Davis, Principal, Asha Corporation, to Mrs. Ronique Budram-Ford, Petrojam Limited from documents sequestered from Petrojam Limited on June 26, 2018



Status of Contract

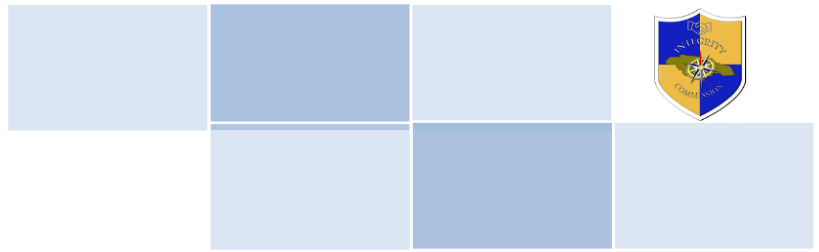
4.3.39 By way of requisition dated February 27, 2019, addressed to Mr. Paul Tyndall, former Acting Procurement Unit Head, Petrojam Limited, the DI sought to ascertain particulars relating to the status of the contracts which were awarded to Asha Corporation inclusive of deliverables and any delays experienced in the implementation of the contract.¹²⁷

4.3.40 Mr. Paul Tyndall in his response dated March 18, 2019, stated that the contracts for the provision of consultancy services and financial management analyses which were awarded to Asha Corporation have expired and further that the contracts were **being monitored by the former General Manager, Mr. Floyd Grindley; and that the deliverables would have been submitted directly to him.**

4.3.41 Mr. Tyndall further indicated the absence of any status reports from the Project Manager and the former General Manager, Mr. Floyd Grindley. He however, indicated that Petrojam Limited's records revealed that on June 29, 2018, Mr. Grindley received an email from Asha's Principal Director which indicated that Petrojam Limited had an outstanding balance for Asha Corporation.

It was noted that Mr. Grindley was separated from Petrojam Limited on July 10, 2018 and that no further communications had been received from

¹²⁷ Requisition dated February 27, 2019, which was addressed to Mr. Paul Tyndall former Acting Procurement Unit Head, Petrojam Limited, by the IC. Question #2



Asha Corporation. Mr. Tyndall advised the DI that no payments had been made to Asha Corporation in relation to the contract for the 'Financial and Market Assessment of Petrojam Limited Phase 2'¹²⁸ (DI Emphasis)

4.3.42 Mr. Paul Tyndall, in his aforementioned response, submitted a copy of a progress report dated May 31, 2018 and other performance review documents to the DI.

4.3.43 The DI also requested similar particulars relating to the status of the contracts from Mr. Rodney Davis.¹²⁹ In this regard, Mr. Rodney Davis provided two (2) Project Updates, attached here to as Appendix 2 and 3.¹³⁰

PCJ's Capacity to Undertake Financial Consulting Services for Petrojam Limited

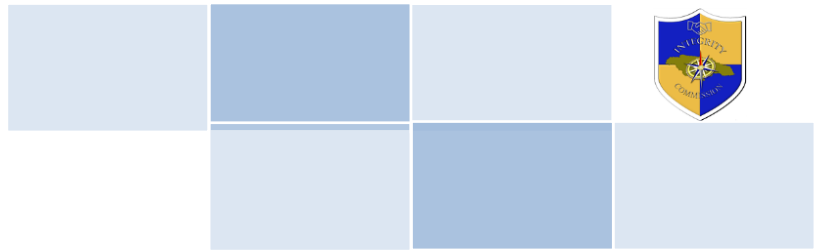
4.3.33 Having regard to the allegation that the services which were retained from R² Financial Advisory (Asha Corporation) may have been locally available,¹³¹ the DI sought to ascertain the rationale for procuring the services of R² Financial Advisory (Asha Corporation) for the provision of financial consulting services.

¹²⁸ Response dated March 18, 2019, from Mr. Paul Tyndall, former Acting Procurement Unit Head, Petrojam Limited. Response #2

¹²⁹ Requisition dated February 27, 2019 addressed to Mr. Rodney Davis, Principal, Asha Corporation by the IC. Question 7.

¹³⁰ Progress Reports dated May 31, 2018 and June 13, 2018 from Mr. Rodney Davis addressed to Mr. Floyd Grindley "Re: Financial & Market Assessment of Petrojam Limited Phase 2"

¹³¹ Media Article retrieved from <http://www.loopjamaica.com/content/pnp-calls-moca-probe-corruption-allegations-petrojam> on March 19, 2019



4.3.35 Mr. Floyd Grindley, by way of his response dated July 23, 2019, indicated to the DI that **the services rendered by ASHA was contracted as the expertise did not reside at Petrojam or with the Parent company (PCJ). Mr. Grindley further stated that Mr. Watson was being “untruthful” in his statement** and highlighted that it was the PCJ that had requested **“...the services of ASHA on the emergency basis”**.

4.3.36 Mr Grindley further stated that it was later confirmed by the Chairman of PCJ, that the PCJ did not have the requisite “skill sets/ competencies”.¹³²

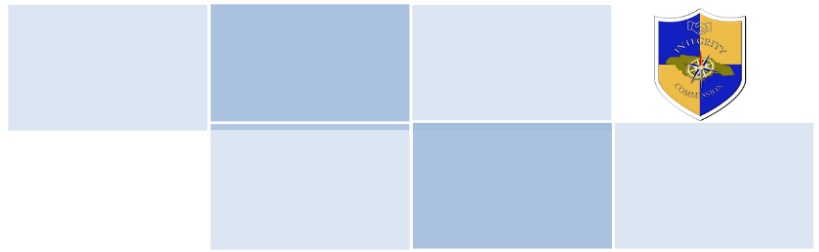
4.3.37 It is, however, instructive to note that Mr. Russell Hadeed, Chairman, PCJ, provided, *inter alia*, that **the PCJ is in fact supported by a staff complement that has the capacity to execute financial consulting services, however**, while the expertise existed within the PCJ, **the capacity to execute any such service would have been limited due to continuing obligations of the officers at the PCJ.**¹³³ (DI Emphasis)

Payments Made by Petrojam Limited to Asha Corporation in relation to Contracts Awarded for the period 2016-present

4.3.38 Based on documentation sequestered from Petrojam Limited, it was indicated that a total of US\$151,070.44 was made to Mr. Rodney Davis and/or R² Financial Advisory/Asha Corporation. However, a review of

¹³² Response dated July 23, 2019 from Mr. Floyd Grindley addressed to the Director of Investigations. Response #3.

¹³³ Response dated April 29, 2019 from Mr. Russell Hadeed, Chairman, PCJ. Response #III (1) (a) and (b)



certain payment records sequestered from Petrojam Limited revealed a total of US\$53,850.39.¹³⁴

4.3.39 In relation to allegations that payments pursuant to the referenced contract were made directly to Mr. Rodney Davis, the DI observed a letter dated June 22, 2018, from Mr. Rodney Davis to Petrojam Limited. The letter indicated, *inter alia*, that since **Mr. Rodney Davis, Director, Asha Corporation, had local Jamaican bank accounts, that would not require routing through the US, the Petrojam invoices were amended to make payment payable to** Mr. Rodney Davis on behalf of Asha Corporation¹³⁵ (DI Emphasis).

4.3.40 In accordance with Clause 6.4 of the contract between Petrojam Limited and Asha Corporation, in relation to the Financial and Market Assessment of Petrojam Limited- Phase 2, payments should be made to the account of the Consultant and in accordance with the payment schedule.¹³⁶

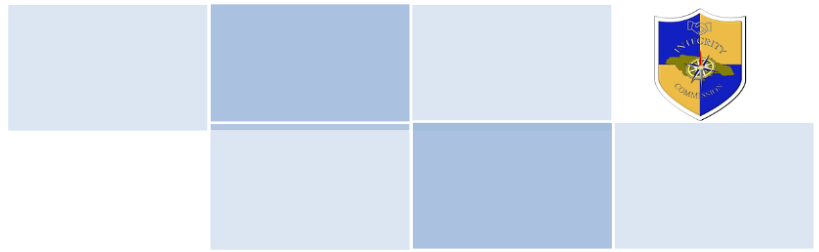
4.3.41 Further, Section 1.1 (b) of the contracts clearly defines the Consultant as **“...any private or public entity that will provide the services to the Procuring Entity under the Contract”**¹³⁷ (DI Emphasis)

¹³⁴ This figure excludes the sum of US\$29,857.00 which is represented on letters dated October 30, 2017 and April 11, 2018, requesting telegraphic transfer and debit from Petrojam Limited’s foreign currency account, respectively.

¹³⁵ Letter dated June 22, 2018 from Rodney Davis to Petrojam Limited for the attention of Mr. Floyd Grindley and copied to Mr. Raymond Campbell, Director, Asha Corporation.

¹³⁶ Contract Agreement between Petrojam Limited and Asha Corporation dated May 10, 2018 Clause 6.4 “Terms and conditions of Payment”

¹³⁷ Ibid. Section 1.1 (b).



Particulars of the Contractor

4.3.42 Mr. Rodney Davis, by way of his response dated March 28, 2019, to the Director of Investigation's requisition dated February 27, 2019 provided, *inter alia*, that he was **"...the sole director of Asha Corporation (St. Lucia)..."**¹³⁸

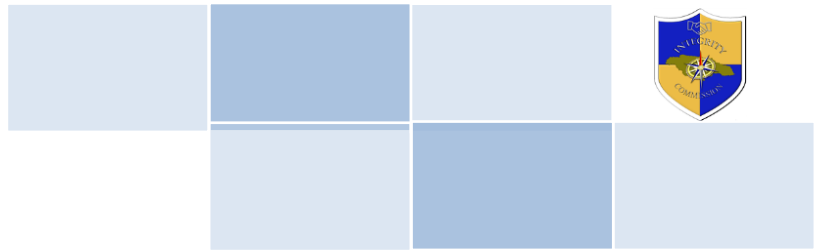
4.3.43 R2 (Financial Advisory) is a division of Asha Corporation, registered as a holding company which was incorporated in 2007.

Representations made by Mr. Floyd Grindley, former General Manager, Petrojam Limited, in relation to the Award of Contracts to Asha Corporation

4.3.44 The DI, by way of a requisition dated February 27, 2019, found it pertinent to ascertain the involvement of Mr. Floyd Grindley, former General Manager, Petrojam Limited, in relation to the award of contracts to Asha Corporation. Mr. Grindley, in his July 23, 2019, response provided, *inter alia*, that:

(a)The emergency contracting (requested by PCJ at the time) for the provision of professional analysis for information to support an

¹³⁸ Response from Mr. Rodney Davis dated March 28, 2019 to the DI's requisition dated February 27, 2019 Responses 1 and 2.



unplanned emergency meeting with the Venezuelan delegation to discuss Petrojam's valuation report.

...

(b) His role as General Manager at the time, was to approve all contracts, engaging ASHA Corporation based on a directive given to him.

(c) The Consultant – ASHA Corporation was engaged as a directive of the former Chairman – Dr. Perceval Bahado – Singh.

(d) The Chairman indicated via telephone conversations that Petrojam should engage the services of ASHA to fill the shortfall the company was experiencing at the time with the CFO.

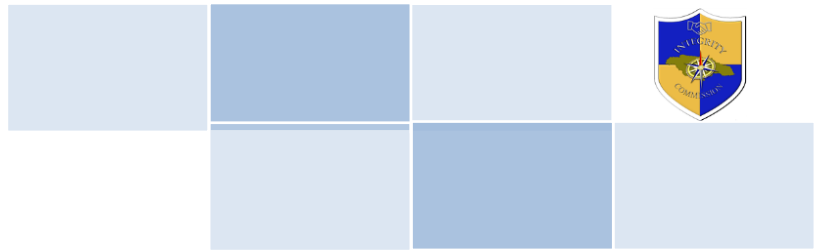
(e) Notwithstanding Mr.Grindly's reservation about the utilization of the Direct Contracting procurement methodology , which was clearly communicated to the Chairman, he was instructed to proceed with the engagement of ASHA Corporation.¹³⁹ (DI Emphasis)

4.3.45 The DI further sought to ascertain whether Mr. Floyd Grindley was related to and/or affiliated with Mr. Rodney Davis. In his July 23, 2019, response he provided , *inter alia*, that he interacted with Mr. Rodney Davis, as the lead consultant with ASHA Corporation, the company which offered Consultancy services to Petrojam; However, he was not related to or affiliated with him in any other way.¹⁴⁰

4.3.46 At this juncture, the DI highlights the following response which was provided by Dr. Perceval Bahado-Singh, then Chairman, Petrojam Limited,

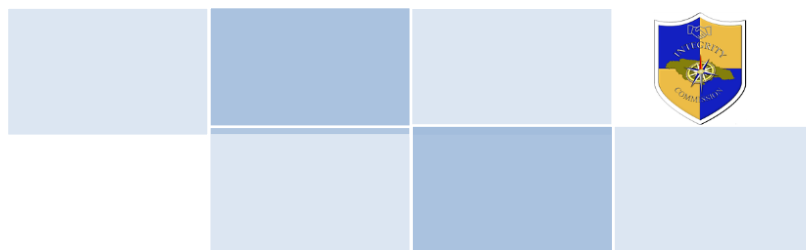
¹³⁹ Ibid.

¹⁴⁰ Ibid. Response #17(o).



in relation to his involvement in the procurement of consultancy services provided by Asha Corporation:

“... I had no input in procurement of his consultancy...” (DI Emphasis)



Circumstances Surrounding the Award of Contracts to Main Event Entertainment Group Limited by Petrojam Limited

4.4.1 The DI reviewed contracts which were awarded to Main Event Entertainment Group Limited for the period January 2017 to December 2018.

4.4.2 The DI also reviewed the QCA database and observed that Petrojam Limited reported four (4) contracts which were awarded to Main Event Entertainment Group Limited with a cumulative value of \$43,320,113.52¹⁴¹. Of the four (4) contracts reported by Petrojam Limited, one was a variation in relation to the award of contract for the provision of Event Planning services. The following table displays the four (4) reported contracts/ variation:

Table 9

Name of Contract/ Variation	Procurement Methodology	Justification for Utilization of Procurement Methodology	Contract Date	Contract Amount	Contract Description
Public Relations Consultancy Services	Direct Contracting ¹⁴²	Extreme Urgency brought about by unforeseen events and the product/ service could	June 22, 2017	\$13,985,825.00	To provide Public Relations Consultancy Services in relation to Petrojam

¹⁴¹ QCA Database 2018 Third Quarter as at February 5, 2019



Name of Contract/ Variation	Procurement Methodology	Justification for Utilization of Procurement Methodology	Contract Date	Contract Amount	Contract Description
		not be obtained in time through a competitive bidding process ¹⁴³			Limited's 35 th Anniversary celebrations
Provision of Event Planning Services	Direct Contracting	The DC approach was used as Main Events was contracted earlier to provide relations services for the 35 th anniversary activities as a follow on procurement ¹⁴⁴ .	QCA :December 5, 2017 ¹⁴⁵ Contract Document: November 3, 2018 ¹⁴⁶	\$26,999,500.00(QCA) ¹⁴⁷ Variation of Contract sum: \$ 1,249,260.52 ¹⁴⁸ New Contract Value : \$28,248,760.52	To provide Event Planning services for Petrojam Limited's Family Fun Day, Health Fair, Church Service and 35 th Anniversary Banquet
Provision of service Re: Team Work Month Breakfast	Direct Contracting ¹⁴⁹	The DI saw no evidence to suggest that a justification for the utilization of the Direct Procurement Methodology was provided.	November 1, 2017	\$1,085,528.00	To Provide Catering and Decorative Services for Petrojam Limited's Breakfast
Variation Re: Provision of Event	Direct Contracting ¹⁵⁰	Some of the aforementioned items were not	March 6, 2018	\$ 1,249,260.52	To account for plaques, gifts, adjustments

¹⁴³ Petrojam Limited's Procurement Request - Services (GENERAL and CONSULTING) approved February 25, 2017

¹⁴⁴ Document entitled "*Justification Direct Contracting*" attached to Petrojam Limited's Procurement Request – Services (General and Consulting) form from documents retrieved from Petrojam Limited on June 26, 2018

¹⁴⁵ QCA Database, Searchable Database 2018 Q 3 accessed on March 20, 2019

¹⁴⁶ Contract Agreement between Petrojam Limited and Main Events Entertainment Group Limited signed on November 3, 2018

¹⁴⁷ QCA Database 2018 Third Quarter as at February 5, 2019

¹⁴⁸ Ibid.

¹⁴⁹ QCA Database 2018 Third Quarter as at February 5, 2019

¹⁵⁰ Ibid.



Name of Contract/ Variation	Procurement Methodology	Justification for Utilization of Procurement Methodology	Contract Date	Contract Amount	Contract Description
Planning Services		incorporated in the initial budget and others were inadvertent			in catering, police presence, transportation , memorabilia and additional drink ¹⁵¹

Particulars of the Contractor

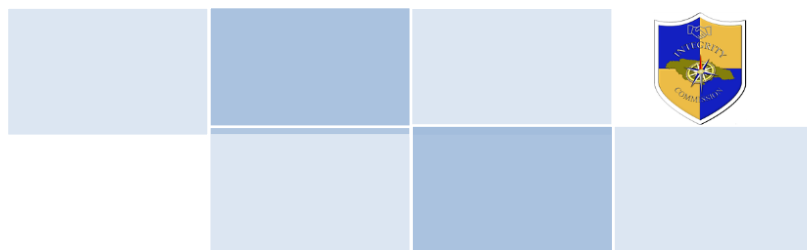
4.4.3 Documentation retrieved from the Companies Office of Jamaica revealed the following persons as Directors of Main Event Entertainment Group Limited:

1. Solomon Sharpe (ceased Shareholder);
2. Richard Bair, (ceased Shareholder/Director);
3. Harriet Maragh;
4. Ian Blair;
5. Hugh Graham;
6. Tania Waldron – Gooden; and
7. Donna Waithe.

4.4.4 The company was incorporated on June 15, 2004, with its location at 70 - 72 Lady Musgrave Road, Kingston 10¹⁵².

¹⁵¹Petrojam Limited's Procurement Change Request form approved by Mr. Floyd Grindley on December 24, 2017 from documents sequestered on June 26, 2018

¹⁵² Companies Office of Jamaica website, <https://www.orcjamaica.com/PrintCompanyDetails.aspx?cld1=ee5adf71-5ffa-4872-86bb-e91c2a1054ae> accessed on February 14, 2019



Procurement Procedures Employed by Petrojam Limited in the Engagement of Main Event Entertainment Group Limited for the provision of Public Relations Consultancy Services

4.4.5 The contract which was awarded by Petrojam Limited to Main Event Entertainment Group Limited, for the provision of public relations consultancy services was approved by Mr. Floyd Grindley on May 29, 2017¹⁵³.

4.4.6 By way of a letter dated March 15, 2017, Petrojam Limited invited Main Event Entertainment Group Limited ¹⁵⁴ to submit a bid in relation to the provision of Public Relations Consultancy Services regarding the 35th Anniversary Celebrations.

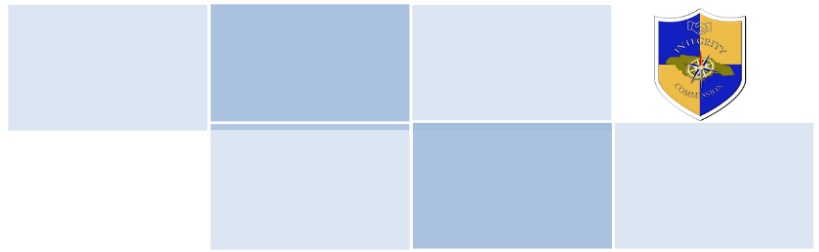
4.4.7 The Director of Investigation notes the following Memorandum which was directed to Mr. Floyd Grindley from Mrs. Budram-Ford in relation to Petrojam Limited's use of the Direct Contracting procurement methodology:

“...

In relation to the captioned procurement activity please note that the justification for utilizing the Direct Contracting methodology is aberrant to S. 1.1.4 of the Government of Jamaica Handbook of Public Sector Procurement Procedures.

¹⁵³ Petrojam Limited's Bid Evaluation Approval Control Sheet approved by Mr. Floyd Grindley on May 29, 2017 from documents sequestered from Petrojam Limited on June 26, 2019.

¹⁵⁴ Letter of Invitation to Bid, dated March 15, 2017, from Mrs. Ronique Budram – Ford, addressed to Main Events Entertainment Group Limited from documents sequestered from Petrojam Limited on June 26, 2019



However, as Head of the Entity, you have instructed that the Procurement Unit must proceed to issue an invitation to bid to Main Events as this is a household company that is required urgently to support activities relating to Petrojam's Corporate Social Responsibilities namely blood drive, health fair, family fun day and public relations.¹⁵⁵ (DI Emphasis)

4.4.8 Notwithstanding the foregoing Memorandum, the then General Manager approved the procurement request for the award of contract to Main Event Entertainment Group Limited utilizing the Direct Contracting procurement methodology.¹⁵⁶

4.4.9 Further, the initial quoted price submitted by Main Event Entertainment Group Limited was J\$17,894,400.00 inclusive of GCT.¹⁵⁷ This figure was 28% above the comparable estimate of J\$13,985,825.00¹⁵⁸.

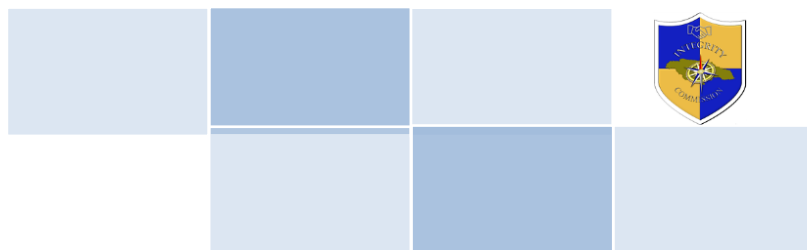
4.4.10 The DI observed correspondence which indicated negotiations between Petrojam Limited and Main Event Entertainment Group Limited concerning the entity's proposed cost and Petrojam Limited's budgetary

¹⁵⁵ Memorandum dated February 24, 2017, from Mrs. Ronique Budram – Ford to Mr. Floyd Grindley from documents sequestered from Petrojam Limited on June 26, 2018.

¹⁵⁶ Petrojam Limited Bid Evaluation Approval Control Sheet approved by Mr. Floyd Grindley, former General Manager, Petrojam Limited, on May 29, 2017, sequestered from Petrojam Limited on June 26, 2018.

¹⁵⁷ Petrojam Limited's Tender Opening Form signed by Ms. Denise Hewitt, Tender Officer, Tender Opening Date March 28, 2017 from documents sequestered from Petrojam Limited on June 26, 2018

¹⁵⁸ Petrojam Limited's Bid Evaluation Approval Control Sheet reveals however, that the bid was approved on May 29, 2017



constraints.¹⁵⁹(DI Emphasis). Subsequently, Main Event Entertainment Group Limited agreed to match Petrojam Limited's comparable estimate of \$13,985,825.00¹⁶⁰ inclusive of GCT.

4.4.11 Having regard to the use of the Direct Contracting procurement methodology under emergency circumstances, the DI highlights Section 1.1.5 of the GPPH (2014) which stipulates that this methodology may be used in circumstances where the procurement is “...**sudden, unexpected and a pressing necessity or exigency. Where an emergency situation exists as defined above, the procuring entity may engage a contractor by means of Direct Contracting.**”

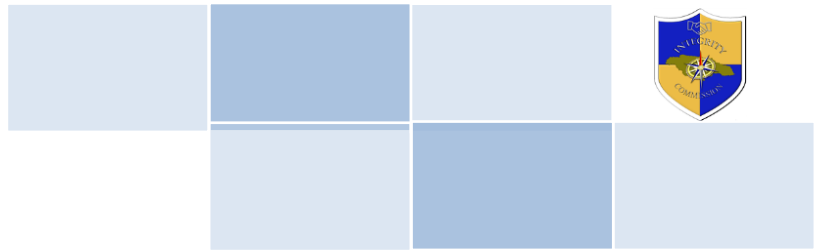
4.4.12 The referenced guidelines further stipulate that “**Contracts awarded under emergency circumstances shall commence immediately. Failure to execute such contracts within one month of approval will result in automatic reversion to the general procurement provisions.**”¹⁶¹ (DI Emphasis)

4.4.13 The justification provided by Petrojam Limited for the utilization of the Direct Contracting procurement methodology in relation to the provision

¹⁵⁹ Document entitled “*Meeting Notes Negotiation – Public Relations Consultancy*” dated May 9, 2017

¹⁶⁰ Petrojam Limited’s Form 1 – Consultant’s Proposal Submission Form dated May 11, 2017 from Main Event Entertainment Group Limited, from documents sequestered from Petrojam Limited on June 26, 2018

¹⁶¹ Volume 2, Section 1.1.5 of the GoJ Handbook of Public Sector Procurement Procedures (March 2014)



of public relations consultancy services, was for reasons of “extreme urgency brought about by unforeseen events”.¹⁶²

4.4.14 The following justification was provided for the selection of Main Event Entertainment Group Limited in relation to the award of contract for public relations consultancy services:

“Main Events Entertainment Group Limited is well-known for the high standard of service in event planning, public relations and other services. They have a reputable track record of offering similar services to established entities.”¹⁶³

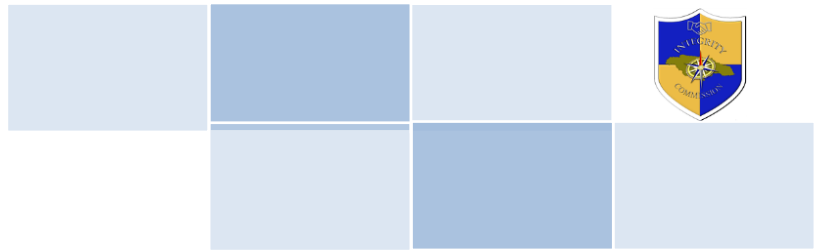
4.4.15 The “Term and Termination” clause of the contract between Main Events Entertainment and Petrojam Limited provided, *inter alia*, that **“This Agreement shall commence on execution by both parties and shall continue for the period... one (1) year from signing of the agreement”**¹⁶⁴

(DI Emphasis)

¹⁶² Petrojam Limited’s Procurement Request Service (GENERAL and CONSULTING) approved by Mr. Floyd Grindley, former General Manager, Petrojam Limited, from documents sequestered from Petrojam Limited on June 26, 2019

¹⁶³ Document entitled “**JUSTIFICATION DIRECT CONTRACTING MAIN EVENT ENTERTAINMENT GROUP LIMITED**” which was attached to Procurement Request Services form, sequestered from Petrojam Limited on June 26, 2018

¹⁶⁴ Contract between Main Event Entertainment Group Limited and Petrojam Limited, dated June 22, 2017. Clause 7 and Item 4 of Schedule 1



Retainer Agreement between Petrojam Limited and Main Event Entertainment Group Limited

4.4.16 The proposal which was submitted by Main Event Entertainment Group Limited dated March 28, 2017, stated, *inter alia*:

“Re: Public Relations Consultancy Request for Proposal

...

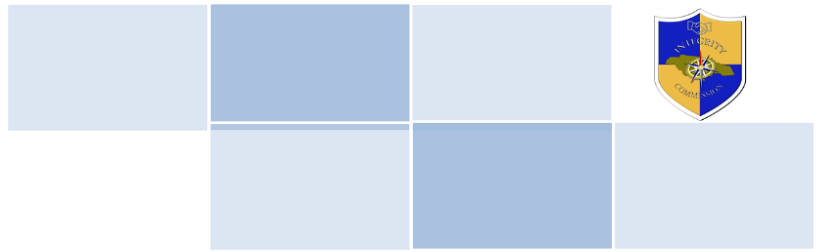
Also included is our bid; we offer to provide Consultancy Services for the annual sum of \$15,360,000.00 plus General Consumption Tax. This amount represents a monthly retainer or agency fee of \$1,280,000.00 Jamaican Dollars, which will be invoiced on the first working day of each month.¹⁶⁵(DI Emphasis)

4.4.17 By way of an email correspondence dated April 12, 2017, which was addressed to Ms. Latoya Pennant, from Ms. Kadisha Williams, Main Event Entertainment Group Limited indicated that an offer was made to Petrojam Limited in the form of a retainer.¹⁶⁶

4.4.18 Of note, the DI has not gleaned a copy of the referenced letter of retainer which was prepared by Main Event Entertainment Group Limited.

¹⁶⁵ Proposal submitted by Main Event Entertainment Group Limited to Petrojam Limited on the cover of letter dated March 28, 2017, sequestered from Petrojam Limited on June 26, 2018

¹⁶⁶ Email dated April 12, 2017, from Ms. Kadisha Williams, Main Event Entertainment Group Limited to Ms. Latoya Pennant, Public Relations Officer, Petrojam Limited



4.4.19 At this juncture, the DI finds it important to mention a memorandum which expressed concerns of Petrojam Limited engaging with Main Event Entertainment Group Limited utilizing the Direct Contracting procurement methodology. The memorandum stated, *inter alia*, the following:

“...

In justifying this procurement, did it actually fall into any of the above? From all the documents presented and this not been an emergency service, this procurement needed to have done in a more fulsome and transparent matter. The question of Petrojam paying a retainer to a media company is highly irregular and unusual.”¹⁶⁷

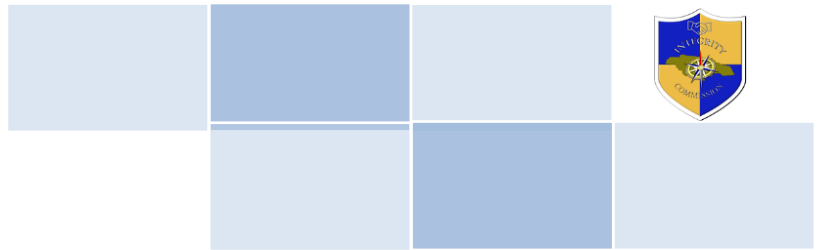
Circumstances Surrounding the Award of Contract by Petrojam Limited to Main Event Entertainment Group Limited for the Provision of Event Planning Services

4.4.20 By way of a letter dated September 27, 2017, Petrojam Limited invited Main Event Entertainment Group Limited to submit a proposal for the provision of event planning services¹⁶⁸ utilizing the Direct Contracting procurement methodology.¹⁶⁹

¹⁶⁷ Memorandum dated September 4, 2018 from Major Phillip Campbell, Security Manager, Petrojam Limited to Mr. Winston Watson, General Manager, Petrojam Limited

¹⁶⁸ Bid Evaluation Approval Control Sheet approved on November 2, 2017

¹⁶⁹ Ibid.



4.4.21 The DI observed a Request to Abort Bidding Process Form which was approved on September 25, 2017 by Mr. Floyd Grindley¹⁷⁰. The justification provided for the request was as follows:

*"The bid submitted by Main Events was not consistent with the requirements of the Scope of Services requested within the Invitation to Bid Documents. Its (sic) is being recommended that the procurement be retendered, so that the bid received will mirror the requested scope of services. Due to the urgency of this procurement it is also being requested that a one day turnaround period is approved."*¹⁷¹

4.4.22 The justification provided for the utilization of the Direct Contracting procurement methodology was, *inter alia*, the following¹⁷²:

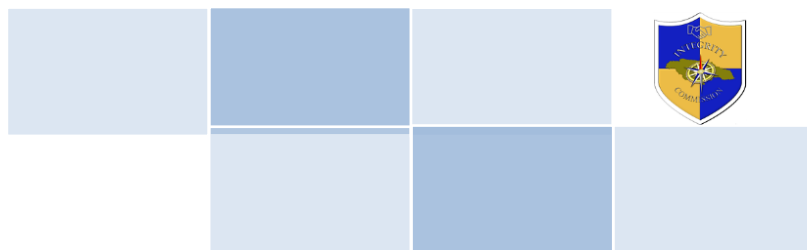
"... Main Events was contracted earlier to provide Public Relations services for the 35th Anniversary activities. As a follow on procurement, this will allow for greater efficiency and cost savings for the execution of activities for the 35th Anniversary events as they provide some of the services required."¹⁷³

¹⁷⁰ Petrojam Limited's Request to Abort Bidding Process approved by Mr. Floyd Grindley on September 25, 2017

¹⁷¹ Request to Abort Bidding Process Form approved on September 25, 2017 by Mr. Floyd Grindley

¹⁷² Document entitled "*JUSTIFICATION Direct Contracting Event Planning Services*" sequestered on June 26, 2018 from Petrojam Limited

¹⁷³ Ibid.



4.4.23 In light of the foregoing, the DI reiterates the provisions of Section 1.1.4 of the GPPH, previously noted herein, which indicates the circumstances which would allow for the utilization of the Direct Contracting procurement methodology.

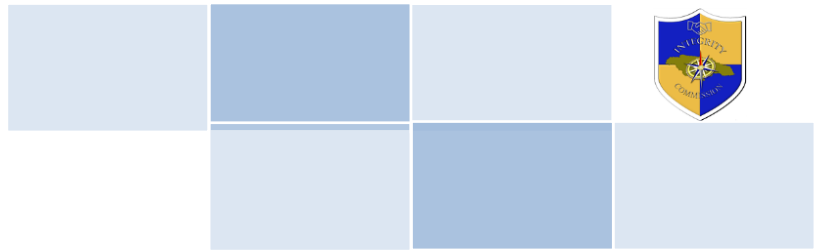
4.4.24 Of note, the DI observed that the contract for the provision of event planning services was executed concurrently with the Public Relations Consultancy contract. In point of fact, the latter contract dated June 22, 2017, for duration of one (1) year, while the contract for the provision of event planning services dated November 3, 2017 for duration of four (4) months.

4.4.25 Considering the foregoing, the DI highlights the following provisions of the GPPH in relation to the definition of a 'follow on procurement':

"follow-on procurement, where a contractor has already provided goods, services or work and additional goods, services or works of a similar nature are required to complete the procurement requirements;"¹⁷⁴ (DI Emphasis)

4.4.26 The DI reiterates that the above definition stipulates that the contractor must have **already provided the services**. However, in relation to the

¹⁷⁴ GoJ Handbook for Public Sector Procurement Procedures 2014 Section 1.1.4 Volume 2



contract for the provision of Public Relations Consultancy Services, neither the contract term nor the services had been completed.

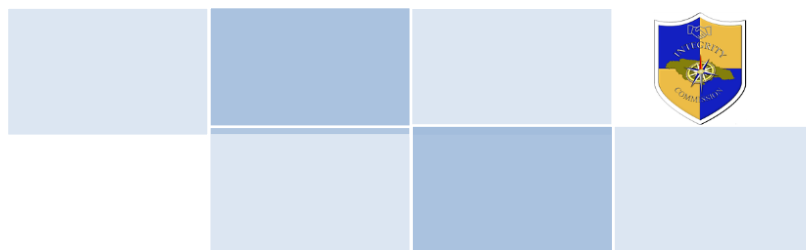
Concerns Regarding the Utilisation of the Direct Contracting Procurement Methodology

4.4.27 In a memorandum which was dated August 16, 2017, and which was addressed to Mr. Floyd Grindley, former General Manager, Petrojam, by Mrs. Ronique Budram-Ford, she expressed concern about the procurement and the justification provided for the utilization of the Direct Contracting procurement methodology.

4.4.28 Mrs. Ronique Budram-Ford, in the referenced Memorandum, highlighted that the instant procurement was irregular and contrary to S. 1.1.4 of the Government of Jamaica Handbook of Public Sector Procurement Procedures. Additionally, Mrs. Budram-Ford indicated, that she was instructed that the Procurement Unit must proceed to issue an invitation to bid to “Main Events”.¹⁷⁵ (DI Emphasis)

4.4.29 Having regard to the justifications provided by Petrojam Limited for the use of Direct Contracting and/or Emergency Contracting procurement methodologies, the DI highlights the provisions of Appendix A1.1 which

¹⁷⁵ Memorandum dated August 16, 2017 from Ms. Ronique Budram Ford to Mr. Floyd Grindley



underscores the importance and advantages of the procurement planning process.¹⁷⁶ (DI Emphasis)

4.4.30 It is important to note that the cumulative value of both contracts exceeded the approval thresholds as stipulated by the Ministry of Finance and the Public Service's Circular No. 27 (2016). The Circular provides, *inter alia*, the following:

CONTRACT VALUE	CONTRACT APPROVING AUTHORITY
J\$30M and below	Head of the Procuring Entity (Tier 1 Limit)
Above J 30M up to J\$60M	National Contracts Commission (Tier 2 Limit)
Above J\$60M	Cabinet (Tier 3 Limit)

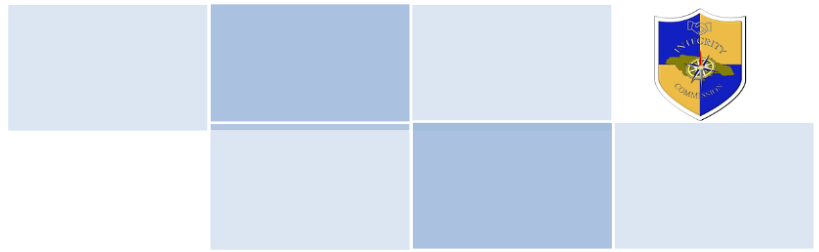
4.4.31 The proposal which was submitted by Main Event Entertainment Group Limited was in the amount of \$29,989,881.00.¹⁷⁷ The DI's review of the Tender Opening Form prepared by Petrojam Limited revealed that the Comparable Estimate was in the amount of \$24,524,007.25¹⁷⁸. Having regard to the disparity, the entities entered into negotiation by way of a meeting held on October 17, 2017.¹⁷⁹

¹⁷⁶ GoJ Handbook for Public Sector Procurement Procedures 2014 Section A1.1 Volume 3

¹⁷⁷ Petrojam Limited's Tender Opening Form signed by Denise Hewitt, Tender Officer on September 28, 2017 sequestered from Petrojam Limited on June 26, 2018

¹⁷⁸ Ibid.

¹⁷⁹ Petrojam Limited's "MEETING MINUTES: NEGOTIATION meeting for Event Planning Services – 35th Anniversary Activities" dated October 17, 2017 sequestered from Petrojam Limited on June 26, 2018



4.4.32 A contract was executed on November 3, 2017, in the amount of J\$26,999,500.00.¹⁸⁰

Variation of Contract

4.4.33 A Procurement Change Request form was prepared by Petrojam Limited detailing a variation to the contract price and scope to account for the inclusion of plaques, gifts, adjustments in catering, police presence, transportation, memorabilia and additional drink¹⁸¹. The variation in cost was in the amount of J\$1,249,260.52, and was approved on December 24, 2017, by Mr. Floyd Grindley. The variation resulted in a revised contract sum of J\$28,248,760.52.¹⁸²

4.4.34 Upon a review of the award of contracts to provide Public Relations Consultancy and Event Planning services, the DI noted that the value of both contracts, inclusive of the variation, was in the amount of **J\$42,234,585.52.**

¹⁸⁰ Contract Agreement between Petrojam Limited and Main Event Entertainment Group Limited signed November 3, 2017, sequestered from Petrojam Limited on June 26, 2018.

¹⁸¹ Petrojam Limited Procurement Change Request, which was approved by Mr. Floyd Gridley on December 24, 2017, sequestered from Petrojam Limited on June 26, 2018.

¹⁸² Petrojam Limited's Contract Change Notice which was approved by Mr. Floyd Grindley on December 24, 2017, sequestered from Petrojam Limited on June 26, 2018.



Circumstances Surrounding the Award of Contract by Petrojam Limited to Main Event Entertainment Group Limited for the provision of Catering and Decorative Services for Petrojam Limited's Teamwork Month Breakfast

4.4.35 A contract was awarded by Petrojam Limited to Main Event Entertainment Group for the provision of Catering and Decorative Services for Petrojam Limited's Teamwork Month Breakfast. The following table exhibits the particulars of the referenced contract:

Table 10

Name of Contractor	Main Event Entertainment Group Limited
Purchase Order Date	November 1, 2017 ¹⁸³
Purchase Order Description	Provision of services Re: Team Work Month Breakfast Catering and Decorative services. Catering for 360 persons, tent set up, Electrician and wiring, chairs and tables and entertainment ¹⁸⁴ .
Purchase Order Value	\$1,085,528.00 ¹⁸⁵
Procurement Methodology	Direct Contracting ¹⁸⁶
Justification for use of Procurement Methodology	The DI has not seen any evidence to suggest that a justification for the utilization of the Direct Contracting procurement methodology was provided.
Contract Approvals	The DI has not seen any evidence to suggest that a contract document was prepared and/or signed. The Bid Evaluation Approval Control Sheet was approved by Mr. Floyd Grindley on October 19, 2017.
Status of contract Implementation	Complete ¹⁸⁷

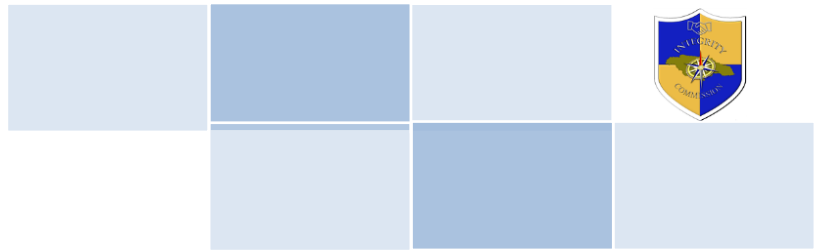
¹⁸³ Petrojam Limited's Purchase Order dated November 1, 2017 with PO Number 4500040946, sequestered from Petrojam Limited on June 26, 2018

¹⁸⁴ Ibid.

¹⁸⁵ Ibid

¹⁸⁶ Petrojam Limited's Bid Evaluation Approval Control Sheet approved by Mr. Floyd Grindley on October 19, 2017, sequestered from Petrojam Limited on June 26, 2018

¹⁸⁷ Response dated March 18, 2019, from Mr. Paul Tyndall Acting Procurement Unit Head, Petrojam, addressed to the IC



Overall Payments made by Petrojam Limited to Main Event Entertainment Group Limited

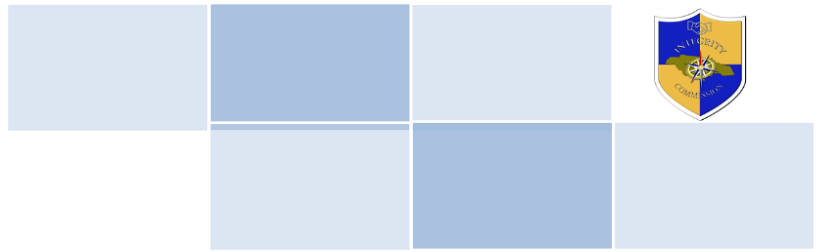
4.4.36 The DI reviewed invoices totaling \$37,181,645.88, which were submitted by Main Event Entertainment Group Limited and Electronic Funds transfers which were made by Petrojam Limited relating to contacts which were awarded during the period January 2017- December 2018.¹⁸⁸

Representations made by Mr. Floyd Grindley, former General Manager, Petrojam Limited in relation to the Award of Contracts to Main Event Entertainment Group Limited

4.4.37 The DI, by way of a requisition dated February 27, 2019, sought to ascertain the involvement of Mr. Floyd Grindley, former General Manager, Petrojam Limited, in relation to the award of contracts to Main Event Entertainment Group Limited. Mr. Grindley, in his July 23, 2019, response provided, *inter alia*, that:

- Main Event Entertainment Group Ltd. was engaged on retainer to assist with public relations activities; and that the procurements were approved by him in his capacity as General Manager.
- Instructions were given to Ms. Latoya Pennant to execute the procurement utilising the Limited Tender Procurement Methodology based on the urgency.

¹⁸⁸Petrojam Limited Document entitled Evidence of all Expenditure in relation to contracts awarded to Main Event Entertainment Group Limited, 2016-Pesent from documents retrieved from Petrojam limited on June 26, 2018



- Some of the companies were not registered with the NCC and would not be able to participate in the tender process, consequently, a decision was taken to utilize the Direct Contracting procurement methodology, on the basis that “...Petrojam was now running behind schedule”.

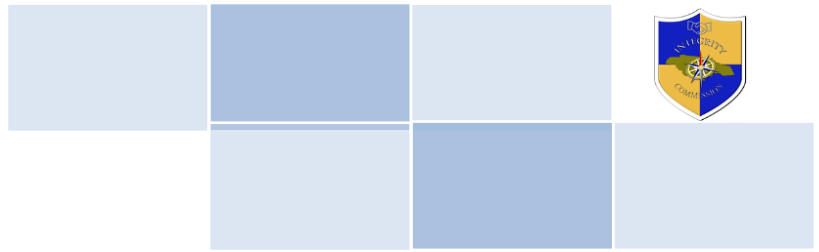
4.4.38 Mr. Grindley also advised the DI that **he was given a list of three (3) companies “by either the Chairman or Board Director Richard Creary”, and subsequently learnt that only** Main Event Entertainment Group Limited was NCC compliant; and that that in the interest of time it was deemed prudent to proceed utilizing the Direct Contracting procurement methodology.

4.4.39 It is important to note that Mr. Grindley advised the DI that he “...spoke to the Chairman about [his] apprehension...” as it regards the use of the direct contracting procurement methodology, based on the guidance received from Mrs. Ronique Budram-Ford, and was “instructed to proceed as directed.”¹⁸⁹

4.4.40 Mr. Floyd Grindley informed the DI that he had no personal relationship with Main Event Entertainment Group Limited or with any of their servants and/or agents.¹⁹⁰

¹⁸⁹ Response dated July 23, 2019, from Mr. Floyd Grindley addressed to the Director Investigation. Response #9

¹⁹⁰ Response dated July 23, 2019 from Mr. Floyd Grindley addressed to the Director of Investigation. Response #10



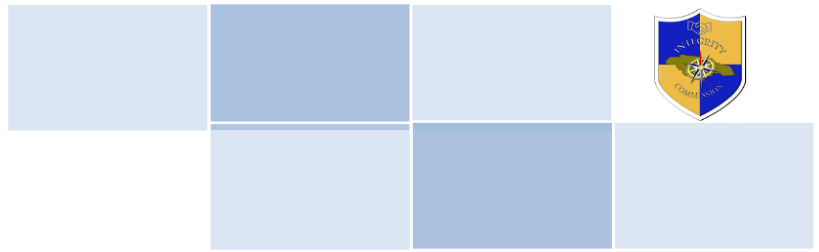
Representations made by Dr. Perceval Bahado-Singh, then Chairman, Petrojam Limited, and Mr. Richard Creary, former Director, Petrojam Limited, in relation to the Award of Contracts to Main Event Entertainment Group Limited

4.4.41 In an effort to ascertain the veracity of the representations made by Mr. Grindley that it was either Dr. Perceval Bahado-Singh, former Chairman, Petrojam Limited, or Mr. Richard Creary, former Director, Petrojam Limited, who 'gave him a list of three companies' for the provision of public relations and event planning services, the DI enquired of the nature of their involvement, if any, in the referenced award of contracts to Main Event Entertainment Group Limited¹⁹¹.

4.4.42 By way of his response dated September 24, 2019, Dr. Bahado-Singh, stated, *inter alia*, that "it was not the practice of the Board to recommend any particular company, for any particular work, or contract. The Board, however, had a responsibility to share **advice** and **guide** Management, in accordance with GOJ procurement guidelines and policies of the Contractor General Office". He further stated, *inter alia*, that it was Management's responsibility to properly evaluate, vet, and procure services.

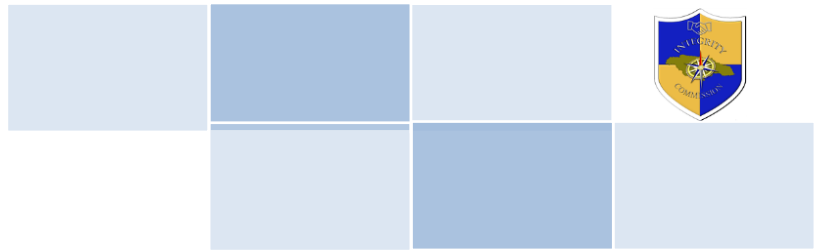
4.4.43 Mr. Richard Creary, in his response dated October 9, 2019, indicated, *inter alia*, that he had "...no involvement and or influence in the award of contract to Main Event Entertainment Group Limited during the period

¹⁹¹ Requisitions dated September 19, 2019 which were addressed to Dr. Perceval Bahado-Singh, then Chairman, Petrojam Limited and Mr. Richard Creary, former Director, Petrojam Limited, by the DI. Questions 1.



January 2017 to December 2018". He did, however, indicate that in an informal discussion he suggested three (3) possible companies that could be considered to participate in the procurement process. Mr. Creary maintained, in his referenced response that he gave no directives or instructions to any employee of Petrojam Limited.¹⁹² (DI Emphasis)

¹⁹² Response dated October 9, 2019 which was addressed to the DI by Mr. Richard Creary, former Director, Petrojam Limited. Response 1.



Circumstances Surrounding the Provision of Memorabilia to Petrojam Limited by ASC Business Services

4.5.1 ASC Business Services is registered with the Companies Office of Jamaica as a sole trader which engages in the core activity of “marketing, management & accounting services”¹⁹³. ASC Business Services was first registered on April 21, 2017, with one, Robert Phillip Chin, recorded as the sole proprietor.¹⁹⁴

4.5.2 ASC Business Services was engaged by Petrojam Limited by way of the Direct Contracting procurement methodology to provide memorabilia.¹⁹⁵

4.5.3 In response to questions surrounding the introduction of ASC Business Services to Petrojam Limited, the following was stated by Mrs. Ronique-Budram-Ford:

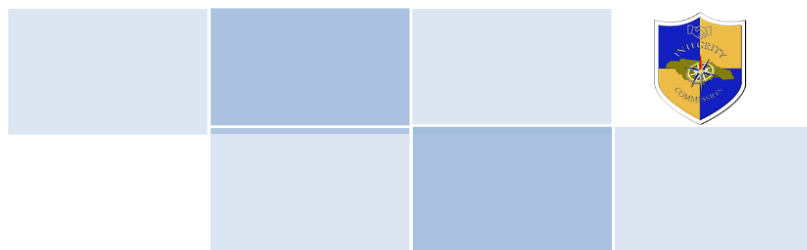
“ASC Business Services...was recommended to Petrojam Ltd by the General Manager Mr. Floyd Grindley on or around April 2017.”¹⁹⁶

¹⁹³ Companies Office of Jamaica record accessed on September 9, 2018 at <http://www.orcjamaica.com/EntityDetailsLandingPage.aspx?cld1=2...>

¹⁹⁴ Ibid.

¹⁹⁵ Response dated September 27, 2018 of Mrs. Ronique Budram-Ford to allegations of misconduct in letter dated 7th September, 2018. Response 34.

¹⁹⁶ Ibid.



4.5.4 With regards to the selection of ASC Business Services, the DI observed at least one instance in which Mrs. Ronique Budram-Ford instructed that Petrojam Limited engage the services of the entity by way of the Direct Contracting procurement methodology.¹⁹⁷

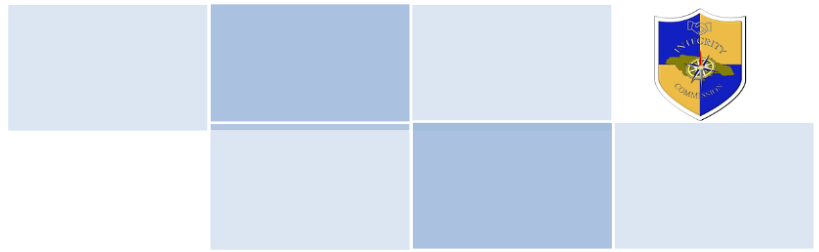
4.5.5 In relation to the procurement for a Labour Day project, the DI observed that the Request for Quotation was sent by Ms. Sophia Howell to ASC Business Services on May 21, 2018¹⁹⁸, ten days subsequent to the indication by Mrs. Ronique-Budram-Ford that the procurement would be awarded to the entity by way of the Direct Contracting procurement methodology.

4.5.6 The DI also notes that the bid was received and approved by Mr. Floyd Grindley, then General Manager on May 22, 2018, one day before Labour Day on May 23, 2018. The DI confirmed that ASC Business Services was awarded the contract by way of the Direct Contracting procurement methodology for the provision of "*memorabilia for Labour Day Project*" and the amount of \$516,833.14 was made payable to the entity. Further, the contract price included an item for "*Rush Charges: \$25,000*"¹⁹⁹.

¹⁹⁷ Email thread dated May 11, 2018 from Ms. Latoya Pennant to Mrs. Ronique Budram-Ford to Mr. Paul Tyndall.

¹⁹⁸ Email correspondence dated May 21, 2018 from Ms. Sophia Howell to ascbusinessservices2012@gmail.com.

¹⁹⁹ ASC Business Services Invoice # 20180518, dated May 22nd 2018, to Petrojam Ltd.



4.5.7 On another occasion, the DI observed email correspondence wherein Mrs Budram-Ford again indicated that specific procurement activities would be awarded to ASC Business Services by way of direct contracting.²⁰⁰

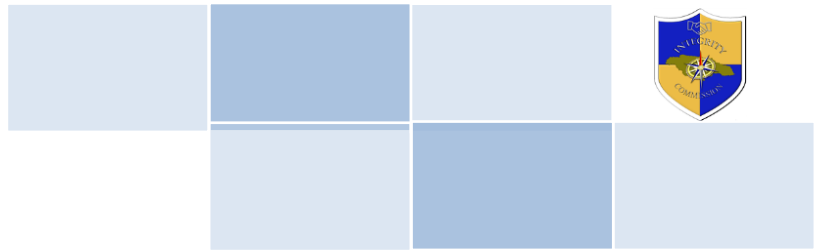
Approval Process for Contracts issued to ASC Business Services by way of Direct Contracting Procurement Methodology:

4.5.8 As indicated herein, all contracts awarded to ASC Business Services were by way of the Direct Contracting procurement methodology and same received the requisite endorsements and approvals by the General Manager. With respect to the utilization of the Direct Contracting procurement methodology in the engagement of ASC Business Services, Mrs. Ronique Budram-Ford advised of the following:

*"Based on this recommendation of Mr. Grindley, The Procurement Unit commenced dealing with the entity on or around May, 2017. As all contracts with them fell below the threshold of JA\$1.5 million, direct contracting was permitted. Also, they always delivered on time whilst meeting Petrojam's expectations as to scheduling, pricing and quality."*²⁰¹

²⁰⁰ Email thread ending with email correspondence dated May 30, 2018, from Mrs. Ronique-Budram Ford to Mr. Paul Tyndall, under the subject "*RE: Request for memorabilia items*"

²⁰¹ Notes of Disciplinary Hearing held with Mrs. Ronique Budram-Ford in relation to allegations of misconduct in letter dated 7th September, 2018, Response 36.



4.5.9 The DI has observed several Bid Evaluation Approval Control Sheets in relation to procurement activities concerning the engagement of ASC Business Services by way of the Direct Contracting procurement methodology.

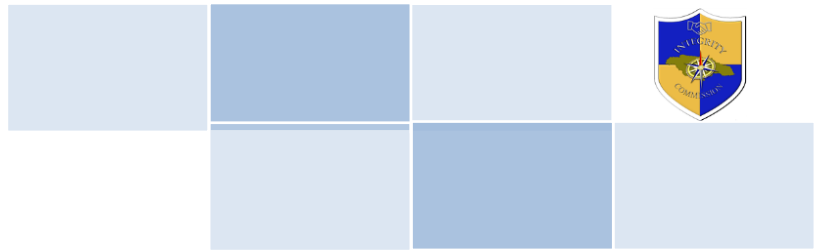
4.5.10 Upon a review of certain documents which were sequestered from Petrojam Limited, the DI constructed a table, appended at Appendix 4, which detailed the procurement activities between Petrojam Limited and ASC Business Services.

4.5.11 In addition to the details of the procurement of five hundred (500) water bottles memorabilia referenced in Appendix 4, the quotation in the amount of \$536,995.10 which was submitted by ASC Business Services dated June 12, 2018, was authored by 'Rishka Budram'.

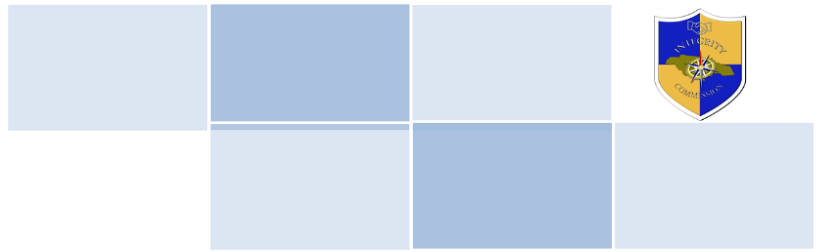
4.5.12 Based on an examination of the referenced Bid Evaluation Approval Control Sheets (BEACS) provided by Petrojam Limited, the DI notes the following:

(a) ASC Business Services was engaged on fourteen (14) occasions during the period May 2017 to June 2018. The total value of the fourteen (14) procurement activities was in the amount of **\$9,838,144.80**.²⁰²

²⁰² Appendix 5, Response from Mr. Paul Tyndall, Procurement Unit Head (Acting) dated March 20, 2019 to the DI's requisition dated March 14, 2019, Response 1.



- (b) For the periods May 2017 to October 2017 and February 2018 to June 2018, procurement activities were issued by Petrojam Limited to ASC Business Services every month.
- (c) With respect to the fourteen (14) contracts which were awarded by Petrojam Limited to ASC Business Services, the DI notes that in at least nine (9) instances: a) the dates on which the bidding document was issued, b) the bid submission deadline and, c) the date on which the bid quotation was submitted, were the same.
- (d) On Thursday, June 8, 2017, Petrojam Limited issued Bid Documents for the provision of a) *memorabilia-sports shaker bottles* and b) *male and female polo shirts with Petrojam Limited's Logo*, with a bid submission deadline of even date. The two (2) referenced opportunities were issued to ASC Business Services. ASC Business Services responded to the two (2) procurement opportunities by the bid submission deadline of June 8, 2017. The awards for the referenced procurement were made to ASC Business Services in the amount of \$1,115,678.79.
- (e) On Monday, June 12, 2017, "procurement for memorabilia" (including for mugs) was also issued to ASC Business Services in the amount of \$906,836.00.

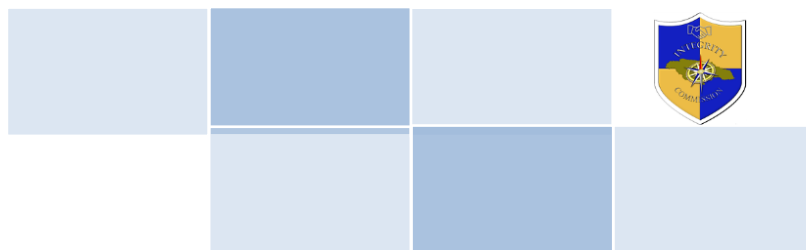


(f) On Tuesday, June 13, 2017, “procurement for Petrojam’s Company Shirt” was issued to ASC Business Services in the amount of \$184,992.10.

(g) Over the period of four (4) business days, Petrojam Limited issued four (4) procurement opportunities to ASC Business Services for t-shirts, water bottles and “memorabilia” which included mugs, in the amount of **\$2,207,506.89**. No justification was observed for issuing separate procurements on the same day to the same company or for issuing procurement to the same company for very similar items one day apart. The DI notes that cumulatively, the value of the four (4) procurement activities exceeded the direct contracting threshold of \$1,500,000.00.

4.5.13 The quotations submitted by ASC Business Services were within the allowable variation margins when compared to the comparative estimates (except in one instance). Notwithstanding, the DI requested that Petrojam Limited identify the person(s) with responsibility for preparing the comparable estimates. Mr. Paul Tyndall, Procurement Unit Head (Acting), in his response to the DI’s requisition stated the following:

“...Please note that there is no indication of the person(s) who prepared the Comparable Estimate for each of the procurement activity, as they were not



*signed, however, Comparable Estimates are customarily prepared by the 'Requestor' ..."*²⁰³

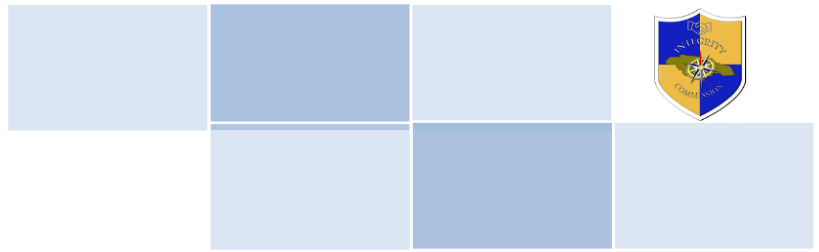
4.5.14 Based on the response and supporting documentation provided by Mr. Tyndall²⁰⁴ on March 18, 2019, the following individuals were listed as the 'Requestor' in relation to all procurement contracts awarded to ASC Business Services:

Table 11

Name of Requestor	Title	Number of Requests Made
Ms. Latoya Pennant	Public Relations Officer	5
Ms. Tameka K. McCalla on behalf of Latoya Pennant	Former Public Relations Assistant (former employee)	1
Ms. Judith Jaggon	Administrative Assistant to the General Manager	6
Mr. Telroy Morgan	Manager- Strategic Planning and Business Support- (Acting)-current)	1
Mr. Adrian Brown	Senior Supervisor for the Projects Group-current	1

²⁰³ Response from Mr. Paul Tyndall, Procurement Unit Head (Acting) dated March 20, 2019 to the DI's requisition dated March 14, 2019, response 1b.

²⁰⁴ Response from Mr. Paul Tyndall, Procurement Unit Head (Acting) dated March 18, 2019 to the DI's requisition dated February 27, 2019, response 9.



4.5.15 The DI has attached at Appendix 6 a table detailing the name(s) and title(s) of the Petrojam Limited employees who were involved in the award of contract(s) to ASC Business Services.²⁰⁵

Petrojam Limited's Quarterly Contracts Award Reports in relation to ASC Business Services

4.5.16 The DI reviewed the QCA Reports, which were submitted by Petrojam Limited, in respect of the contracts that were awarded to ASC Business Services. The DI ascertained that the entity reported the nine (9) contracts which fell within the reporting threshold, and which were cumulatively valued at \$8,714,055.41.

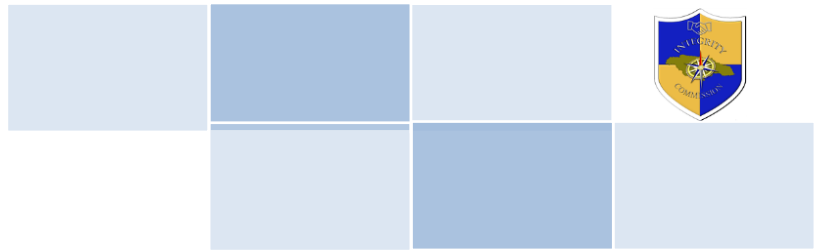
Compliance with Procurement Guidelines:

4.5.17 In relation to the decision to utilize the Direct Contracting procurement methodology, the then Procurement Unit Head, Mrs. Ronique Budram-Ford, indicated the following:

"Petrojam was able to do Direct Contracting as the value of the contract was within the range permitted".²⁰⁶

²⁰⁵ Response from Mr. Paul Tyndall, Procurement Unit Head (Acting) dated March 18, 2019 to the DI's requisition dated February 27, 2019, response 9c.

²⁰⁶ Notes of Disciplinary Hearing held with Ronique Budram-Ford in relation to allegations of misconduct in letter dated 7th September, 2018, Response 37 (g)



4.5.18 Petrojam Limited appropriately utilized the direct contracting methodology to procure goods below the threshold of \$1,500,000. However, the DI evidenced instances where a single request for quotation for memorabilia could have been issued instead of four, over a four day period. In this regard, the following should be noted:

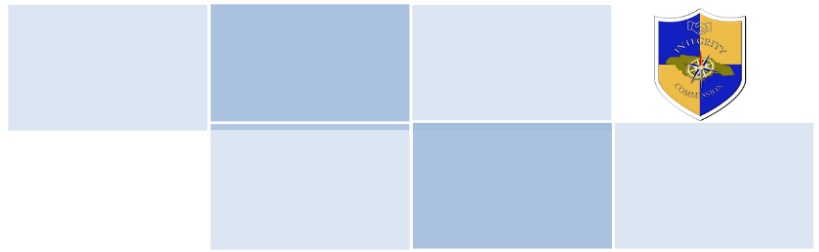
“UNBUNDLING OF CONTRACTS

*... “splintering” or “fragmentation” which refer to the deliberate separation of contracts, done specifically to avoid the requirements for competition or approval”.*²⁰⁷

Representations made by Mr. Floyd Grindley, former General Manager, Petrojam Limited, in relation to the Award Of Contracts to ASC Business Services for the Provision of Memorabilia

4.5.19 The DI, by way of a requisition dated February 27, 2019, sought to ascertain the involvement of Mr. Floyd Grindley, former General Manager, Petrojam Limited, in relation to the award of contract to ASC Business Services for the provision of memorabilia. In this regard, Mr. Grindley, in his July 23, 2019 response stated, *inter alia*, that very often the request for branded Petrojam memorabilia were “last minute”. He further indicated that the requests were legitimate and that the goods

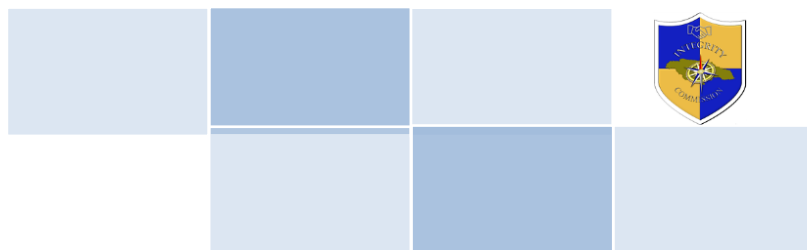
²⁰⁷ Government of Jamaica Handbook of Public Sector Procurement Procedures, March 2014, Volume 2, Section A1.1.1 “Unbundling of Contracts”



were provided on or before the stipulated deadline and on each occasion, there was a *bona fide* execution of procurement guidelines.

4.5.20 Mr. Grindley also stated that Petrojam employees consistently fail to do effective procurement planning which results in the inability to facilitate a competitive process and this too has resulted in the majority of Petrojam's procurement being by way of the direct contracting procurement methodology.²⁰⁸

²⁰⁸ Response dated July 23, 2019 which was addressed to the DI by Mr. Floyd Grindley, former General Manager, Petrojam Limited. Response 2 (a).



The Circumstances Surrounding the Award of Contract to Seal Construction Limited for the Construction of a New Petroleum Testing Laboratory at Petrojam Limited

4.6.1 The DI sought to ascertain the circumstances surrounding the award of contract to Seal Construction Company Limited for the construction of a New Petroleum Testing Laboratory at Petrojam Limited, in accordance with the terms of reference detailed herein.

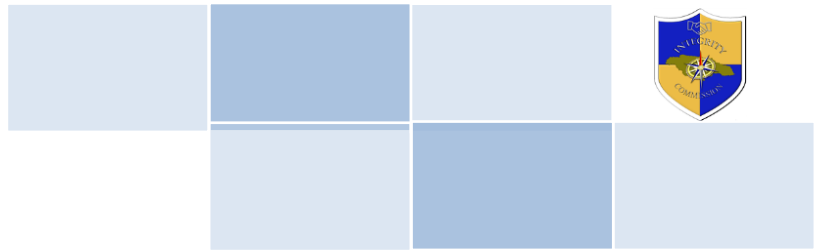
The Procurement Process Concerning the Engagement of a Contractor for the Construction of a New Petroleum Testing Laboratory at Petrojam Limited

4.6.2 The advertisements regarding the Invitation for the submission of Bids (IFB) for the construction of a New Petroleum Testing Laboratory was published in the Sunday Gleaner dated March 11, 2012 and the Sunday Observer dated March 8, 2012. The deadline for the submission of bids was Monday, April 16, 2012.

4.6.3 Based on the Tender Report ²⁰⁹ prepared by Petrojam Limited, a total of eight (8) contractors purchased bidding documents for the construction of a New Petroleum Testing Laboratory at the Petrojam Limited refinery. Of the (8) contractors, four (4) entities submitted bids and were deemed responsive.

4.6.4 The referenced Tender Report further outlined that the “...**bid submitted by Seal Construction Company Limited is 5.48 percent above the lowest bid submitted by Y.P. Seaton & Associates Limited. However, Seal Construction**

²⁰⁹ Petrojam Limited Status Report dated September 2, 2013, for the Construction of a New Petroleum Testing Laboratory at the Petrojam Refinery, pg. 2.



Company Limited is the only bidder who fulfilled all eligibility and qualification criteria as required by the bidding documents... we recommend the acceptance of the tender as submitted by Seal Construction Company Limited in the amount of **Three Hundred and Thirty Seven Million, Three Hundred and Three Hundred and Forty One Thousand, One Hundred and Forty Nine Dollars and Four Cents (\$337,341,149.04).**²¹⁰
(DI Emphasis)

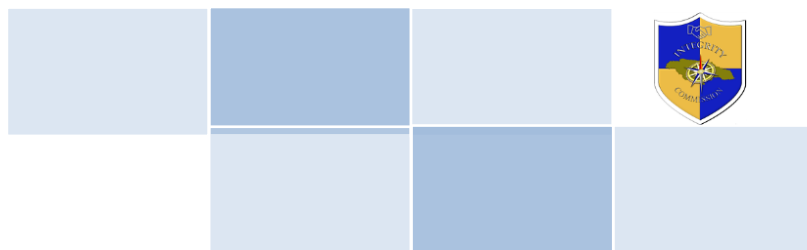
4.6.5 Notwithstanding the award of the contract to Seal Construction Company Limited by Petrojam Limited, for the construction of the entity's New Petroleum Testing Laboratory, the DI notes that there were certain expressed concerns regarding the methodology and evaluation techniques employed to assess the bids. In particular, the Contracts Commission (NCC) during its Committee Meeting, which was held on October 17, 2013, noted that the methodology and evaluation criteria utilized were not appropriate for the nature of the procurement that was undertaken and the concern that the lowest priced tenderer should have been deemed non-responsive based on the minimum criteria established.²¹¹ Based on the foregoing concerns, the NCC advised that Petrojam Limited should have utilized an evaluation process which incorporated a pre-qualification exercise.

4.6.6 Section 1.3.4 of the GPPH, 2014 outlines the utility and advantages of the pre-qualification process for bidders.²¹²

²¹⁰ Ibid. pgs. 20-21.

²¹¹ Minutes of NCC Meeting No. 614, dated October 17, 2012.

²¹² GoJ Handbook of Public Sector Procurement Procedures (2014), Volume 1 of 4, pg. 12-14.



4.6.7 In acknowledgement of the opinion expressed by the NCC, the DI deems it necessary to append, at Appendix 7, the instructions detailed in Petrojam Limited's "Instructions to Bidders" document.²¹³

4.6.8 The DI has attached at Appendix 8, a table detailing the comparative evaluation and assessment of the four (4) bids which were deemed responsive by Petrojam Limited. It is instructive to note that the DI observed a handwritten inscription of "incomplete" which was affixed to the section which should have outlined the scores for "KEY PERSONNEL EXPERIENCE EVALUATION".

4.6.9 As indicated in the referenced table, Seal Construction Company Limited was the entity that accrued the highest weighted score. As a result, the entity was recommended for the award of contract in the amount of JA\$337,341,149.04.

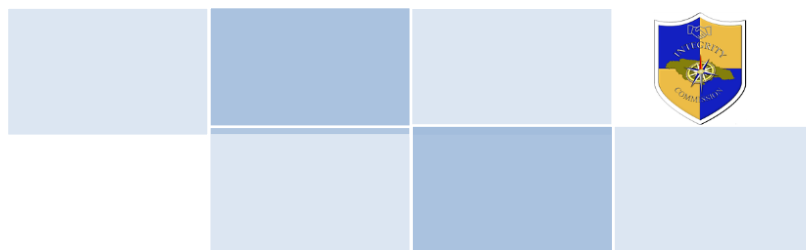
The Award of Contract to Seal Construction Company Limited for the Construction of a New Petroleum Testing Laboratory at Petrojam Limited

4.6.10 The directors and shareholders of Seal Construction Company Limited are stated in the following table:

Table 12

Directors	Shareholders
Mr. Robert Thomas	Mr. Robert Thomas

²¹³ See Appendix 7



Mr. Chescot Brownie	Mr. Chescot Brownie
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- There were no ceased directors listed on the form.

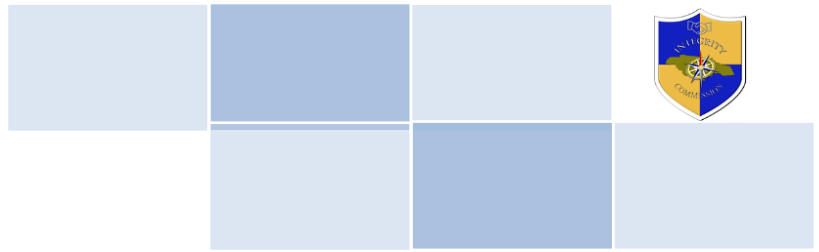
4.6.11 In relation to the captioned, the following table provides details regarding the effective date of the contract between Petrojam Limited and Seal Construction Company Limited, and other relevant particulars:

Table 13

Contract Particulars	Details
Date of Contract	April 29, 2015
Name of Contractor	Seal Construction Company Limited, with registered address at 31 Gloucester Avenue, Montego Bay, Saint James
Scope of Works	As outlined in Petrojam Limited Tender Report dated June 2012, "The scope of works includes the construction of a single story reinforced concrete laboratory and ancillary building of approximately 12024 square feet (1117 metre square) gross floor area together with associated external works such as driveway and parking areas; stormwater drainage; electrical, plumbing and sewage disposal connections; and minor building to be used as a fire truck shed, all to be known as the New Petroleum Testing Laboratory located on the premises of the Petrojam Limited located at 75-96 Marcus Garvey Drive, Kingston 15, Jamaica." ²¹⁴
Contract Value	\$337,341,149.04
Procurement Methodology	Local Competitive Bidding
NCC Endorsement	October 17, 2012
Head of Entity Approval	Approved by General Manager on August 20, 2012
Status of Contract	By way of Certificate of Final Completion dated November 19, 2018, all works have been completed, there are no outstanding defects and there are no outstanding claims against the contractor or Petrojam Limited ²¹⁵
Other Observations	Project start date was June 1, 2015

²¹⁴ Petrojam Limited Tender Report dated June 2012, pg. 1.

²¹⁵ Certificate of Final Completion dated November 19, 2018.



4.6.12 With respect to Cabinet's approval, the DI is in possession of a letter dated December 28, 2012, which was addressed to Mr. Winston Watson, General Manager, Petrojam Limited, on the behalf of Ms. Hillary Alexander, then Permanent Secretary, Ministry of Science, Technology, Energy and Mining.

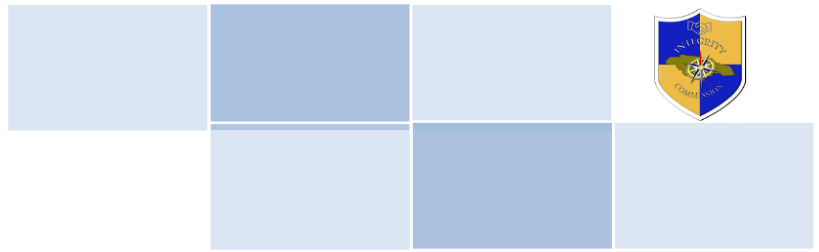
4.6.13 The referenced letter advised Mr. Winston Watson of the Cabinet's approval of the award of the subject contract. The letter stated, *inter alia*, that "**...the contract was schedule to be completed within twelve (12) months of the contractor taking possession of the contraction site.**"²¹⁶ (DI Emphasis)

Claims Submitted by Seal Construction Company Limited for Extension of Time to Complete the Construction of the New Petroleum Testing Laboratory

4.6.14 The DI perused a letter dated May 30, 2016, which was addressed to Mr. Stephen McMorris, MSR Designs Studios Ltd., by Mr. Everalld Samuels, Project Manager, Seal Construction Limited. The referenced letter requested an extension of 29 weeks with the result that the new completion date for the project would be December 24, 2016. The letter also outlined the factors which warranted the claims for the extension of time to complete the Laboratory.²¹⁷

²¹⁶ Letter dated December 28, 2012, which was addressed to Mr. Winston Watson, General Manager, Petrojam Limited, on the behalf of Ms. Hillary Alexander, then Permanent Secretary, Ministry of Science, Technology, Energy and Mining.

²¹⁷ Letter dated May 30, 2016, from Mr. Everalld Samuels, Project Manager, Seal Construction Company Limited, and addressed to the attention of Mr. Stephen McMorris, MSR Designs Studios Ltd.



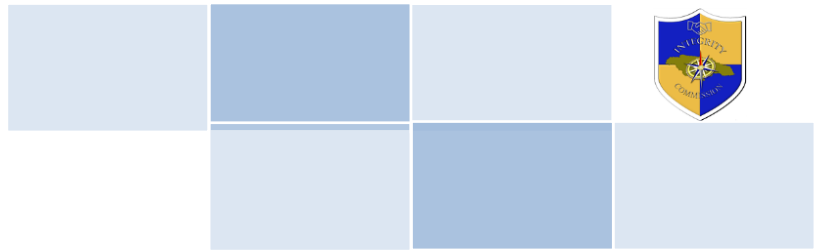
4.6.15 In response to the foregoing letter, Mr. Stephen McMorris, Director, MSRDS Architecture & Engineering, wrote to Mr. Everalld Samuels, Project Manager, Seal Construction Company Limited, and indicated, *inter alia*, that they were “unable to reasonably assess the claim and request that the claim be properly submitted identifying the respective events, the critical path location on the original program, the time being claimed, the reason under the contract and any overlapping or concurrent event being claimed...”²¹⁸

Examination of the Claims for Contract Extension

4.6.16 On February 7, 2018, Mr. Brian Goldson of Goldson Barrett Johnson Chartered Quality Surveyors & Construction Economists, wrote to Mr. Donald Johnson, Project Manager, Petrojam Limited, and highlighted, *inter alia*, the following as it relates to issues surrounding Liquidated Damages extensions of time:

- (a) That the contract was signed in March 2015, with completion in July 2016 and in May of 2016 two nominated sub-contractors were appointed with sub-contract periods of eight (8) months to January 2016;
- (b) That Based on Clause 27 (Nominated Sub-Contractors) and Clause 23(h)(1), the contractor is entitled to an extension of time of seven (7) months.

²¹⁸ Letter dated September 19, 2016, from Mr. Stephen McMorris, Director, MSRDS Architecture & Engineering, to the attention of Mr. Everalld Samuels, Seal Construction Company Limited.



(c) That Liquidated Damages would have to be considered for the period January 2017 to December 2017 and the percentage would be 'half (1/2%) percent of the contract sum per calendar day', which would amount to ½% of \$337,341,149.00. The amount would therefore be \$1,731,705.00 per calendar day and an approximate figure of \$564,429,367.00 for 325 days; and

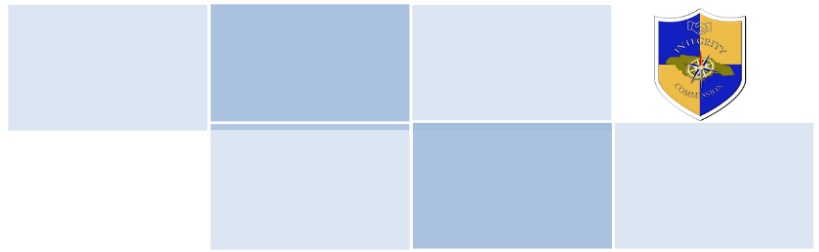
(d) That the Liquidated damages indicated in the contract did not appear to be a genuine pre-estimate and same may waive the right of the owners to collect from monies due to the contractor. Mr Brian Goldson also advised that the recovery of some damages may be attempted by way of negotiation with the Contractor.²¹⁹ (DI Emphasis)

Details of the Extension of Time Clause as Contained in the Contract between Petrojam Limited and Seal Construction Company Limited

4.6.17 The contract entered into between Petrojam Limited and Seal Construction Company Limited, on April 29, 2015, details a number of circumstances in which an extension of the implementation period of the contract would be allowed.²²⁰

²¹⁹ Letter dated February 7, 2018, from Mr. Brian Goldson of Goldson Barrett Johnson Chartered Quality Surveyors & Construction Economists, addressed to Mr. Donald Johnson, Project Manager, Petrojam Limited.

²²⁰ Contract dated April 29, 2015 entered into between Petrojam Limited and Seal Construction Company Limited, Clause 23.

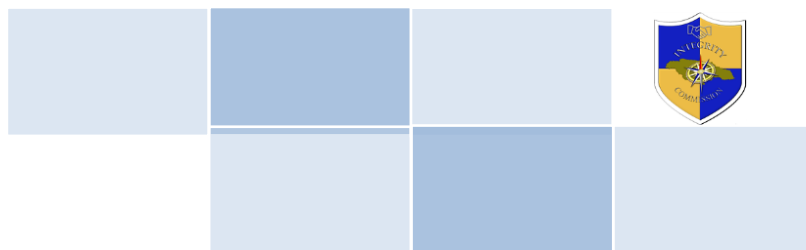


4.6.18 Further in relation to the issues surrounding the allegation regarding liquidated and ascertained damages, the contract stated, *inter alia*, that **“If the Contractor fails to complete the Works by the Date for Completion or any Section stated in the Appendix to these Conditions or within any extended time fixed under clause 23 or clause 33 (1) (c) of these Conditions and the Architect/Contract Administrator certifies in writing that in his opinion the same ought reasonably so to have been completed, then the Contractor shall pay or allow to the Employer a sum calculated at the rate stated in the said Appendix as Liquidated and Ascertained Damages for the period during which the Works shall so remain or have remained incomplete and the Employer may deduct such sum from any monies due or to become due to the Contractor under this Contract.”**²²¹
(DI Emphasis)

4.6.19 Further, Appendix 22 of the referenced contract stated, *inter alia*, that liquidated and ascertained damages, if justified, would be calculated at a rate of “half a percent (0.5%) of contract sum per calendar day”.

4.6.20 In addition to the factors which were said to be responsible for the delays in the implementation of the contract, the DI also perused several Minutes of Site Meetings, which outlined several factors which were responsible for the delays. The Minutes of Site Meeting held on October 12, 2016 noted, *inter alia*, the following factors:

²²¹ Ibid, Clause 22.



- a) The failure to supply materials which had the effect of delaying work progress on the site;
- b) The non-payment of workers, which affected onsite workers;
- c) The failure of the contractor to properly organize and submit claims;
- d) The overall inefficient matter in which the contract was being implemented; and
- e) The negative effect emanated from the delay in the installation of drywall partitions.²²² (DI Emphasis)

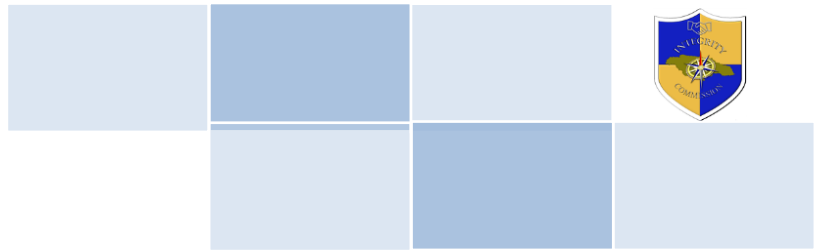
4.6.21 The DI also perused a letter dated January 10, 2017, from Mr. Julian McMorris, Director, MSRDS Design Studios Ltd., to Mr. Robert Thomas, Director, Seal Construction Company Limited, which alluded to the non-payment of sub-contractors and that the delay in the payment of sub-contractors remain an item of concern for the client.²²³ (DI Emphasis)

Variation of the Contract Sum in relation to the Award of Contract to Seal Construction Company Limited for the Construction of the New Petroleum Testing Laboratory at Petrojam Limited

4.6.22 On April 25, 2016, Mrs. Hillary Alexander, former Permanent Secretary, Ministry of Science, Energy and Technology, wrote to Mr. Howard Mollison, then General Manager, Petrojam Limited, and advised that based on the **“endorsement of the National Contracts Commission, the Committee recommended the Cabinet’s approval of a variation in the amount of**

²²² MSRDS Architecture and Engineering Minutes of Site Meeting No. 16, held on October 12, 2016.

²²³ Letter dated January 10, 2017, from Mr. Julian McMorris, Director, MSRDS Architecture & Engineering, which was addressed to Mr. Robert Thomas, Director, Seal Construction Company Limited



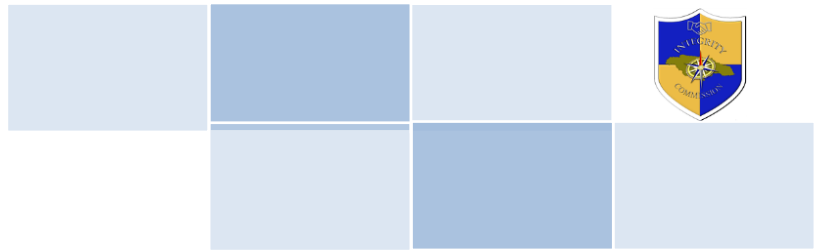
\$84,696,131.00, to an existing contract with Seal Construction Limited, for the provision of electrical installation and air conditioning, ventilation and mechanical equipment installation under the main contract for the construction of a new petroleum testing Laboratory at the Petrojam Limited

...The Cabinet noted the information provided and approved the recommendation of the Committee."²²⁴(DI Emphasis)

4.6.23 Prior to the said letter, the DI examined the content of another letter, which was dated March 3, 2015, from Mr. Raymond McIntyre, Chairman, NCC, to Mrs. Hillary Alexander, then Permanent Secretary, Ministry of Science, Energy and Technology in which the NCC recommended that Petrojam Limited should:

- *Proceed with the award of contract to Seal Construction Company Limited in the amount of J\$337,341,149.04 as approved by Cabinet.*
- *Re-tender the Electrical and Mechanical Works by utilizing the Limited Tender Procurement methodology.*
- *In respect to the Electrical works, Petrojam should invite all the previous bidders.*
- *In respect of the Mechanical works, Petrojam should invite all suitably registered contractors.*

²²⁴ Letter dated April 25, 2016, from Mrs. Hillary Alexander, then Permanent Secretary, Ministry of Science, Energy and Technology, to Mr. Howard Mollison, then General Manager, Petrojam Limited



- *The main contractor should also be invited to bid for the electrical & mechanical works subject to his proposed sub-contractors being registered with the NCC.*"²²⁵

4.6.24 In relation to the foregoing letter, Mr. Floyd Grindley, then General Manager, Petrojam Limited, wrote to Mr. Raymond McIntyre, Chairman, National Contracts Commission, on December 4, 2017, and sought, *inter alia*, confirmation as to whether "...the Head of Entity would be able to approve up to 10% of the new contract sum of \$422,037,280.04, in case there is a need for variations throughout the execution of the contract. Please confirm if our understanding is correct."²²⁶

4.6.25 By way of a response to the foregoing, Mr. Raymond McIntyre wrote to Mrs. Hillary Alexander, then Permanent Secretary, Ministry of Science, Energy and Technology, on February 2, 2018, and amongst other things confirmed Petrojam Limited's aforementioned interpretation.²²⁷

Variation of Contract Awarded to MSR Design Studio for the Provision of Consultancy Services in relation to the Design of New Petroleum Testing Laboratory at Petrojam Limited

²²⁵ Letter dated March 3, 2015, from Mr. Raymond McIntyre, Chairman, NCC, addressed to Mrs. Hillary Alexander, then Permanent Secretary, Ministry of Science, Energy and Technology.

²²⁶ Letter dated December 4, 2017, from Mr. Floyd Grindley, then General Manager, Petrojam Limited, addressed to Mr. Raymond McIntyre, Chairman, National Contracts Commission.

²²⁷ Letter dated February 2, 2018, from Mr. Raymond McIntyre, Chairman, National Contracts Commission, to Mrs. Hillary Alexander, then Permanent Secretary, Ministry of Science, Energy and Technology.

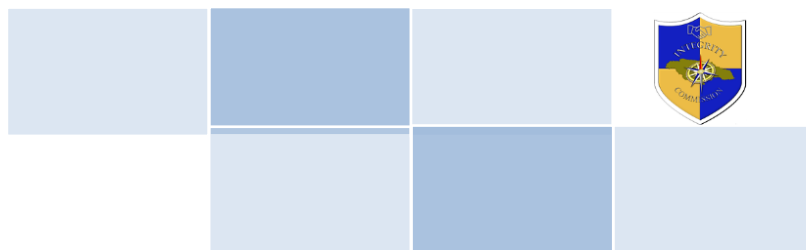


4.6.26 In relation to the caption, a document entitled “**VARIATION REPORT NEW PETROLEUM TESTING LABORATORY – CONSULTANCY SERVICES**” which was sequestered from Petrojam Limited on June 26, 2018, provided, *inter alia*, the following details:

“MSR Design Studio was awarded a contract in the sum of J\$10,500,000.00 to do consultancy services for the design and construction of a New Petroleum Testing Laboratory at Petrojam Refinery, Marcus Garvey Drive. The table below shows the original contract sum, variations that were previously incurred and the current variation.

Description	Original Contract Sum (J\$)	Variation # 1 (J\$)	Variation #2 (J\$)	Variation #3 (J\$)	Variation #4 (J\$)	Current Contract Sum (J\$)	Variation #5 (J\$)	New Contract (J\$)
Pre-contract	6,300,000	8,260,000				14,560,000.00		14,560,000.00
Value Engineering	-	1,720,000				1,720,000.00		1,720,000.00
Re-design	-	-	2,992,885.00	1,980,000.00		4,972,885.00		4,972,885.00
Post-contract Monitoring	4,200,000		5,508,527.50		3,114,378.20	12,822,905.50	3,892,972.75	16,715,878.25
Reimbursable	-	900,000.00	375,000.00			1,275,000.00		1,275,000.00
Total	10,500,000	10,880,000	8,876,412.50	1,980,000.00	3,114,378.20	35,350,790.70	3,892,972.75	39,243,763.25
Variation %		104%	84.54%	18.86%	29.66%		37.08%	
Cumulative Variation			188.54%	207.4%	237%		274.08%	

4.6.27 Further to the variation to the contract, which was awarded to MSR Design Studio, the DI is in possession of a letter dated December 6, 2013, from Mr. Raymond McIntyre, Chairman, NCC, which was addressed to Mrs. Hillary Alexander, then Permanent Secretary, Ministry of Science,



Technology, Energy & Mining and advised that “The National Contracts Commission (NCC) considered the matter at its meeting held on 2013 December 4 and noted Petrojam Limited's variation of its contract with MSRDS for the provision of consultancy services as follows:

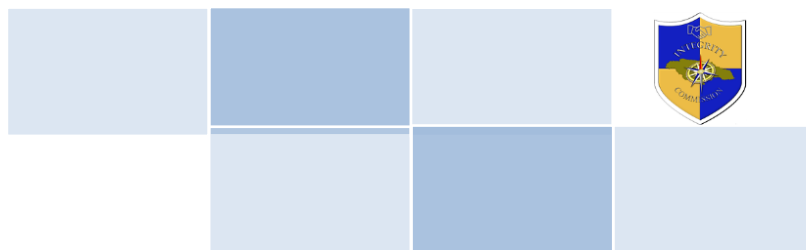
Project Description	Original Contract Sum	Variation sum	Final Contract	Percentage Variation
Consultancy Services - Design of a new petroleum testing laboratory	\$10,500,000.00	\$10,880,000.00	\$21,380,000.00	104%

4.6.28 The NCC also noted that the variation resulted from changes to the design as required by the Petrojam Limited's Project Team and key stakeholders.²²⁸

4.6.29 At this juncture, the DI notes that the NCC did not object to the variation request from Petrojam Limited, to increase the contract sum for consultancy services offered by MSR Design Studio. As represented in the above table, there was a percentage variation of 104 % of the initial contract value.

4.6.30 Notwithstanding the aforementioned, NCC by letter dated April 22, 2014, expressed, amongst other things, concerns about the enormous cost of the

²²⁸ Letter dated December 6, 2013, from Mr. Raymond McIntyre, Chairman, NCC, addressed to Mrs. Hillary Alexander, then Permanent Secretary, former Ministry of Science, Technology, Energy & Mining.



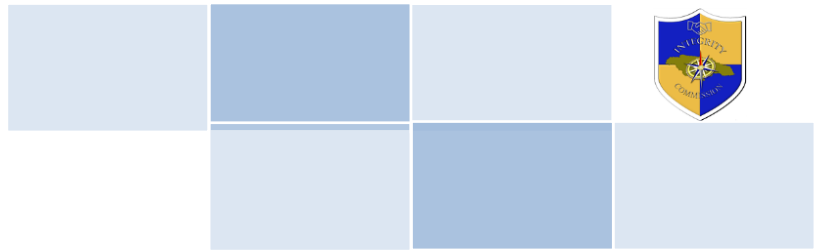
consultancy services and the “**deficiencies in project planning and scope definition**” in relation to the project. (DI Emphasis).²²⁹

4.6.31 With respect to the five (5) variations in relation to the award of contract to MSR Design Studio for the provision of consultancy services, the DI observed that the NCC had, on all occasions favourably considered the requests for the variations. In addition, on July 22, 2016, Mr. Gary Lawrence wrote to Mrs. Hillary Alexander, former Permanent Secretary, Ministry of Science, Energy and Technology, on the behalf of the NCC Chairman, and advised that the NCC, having considered the matter at its meeting held on 2016 July 20, approved Petrojam Limited's request to vary its contract with MSR Design Studio in the sum of \$3,114,378.20 as follows:

Description	\$	\$	Cumulative Variation
Original Contract Sum		10,500,000.00	
Variation No. 1	10,860,000.00		104%
Variation No. 2 (negotiated sum)	8,876,412.50		84.54%
Variation No. 3	1,980,000.00		18.86%
Variation No. 4	3,114,378.20		29.66%
Sub-total		24,850,790.70	237%
Grand Total		35,350,790.70	

4.6.32 The NCC also noted that the project was four (4) months behind schedule and on two (2) occasions, the contractor was issued with Notice of Default based on the entity's failure to proceed with the works.²³⁰

²²⁹ Letter dated April 22, 2014, from Mr. Raymond McIntyre, Chairman, NCC, to Mrs. Hillary Alexander, then Permanent Secretary, Ministry of Science, Technology, Energy & Mining.



4.6.33 The DI also considers it prudent to note that based on the document entitled "**VARIATION REPORT NEW PETROLEUM TESTING LABORATORY – CONSULTANCY SERVICES**" which was provided by Petrojam Limited, the total variation to the contract sum in relation to the consultancy services awarded to MSR Design Studio, was in the amount of \$39,243,763.25, a percentage value of 274.08%.

Notices of Default of Contract by Seal Construction Company Limited

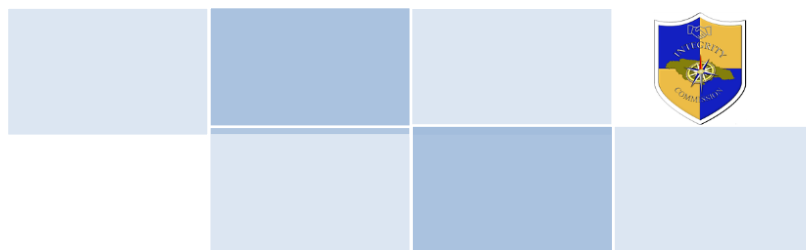
4.6.34 In relation to the captioned, Seal Construction Company Limited was issued with a Notice of Default dated December 7, 2015, of contract for failure to *consistently and diligently proceed with the works on the New Petrojam Testing Lab*.²³¹

4.6.35 A second Notice of Default was served on Seal Construction Company Limited on May 2, 2016 consistent with the previous Notice.

4.6.36 Further to the foregoing Notices of Default, Mr. Julian McMorris, by way of letter dated August 5, 2016, recommended in accordance with Clause

²³⁰ Letter dated July 22, 2016, from Mr. Gary Lawrence, addressed to Mrs. Hillary Alexander, then Permanent Secretary, Ministry of Science, Energy and Technology, on the behalf of the NCC Chairman.

²³¹ Notices of Default dated December 7, 2015, from Mr. Stephen McMorris, Director/Project Manager, MSRDS Architecture & Engineering and letter to Mr. Robert Thomas, Director, Seal Construction Company Limited.



251(b) that the contract with Seal Construcion Company Limited be terminated on the basis of the continuance of the said default.²³²

4.6.37 Additionally, on December 8, 2016 and December 21, 2016, Mr. Stephen McMorris, wrote to Messers. Robert Thomas and Chescot Brownie, respectively, Directors, Seal Construction Company Limited, and reminded them of the Notices of Default that were issued to the said entity.

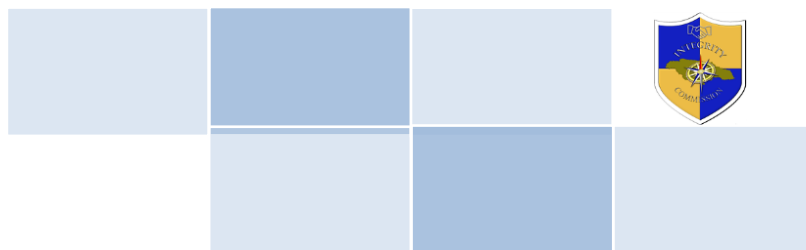
Details of Payments made by Petrojam Limited to Seal Construction Company Limited and Sub-contractors

4.6.38 Based upon a review of progress payment certificates which were prepared and submitted by Petrojam Limited, the DI constructed hereunder the following table:

Table 14

Payment Certificate #	Seal Construction Company Limited	Arel Limited	Geddes Refrigeration Limited
1	33,734,114.90		
2	15,273,357.44		
3	20,867,871.50		
4	11,956,291.45		
5	5,315,343.88		
6	3,294,687.39		
7	55,498,625.59		
8	38,377,621.73		
9	20,231,265.11		
9A			10,667,868.37
9B		45,908,735.91	
10	7,052,530.48		
11		23,645,600.00	
1		14,656,571.73	

²³² Letter dated August 5, 2016, from Mr. Julian McMorris, Director, MSRDS Architecture & Engineering, to the attention of Mr. Donald Johnson, Project Manager, Petrojam Limited.



Payment Certificate #	Seal Construction Company Limited	Arel Limited	Geddes Refrigeration Limited
1			4,031,672.84
Total	211,601,709.47	84,210,907.64	14,699,541.21

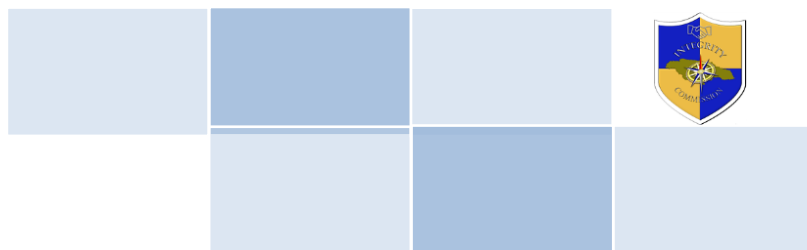
4.6.39 Based on the foregoing table, the total payments that were made payable to Seal Construction Company Limited and the sub-contractors²³³, for the construction of the New Petroleum Testing Laboratory, amounted to **\$310,512,158.32**.

Representations made by Mr. Floyd Grindley, former General Manager, Petrojam Limited, in relation to the Award of Contract to Seal Construction Company Limited for the construction of the New Petroleum Testing Laboratory

4.6.40 The DI, by way of a requisition dated February 27, 2019, sought to ascertain the involvement of Mr. Floyd Grindley, former General Manager, Petrojam Limited, in relation to the award of contract to Seal Construction Company Limited for the construction of the new petroleum testing laboratory. In this regard, Mr. Grindley, in his July 23, 2019 response noted that he was not involved in the process that led to the award of contract to the named contractor."²³⁴

²³³ With the exception of quantity surveying consultancy and other services.

²³⁴ Response dated July 23, 2019 from Mr. Floyd Grindley addressed to the Director of Investigation. Response #6



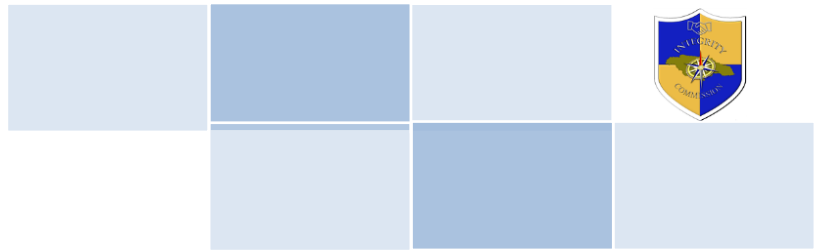
The 2017 Proposed Contract between Petrojam Limited and West Indies Petroleum Limited for the Procurement of Petroleum Products

4.6.1 The DI reiterates the allegations which were made by an anonymous source as it regards the negotiations surrounding the procurement of petroleum products between Petrojam Limited and West Indies Petroleum Limited for the period November 2017. The allegation indicated, *inter alia*, that “...a back of the envelope calculation suggests that this contract is valued in excess of US\$102M annually for three years (depending on the Platts price)...Prima facie it appears quite egregious and injurious to the best interests of Petrojam and by extension the country hence I believe it's a matter of great urgency.”²³⁵

4.6.2 Notwithstanding the exclusion of petroleum products from the list of subjects for which the 2014 GOJ Handbook of Public Sector Procurement Procedures has jurisdiction²³⁶, the Contractor General, pursuant to Section 15 (1) of the Contractor-General Act, may conduct an investigation into tender procedures relating to contracts awarded by public bodies and the implementation of the terms of any government contract. Consequently, the Contractor General was empowered to exercise such jurisdiction, as at January 22, 2018, the date on which the allegation was received and the Investigation into the referenced matter commenced.

²³⁵ Anonymous allegation dated January 22, 2018 which was received by the OCG.

²³⁶ Section 1.2.2 of the 2014 GOJ Handbook of Public Sector Procurement Procedures.



Particulars of the Entity

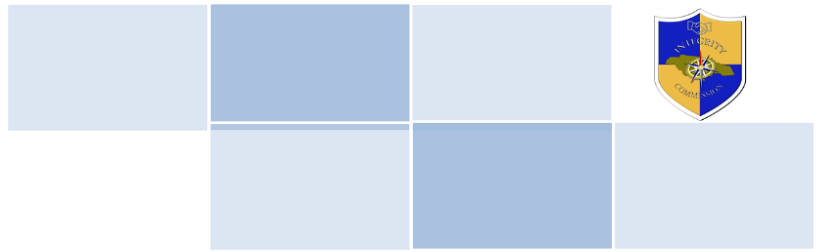
4.6.3 A search of the Companies Office of Jamaica database was conducted and indicated that the following persons were listed as Directors and/or Shareholders of West Indies Petroleum Limited:

1. Mr. Gordon Shirley;
2. Mr. Tarik Felix;
3. Mr. Courtney Wilkinson;
4. Mr. Gerald Charles Chambers; and
5. Mr. John Levy.

The Approval Process and Procurement Methodology Utilised by Petrojam Limited

4.6.4 In an effort to ascertain the veracity of the foregoing allegations, the DI, by way of a requisition dated January 29, 2018, required Mr. Floyd Grindley, former General Manager, Petrojam Limited, to provide details of the referenced tender, including the formal tender procedures utilised, approval and evaluation processes, as well as the procurement methodologies employed by the entity. By way of a requisition dated April 23, 2019, similar questions were posed to Mr. Winston Watson, General Manager, Petrojam Limited.

4.6.5 Mr. Grindley, in his response to the DI dated February 12, 2018, indicated his awareness of a proposed contract for the sale of the referenced petroleum products. He advised the DI, *inter alia*, that an award of contract had not been made to West Indies Petroleum Limited. In



addition, an unsigned draft contract was noted; however, there was no further communication with West Indies Petroleum Limited or any other entity and/or person.²³⁷ (DI Emphasis)

4.6.6 Mr. Watson, in his response dated May 13, 2019, corroborated the above responses of Mr. Grindley. He stated that, *inter alia*, "...No contract for the provision of petroleum products was awarded by Petrojam Limited to West Indies Petroleum during the period 2017 to present..."²³⁸ (DI Emphasis)

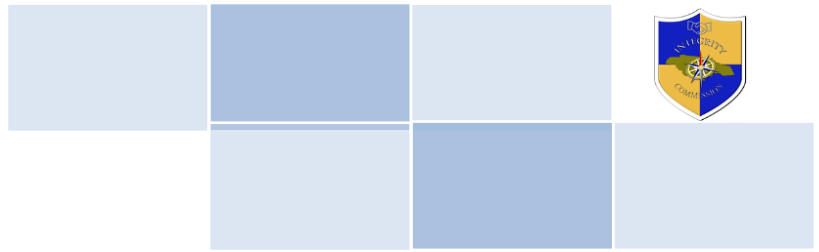
4.6.7 In furtherance of the Investigation, the DI, by way of requisitions dated April 23, 2019 required Mr. Gordon Shirley, Chairman, West Indies Petroleum Limited and Mr. Courtney Wilkinson, Director, West Indies Petroleum Limited, to provide responses regarding details of the negotiations surrounding the procurement of petroleum products and an unsolicited proposal which was submitted to Petrojam Limited.

4.6.8 In his response dated May 13, 2019, Mr. Shirley indicated, *inter alia*, the following:

"West Indies Petroleum Limited was not awarded a contract to provide petroleum

²³⁷ Response dated February 12, 2018 which was addressed to the IC from Mr. Floyd Grindley, former General Manager, Petrojam Limited. Responses 1-10.

²³⁸ Response dated May 13, 2019 which was addressed to the IC from Mr. Winston Watson, General Manager, Petrojam Limited. Responses 1-3.

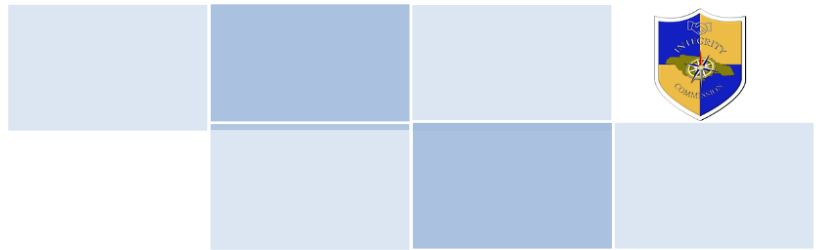


*products to Petrojam Limited for the period
2017 to present.*"²³⁹

4.6.9 Further, Mr. Courtney Wilkinson, in his response dated May 14, 2019, provided, *inter alia*, that he was unaware of a contract awarded to West Indies Petroleum Limited to provide petroleum products to Petrojam Limited during the period 2017 to present. However, he was aware that a proposal was submitted but that it was not accepted by Petrojam Limited.²⁴⁰

²³⁹ Response dated May 13, 2019 which was addressed to the IC from Mr. Gordon Shirley, Chairman, West Indies Petroleum Limited. Response 1.

²⁴⁰ Response dated May 14, 2019 which was addressed to the IC from Mr. Courtney Wilkinson, Director, West Indies Petroleum Limited. Responses 1 and 2.



The Award of Contract(s) by Petrojam Limited to Shalk Electronic Security Limited for the Provision of Security Services for the period 2017 - 2018

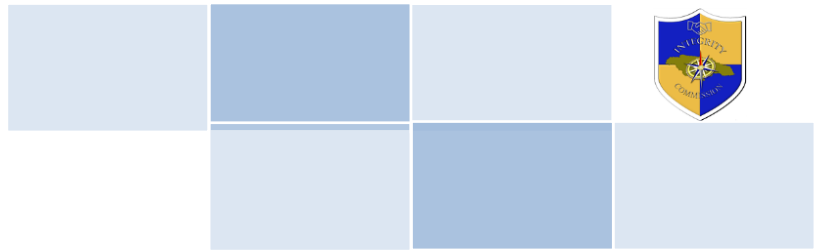
4.7.1 The DI sought to ascertain the circumstances surrounding the award of contract(s) by Petrojam Limited to Shalk Electronic Security Limited for the provision of security services for the period 2017 to 2018. In this regard, the DI deemed it prudent to highlight the content of the following Internal Memorandum dated August 3, 2018 which was addressed to Mr. Winston Watson, General Manager, Petrojam Limited:

"This would be an unauthorized payment as we are not responsible for these arrangements.

This was explained to Mr. Floyd Grindley and Mrs. Ronique Budram-Ford. They proceeded to do a Purchase Order (PO) for this service..."²⁴¹

4.7.2 Attached to the Internal Memorandum was a Bid Evaluation Approval Control Sheet, Invoice from Shalk Electronic Security Limited and a documented search of the Tax Administration of Jamaica website in relation to a Tax Compliance Certificate issued to the entity.

²⁴¹ Internal Memorandum dated August 3, 2018 which was addressed to Mr. Winston Watson, General Manager, Petrojam Limited.



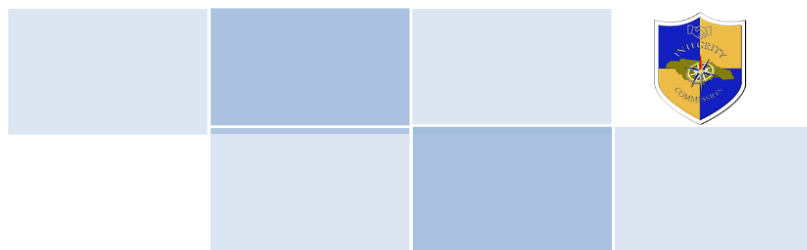
4.7.3 Upon a review of the Bid Evaluation Approval Control Sheet, Shalk Electronic Security Limited submitted a bid to provide “*Executive Service for the Chairman of Petrojam Ltd*” at the quoted price of \$223,680.00 for a period of thirty (30) days. Further, the procurement activity was approved by Mr. Floyd Grindley, former General Manager, Petrojam Limited, on May 17, 2018 and Mrs. Ronique Budram-Ford, former Procurement Unit Head, Petrojam Limited on May 16, 2018.

4.7.4 On May 9, 2018, Shalk Electronic Security Limited submitted an Invoice to Petrojam Limited, regarding executive service for the Chairman of Petrojam Limited for the period April 25-29, 2018. The service entailed the assignment of ‘four armed security officers, four (4) motor vehicles and four (4) accommodations for officers in the amount of \$223,680.00.

Particulars of the Contractor

4.7.5 In the course of his investigation, the DI conducted a search of the Companies Office of Jamaica database, which listed the following persons as Directors and/or Shareholders of Shalk Electronic Security Limited:

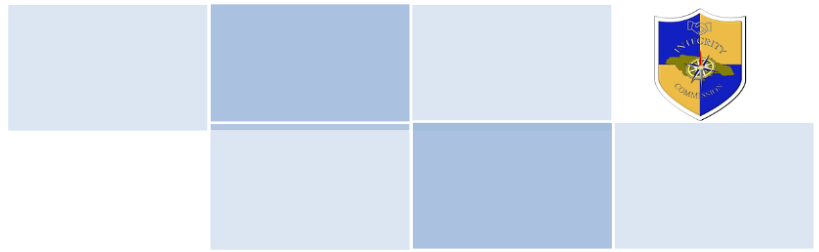
1. Vaughn Johnson;
2. Hensley Virgo; and
3. Jeffrey Smith.



The Approval Process and Procurement Methodology Utilised by Petrojam Limited

- 4.7.6 In the course of the investigation, the DI sought to ascertain details of the referenced procurement activity. Mr. Winston Watson, in his response dated May 15, 2019, provided, *inter alia*, that Shalk Electronic Security Limited was engaged by Petrojam Limited for the provision of security services for the Chairman of Petrojam Limited by way of the Direct Contracting procurement methodology. However, there was no indication that a formal tender process was conducted. He advised the DI that there was also no indication that a tender evaluation was undertaken.
- 4.7.7 Mr. Watson indicated that an invoice dated May 9, 2018, was found on record regarding services provided during the period April 25, 2018 to April 29, 2018. In this regard, he advised the DI that a retroactive approval was granted by Mr. Floyd Grindley, on May 17, 2018.²⁴²
- 4.7.8 Of note, Mr. Watson also advised the DI that previous contracts were awarded by Petrojam Limited to Shalk Electronic Security Limited to provide services for Mr. Floyd Grindley. He indicated, *inter alia*, that through Direct Contracting procurement methodology, Shalk Electronic Security Limited was engaged by Petrojam Limited to provide security guard protection for the General Manager for six

²⁴² Response dated May 15, 2019 which was addressed to the IC by Mr. Watson, General Manager, Petrojam Limited. Response 3.



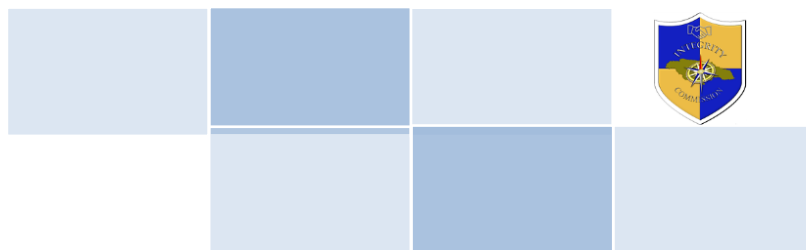
months. The contract was awarded on January 6, 2017 and valued J\$1,440,000.00. Mr. Watson further stated that there was no indication that a formal tender process was conducted.

4.7.9 Mr. Watson also advised, *inter alia*, that there was a contract dated September 27, 2017 and valued J\$2,520,000.00 in relation to the provision of personal protective service to the General Manager for one (1) Year. He advised the DI that on August 8, 2017, Mr. Floyd Grindley pre-approved the procurement for the referenced services by way of the Direct Contracting procurement methodology. He indicated that the justification provided for the utilization of the Direct Contracting procurement methodology was noted as "Procurement is of a confidential nature."²⁴³

4.7.10 By way of a requisition dated June 10, 2019, similar questions were posed by the DI to Mr. Jeffrey Smith, Managing Director, Shalk Electronic Security Limited. Mr. Smith provided, *inter alia*, that there was "no contract in place", and that Shalk Electronic Security Limited had provided Dr. Perceval Bahado-Singh with executive services for about five days. He also advised, *inter alia*, that the services of Shalk Electronic Security Limited were contracted by Petrojam Limited during January 2017 – August 2018.²⁴⁴

²⁴³ Response dated May 15, 2019 which was addressed to the IC by Mr. Winston Watson, General Manager, Petrojam Limited. Responses 1 and 3.

²⁴⁴ Response dated June 24, 2019 which was addressed to the IC by Mr. Jeffrey Smith, Managing Director, Shalk Electronic Security Limited. Responses 1-5.



4.7.11 Further, the DI sought to ascertain whether Petrojam Limited utilised any internal and/or other procedures in the assignment of close protection officers and/or security personnel to its staff. In his response dated May 15, 2019, Mr. Winston Watson indicated, *inter alia*, that there was no written procedure in relation to Close Protection Security Services at Petrojam Limited but that it is the practice that where there is a specific risk or threat to a staff member, the Security Unit, in conjunction with the JCF would execute the required risk assessments. However, the Security Unit of Petrojam Limited was not involved in the selection, assessment or procurement of any of the referenced contracts and that the procurements emanated from the Office of the former General Manager, Mr. Floyd Grindley.²⁴⁵

4.7.12 Upon a review of the response and accompanying documentation provided by Mr. Winston Watson, the DI constructed the following table outlining details of the contracts awarded to Shalk Electronic Security Limited:

Table 15

#	Date	Contract Description	Contract value	Procurement Methodology	Justification for use of Procurement Methodology	Contract Approvals	Payments	Status of Contract Implementation
1	May 28, 2018	Provision of Security	\$223,680.00	Direct Contracting	None seen	Mr. Floyd Grindley	None seen ²⁴⁶	Cancelled by Mr. Winston

²⁴⁵ Response dated May 15, 2019, which was addressed to the IC from Mr. Winston Watson, General Manager, Petrojam Limited. Response 8.

²⁴⁶ By way of response dated May 15, 2019, Mr. Winston Watson, General Manager, Petrojam Limited, stated that “No payments were made by Petrojam Limited for the provision of the services...”



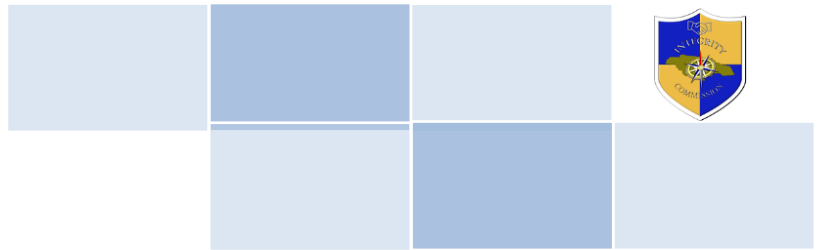
#	Date	Contract Description	Contract value	Procurement Methodology	Justification for use of Procurement Methodology	Contract Approvals	Payments	Status of Contract Implementation
		Services for the Chairman of Petrojam Limited				on May 17, 2018		Watson
2	September 27, 2017	Provision Personal Protective Service to the General Manager for one (1) year	\$2,520,000.00	Direct Contracting	"Procurement is of a confidential nature"	Mr. Floyd Grindley on September 18, 2017	<p>1. Cheque dated December 29, 2017 made payable to the entity in the amount of \$210,000.00</p> <p>2. Cheque dated February 13, 2018 made payable to the entity in the amount of \$210,000.00</p> <p>3. Cheque dated May 22, 2018 made payable to the entity in the amount of \$210,000.00</p>	"...discontinued prior to the expiration of the contract..."
3	January 6, 2017	Provision of Security guard protection for the General Manager for six (6) months	\$1,440,000.00	Direct Contracting	None seen	Dr. Perceval Bahado-Singh on January 5, 2017	<p>1. Cheque dated February 15, 2017 made payable to the entity in the amount of \$240,000.00</p> <p>2. Cheque dated March 29, 2017 made payable to the entity in the amount of \$240,000.00</p>	Completed



#	Date	Contract Description	Contract value	Procurement Methodology	Justification for use of Procurement Methodology	Contract Approvals	Payments	Status of Contract Implementation
							<p>3. Cheque dated May 10, 2017 made payable to the entity in the amount of \$240,000.00</p> <p>4. Cheque dated May 31, 2017 made payable to the entity in the amount of \$240,000.00</p> <p>5. Cheque dated July 19, 2017 made payable to the entity in the amount of \$240,000.00</p> <p>6. Cheque dated November 1, 2017 made payable to the entity in the amount of \$240,000.00</p>	

Quarterly Contracts Award (QCA) Database

4.7.13 Upon a review of the IC's Quarterly Contracts Award (QCA) Database, the DI notes below the following reports made in relation to the award

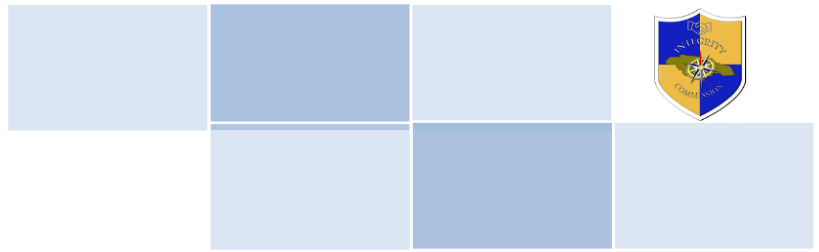


of contracts to Shalk Electronic Security Limited by Petrojam Limited for the provision of security services²⁴⁷:

Table 16

#	Procuring Entity	Contractor	Date	Contract Description	Contract Value	Procurement Methodology
1	Petrojam Limited	Shalk Electronic Security Limited	2017-11-01	To provide security services for General Manager	\$2,520,000.00	Direct Contracting
2	Petrojam Limited	Shalk Electronic Security Limited	2017-01-06	Security Protection Services for GM	\$1,440,000.00	Direct Contracting

²⁴⁷ Accessed on August 15, 2019 at <https://ocg.gov.jm/ocg/view/qca-reporting>.

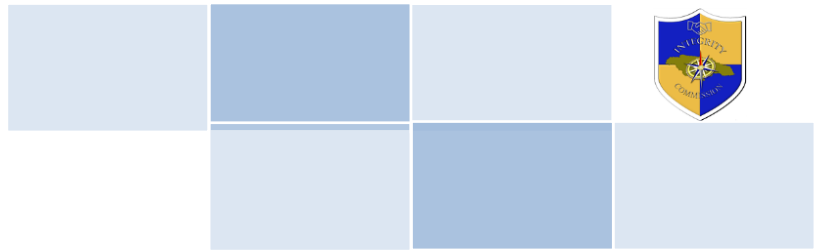


Circumstances Surrounding the Upgrade of the Vacuum Distillation Unit (VDU) at Petrojam Limited

4.8.1 The decision to upgrade Petrojam Limited's Vacuum Distillation Unit (hereinafter referred to as 'VDU') was based primarily on the declining demand for High Sulfur Heavy Fuel Oil (hereinafter referred to as 'HFO') which is currently produced by the entity.

4.8.2 The upgrade of the Refinery's facilities was considered necessary in order to ensure its sustainability and viability subsequent to Jamaica Public Service Co. Limited's (hereinafter referred to as 'JPS Co.'), its largest customer, transitioning from the use of HFO to Liquefied Natural Gas (hereinafter referred to as 'LNG') for the operation of its power plants. Further, the International Maritime Organization (hereinafter referred to as 'IMO') mandated that by January 1, 2020, the sulfur content of marine bunker fuel must be reduced from 3wt% to 0.5wt%. Therefore, the fuel currently produced by Petrojam Limited's existing infrastructure would not meet the new mandates.²⁴⁸

²⁴⁸ Vacuum Distillation Unit Project Execution Plan dated July 6, 2017, and revised January 2018. Section 2

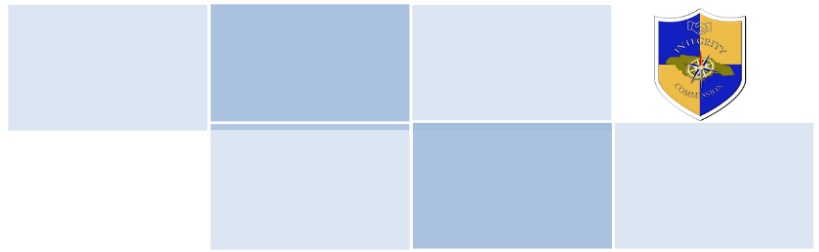


4.8.3 In light of the foregoing, Cabinet, by way of Decision No. 3/17 dated January 23, 2017, authorized the Minister of Science, Energy and Technology and the Petroleum Corporation of Jamaica (PCJ) to, *inter alia*, enter into an Agreement with the Bolivarian Republic of Venezuela and Petroleos de Venezuela ("PDVSA") for SINOHYDRO Corporation Limited ("Sinohydro") to undertake the Financing, Engineering, Procurement and Construction ("EPC") for the upgrade to the Petrojam Refinery ("the RUP").

4.8.4 Ms. Chevril Shaw, Chemical Engineer, former Manager, Strategic Planning and Business Support, Petrojam Limited advised the DI of the genesis of Petrojam Limited's engagement with Sinohydro regarding the upgrade of the VDU. Ms. Shaw stated, *inter alia*, that Sinohydro was selected from two (2) companies which submitted unsolicited proposals to Petrojam for the full upgrade of the Refinery in 2015. She added that the 2017 agreement was a continuation of earlier negotiations regarding the said project.²⁴⁹

4.8.5 Mr. Winston Watson, General Manager, Petrojam Limited, in his response to the DI dated March 20, 2019, confirmed that a February 2017 Agreement in relation to the RUP was executed between PDVSA and the PCJ. This Agreement included; proceeding with EPC Contract negotiation with Sinohydro, securing project financing

²⁴⁹ Transcript of Proceedings dated July 23, 2018, concerning Ms. Chevril Shaw, former Project Manager, VDU, Petrojam Limited. Pages 16-18



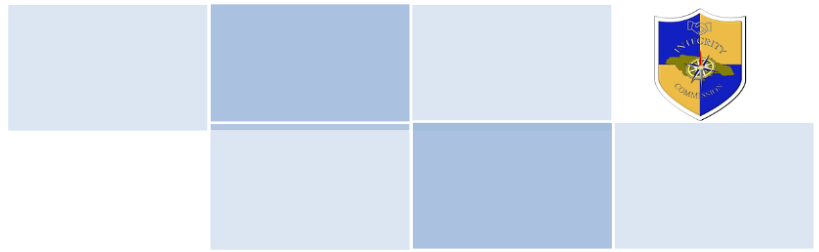
and the formation of a Task Force to spearhead the implementation of the project.

4.8.6 Accordingly, Cabinet by way of Decision No. 13/17 dated April 3, 2017, authorized the appointment of a Task Force to coordinate and execute the actions contemplated with respect to the upgrade of the Refinery.²⁵⁰

4.8.7 Notwithstanding Cabinet's approval, Ms. Shaw expressed concerns in relation to Sinohydro's pricing mechanism. During an IC hearing, which was convened on July 23, 2018, Ms. Shaw indicated, *inter alia*, that Petrojam rejected Sinohydro's initial price of US\$113M, on the basis that it exceeded their estimates. The company then returned with a price of US\$91.4M, which was accepted, despite the fact that Petrojam's estimates, at the time, were "80 plus or minus 30%". This price Ms. Shaw indicated was put forward for approval by the Board as well as the Public Investment Management Committee (PIMC) and used to finalize the project budget.

4.8.8 Ms. Shaw added further that in January 2018, Sinohydro offered an updated price of US\$124M which "sent red flags" to her, given the unexplained increase. She then wrote to the Task Force, outlining the updated price and documenting her concerns.

²⁵⁰ Unsigned "CABINET NOTE STATUS OF THE NEGOTIATIONS WITH SINOHYDRO CORPORATION FOR THE UPGRADE OF THE PETROJAM REFINERY –VACUUM DISTILLATION UNIT" dated June 11, 2018, from Dr. Andrew Wheatley, PH. D, MP, former Minister of Science, Energy and Technology. Section 2.3



4.8.9 In light of the updated contract price quoted by Sinohydro, Petrojam Limited requested the preparation of a Cost Estimate from 'Becht Engineering Co, Inc.' to determine the market cost of upgrading the VDU. *Becht Engineering Co, Inc.* estimated that the total project cost to undertake the upgrade would amount to US\$79,500,000.00 broken down as follows: ²⁵¹

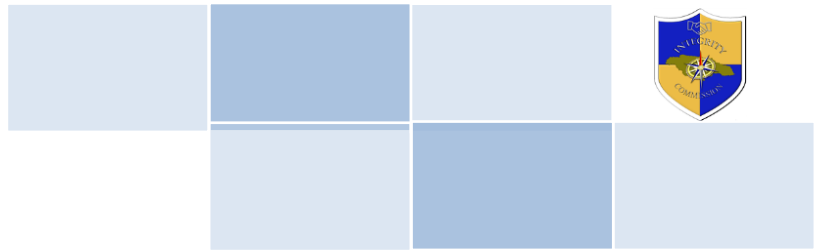
Cost Estimate		
Total Construction per Bid	\$47,500,000.00	Contingency 10%
Total Engineering per Bid	\$6,200,000.00	Detailed Engineering 10%+ CM 3%
Construction Work Hours 397,000	-	-
Total Projects Costs	\$79,500,000.00	Contractor Exclusions, Owners Contingency, Escalation Duties and GCT 27%

4.8.10 Ms. Shaw also advised the DI, *inter alia*, that when she checked the credentials of persons proposed by Sinohydro to work on the project, "...**none of them have ever worked on a project of this size, none of them have worked on a Refinery project. So I am not seeing how we could engage them to do it**"²⁵² (DI Emphasis)

4.8.11 By way of Memorandum dated April 9, 2018 addressed to the then General Manager, Mr. Floyd Grindley, Ms. Chevrl Shaw outlined her concerns regarding the unexplained fluctuations in the contract

²⁵¹ Petrojam VDU Cost Estimate dated March 2018, Becht Engineering Co, Inc.

²⁵² Transcript of Proceedings dated July 23, 2018, concerning Ms. Chevrl Shaw, former Project Manager, VDU, Petrojam Limited. Pages 34-36



price and numerous unjustified changes which occurred during the course of negotiations with Sinohydro.

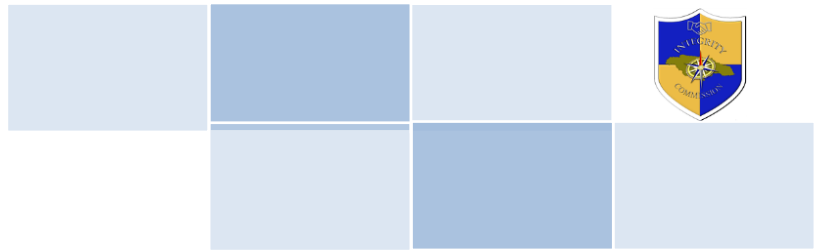
4.8.12 The referenced Memorandum which bore the subject line **“RECOMMENDED WAY FORWARD – VDU PROJECT EPC CONTRACT”** was also copied to the RUP Task Force.²⁵³ The Memorandum indicated, *inter alia*, that **“The latest proposal of US \$119.24 million submitted by the Sinohydro Corporation Limited on April 2, 2018, to complete the engineering, procurement and construction (EPC) for the Vacuum Distillation Unit (VDU) Project does not represent value for money and does not appear to be in the best interest of the project or Petrojam Limited”**²⁵⁴ (DI Emphasis)

4.8.13 In addition to documenting her concerns, Ms. Shaw also proposed that approval be sought from the Cabinet of Jamaica and Petrojam's Board of Directors to seek a more competitive proposal for the VDU Project EPC Contract, through a formal tender process.

4.8.14 Appended to the referenced Memorandum was a document entitled **“REPORT RECOMMENDED WAY FORWARD VACUUM DISTILLATION UNIT (VDU) PROJECT ENGINEERING, PROCUREMENT &**

²⁵³ Members of the RUP Task Force are “W. Watson, C. Weise, C. Anderson, N. Small”

²⁵⁴ Memorandum dated April 9, 2018, from Ms. Chevril Shaw to Mr. Floyd Grindley which bore the subject line **“RECOMMENDED WAY FORWARD –VDU PROJECT EPC CONTRACT”**, and copied to the RUP Task Force, Ms. Tamara Robinson, Mr. Telroy Morgan and Ms. Jodi Graham.



CONSTRUCTION (EPC) CONTRACT²⁵⁵ which provided a comprehensive and chronological review of the VDU project from inception to March 2018.

4.8.15 Ms. Shaw advised the DI during an IC hearing that the only reason she was given for the hesitation to go to tender was the 'time factor'. She expressed, *inter alia*, that “...**going through the different stages you are looking at best six months but more realistically six to nine months to select another contractor. So that is the main reason that has been given.**”²⁵⁶

Status of the VDU Project

4.8.16 Notwithstanding the December 2019 deadline for the projected completion of the VDU upgrade, as at June 2018, no agreement was reached with Sinohydro.²⁵⁷

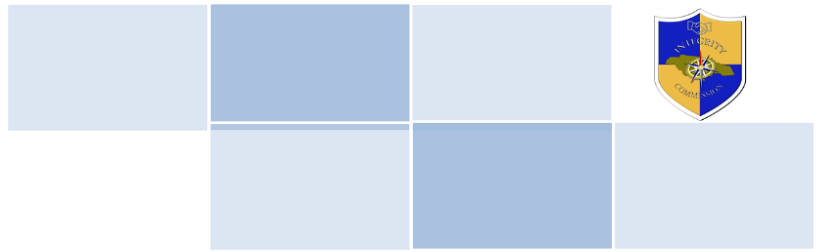
4.8.17 In light of the assertions made by Ms. Shaw concerning whether a Contract Agreement was executed with respect to the VDU, Mr. Winston Watson, General Manager, Petrojam Limited, in his response of March 20, 2019, indicated that “A contract agreement has not been executed between Petrojam and Sinohydro”.²⁵⁸

²⁵⁵ “**REPORT RECOMMENDED WAY FORWARD VAUUM DISTILLATION UNIT (VDU) PROJECT ENGINEERING, PROCUREMENT & CONSTRUCTION (EPC) CONTRACT**” dated April 9, 2018, prepared by Ms. Chevril Shaw, VDU Manager. Sections 2-3

²⁵⁶ Transcript of Proceedings dated July 23, 2018, concerning Ms. Chevril Shaw, former Project Manager, VDU, Petrojam Limited. Pages 44-45

²⁵⁷ Transcript of Proceedings dated July 23, 2018, concerning Ms. Chevril Shaw, former Project Manager, VDU, Petrojam Limited. Page 41

²⁵⁸ Response of Mr. Winston Watson, General Manager, Petrojam, dated March 20, 2019, to the IC. Response #1(a)



4.8.18 Mr. Watson also indicated that works had not commenced on the referenced project as it had been put on hold, pending the report of a Petrojam Review Committee, created by the former portfolio minister.²⁵⁹

Funds Expended for the Upgrade of the VDU

4.8.19 Notwithstanding the fact that the VDU project has not commenced, Mr. Winston Watson, General Manager, Petrojam Limited, by way of response dated March 20, 2019, indicated, *inter alia*, that “The total amount expended to date on the VDU Project is approximately US \$1,262,824.94.”²⁶⁰

4.8.20 Mr. Watson further advised the DI that the expenditure to date has been on project development and preparation activities and that each procurement activity was approved by the former General Manager, Mr. Floyd Grindley.

4.8.21 Mr. Watson also provided the following table which indicated the expenditure for the referenced project:

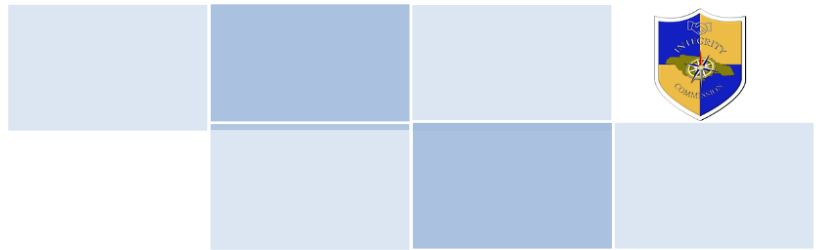
“Main VDU Project Expenditure

²⁵⁹ Response of Mr. Winston Watson, General Manager, Petrojam, dated March 20, 2019, to the IC. Response #1

²⁶⁰ Response of Mr. Winston Watson, General Manager, Petrojam, dated March 20, 2019, to the IC. Response #1(f)

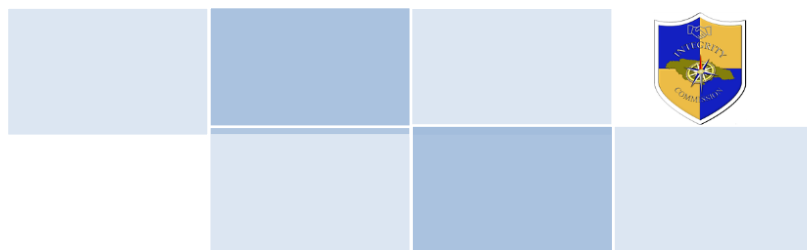


#	Service	Firm	US \$
1	Environmental Permit Application Fees	NEPA	592.69
2	Feasibility Study	Andrea M. Reid, Consultant	25, 288.94
3	LP/Cash Modeling	Muse Stancil & Co.	44,680.00
4	Petrojam Fair Marketing Valuation	Muse Stancil & Co.	48,043.88
5	Legal Services –EPC Contract Reviews, Negotiations	Hogan Lovells	335,768.38
6	Insurance Consultancy-EPC Contract Input	Transcule Ltd.	1,384.00
7	Heavy Oils Market Study-Phase 1	IHS Markit	135,000.0
8	Geotechnical Studies	Jentech Consultants Ltd.	29,005.11
9	Technical Advisory Services	Becht Engineering	109, 531.25
10	Laboratory Testing	Intertek Caleb Brett Trinidad Ltd	14,331.88
11	Standards	Amec Foster Wheeler	143,611.88
12	Project Office-Rehabilitation of Former Lab. Building –Civil	Promaneng	117,266.39
13	Project Office-Rehabilitation of Former Lab Building –Drafting	Billiard White	1,370.64
14	Project Office-Rehabilitation of Former Lab Building –Elec/HVAC	Synergy Engineering Ltd	86,234.38
15	Project Office-Rehabilitation of Former La.b Building –Network Data Cabling	Infosys Sales & Services Ltd.	8,503.95
16	Engineering Design Software	Aspen Technology	144, 045.00
17	Mandarin Classes	Language Training Centre	2,917.00
18	Primavera Software	Eniac Corporation	15,250.00
MAIN VDU Project Expenditure Total (USD)*			1,262,824.94



1. *The above total does not include minor miscellaneous expenses e.g. those related to catering, meeting expenses, etc.*
2. *Some payment transactions were in Jamaican dollars-precise conversions may vary due to fluctuations in foreign exchange rates."*²⁶¹

²⁶¹ Table entitled '*Main VDU Project Expenditure*' provided by Mr. Winston Watson, General Manager, Petrojam Limited in his response dated March 20, 2019. Appendix 1.7



Allegations of Conflict of Interest and/or Corruption in the Circumstances Surrounding the Award of Contracts by Petrojam Limited

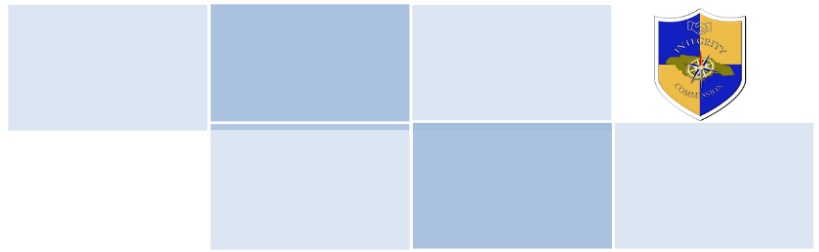
4.9.1 In accordance with the terms of reference for the Investigation, the DI sought to examine whether there were any issues of conflict of interest and/or corruption which arose in the circumstances surrounding the award of contracts to the following companies:

1. Construction Solutions Limited;
2. Seal Construction Company Limited;
3. Asha Corporation;
4. Main Event Entertainment Group Limited;
5. ASC Business Services;
6. Shalk Electronic Security Limited; and
7. West Indies Petroleum Limited.

4.9.2 The DI notes that Sections 4.2 and 4.3 of the GoJ Handbook of Public Sector Procurement Procedures (GPPPH) details the requirements in respect of issues of conflict of interest and unethical conduct as follows:

"CONFLICT OF INTEREST

All personnel involved in the procurement process are expected to observe the GoJ Code of Conduct for Civil Servants outlined in the Staff Orders. They are expected to be free from interests or relationships that are actually or potentially detrimental to the best interests of the Government, and shall not engage or participate in



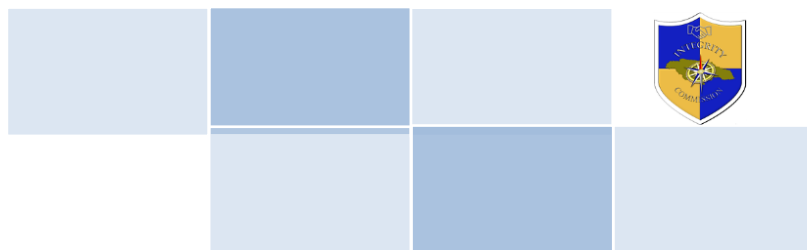
*any transaction involving a company, its affiliates, divisions or subsidiaries, in which they have even minor interests."*²⁶²

- 4.9.3 Importantly, Section 4.2.1 also stipulates that a conflict of interest will arise when an individual has a direct or indirect relationship with a contractor, which may affect or might reasonably be deemed by others, to affect impartiality on any matter related to his/her duties.
- 4.9.4 Further, Section 4.2.1 requires Public Officers, officials and any GoJ employee/staff, who is directly or indirectly involved in the procurement process, who has a financial or other business relationship that might involve a conflict, to make a declaration (in the case of employees/staff, in writing to his supervisor) of the circumstances involved. Additionally, Section 4.2.1 states that relationships which should be declared includes that with a Bidder, Contractor, Consultant or personal relationships which is defined as consanguinity or affinity²⁶³.
- 4.9.5 Section 4.2.1 also highlights, *inter alia*, that a conflict of interest exists when GoJ employees involved in the procurement process, "...have a direct or indirect interest in, or relationship with an outsider that is inherently unethical, or who it might be implied or construed could make possible personal gain due to his/her ability to influence dealings or otherwise inhibit the impartiality of the employee's judgment²⁶⁴.

²⁶² Section 4.2 of the GoJ Handbook of Public Sector Procurement Procedures, March 2014. Page 18.

²⁶³ Section 4.2.1 of the GoJ Handbook of Public Sector Procurement Procedures, March 2014. Volume 1.

²⁶⁴ Section 4.2.1 of the GoJ Handbook of Public Sector Procurement Procedures, March 2014 . Volume 1.



4.9.6 Further, Section 4.3 states that “Unethical Conduct” occurs where an individual uses his authority or office for personal gain and benefit, whether obtained directly or indirectly through gain for his spouse, parents, children or other relatives or persons. Personal gain includes accepting or requesting anything of value from Bidders, prospective Bidders or contractors²⁶⁵.

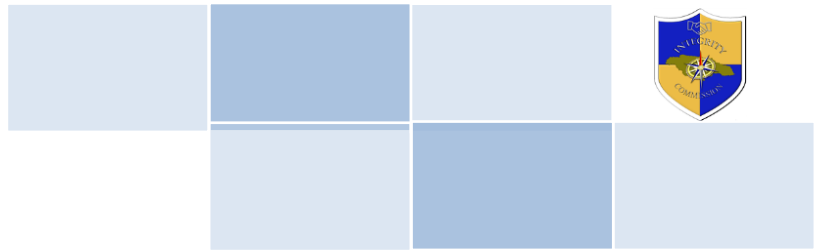
4.9.7 Of note, Section 36 of the Contractor General Act-Public Sector Procurement Regulations, 2008, which remained in effect until February 22, 2018, imposes the following requirements on public officers directly or indirectly involved in the procurement process:

- (a) the duty to declare any potential conflict of interest; and
- (b) the duty to declare any relationship with a bidder, supplier, contractor or consultant and refrain from taking part in the decision making or implementation process of any prospective contract where such a relationship exists.

4.9.8 Section 36 of the Contractor General Act-Public Sector Procurement Regulations, 2008, also requires that the declaration/disclosure must be in writing, or if in a meeting orally and then minuted; and defines a “personal relationship” as consanguinity or affinity up to the third civil degree²⁶⁶.

²⁶⁵ Section 4.3 of the GoJ Handbook of Public Sector Procurement Procedures, March 2014. Volume 1. The DI has attached at, Appendix 9, further provisions of the Procurement Guidelines relating to examples of Unethical Conduct.

²⁶⁶ The Contractor General Act Public Sector Procurement Regulations, 2008. Section 36.



4.9.9 The DI has attached at Appendix 10, Clause 3 of Petrojam Limited's Ethics & Conflict of Interest policy which was made effective October 2003 and updated March 2006.

4.9.10 At this juncture, the DI places emphasis on Section 14 (1) (b) of the Corruption (Prevention) Act which indicates, inter alia, the following:

"A public servant commits an act of corruption if he-

...

(b) in the performance of his public functions does any act or omits to do any act for the purpose of obtaining

any illicit benefit for himself or any other person;..."²⁶⁷(DI

Emphasis)

4.9.11 Further, the DI highlights that nepotism, by definition, refers to the "bestowal of official favors on one's relatives, esp. in hiring."²⁶⁸ Further, a relative is defined as "a person connected with another by blood or affinity..."²⁶⁹

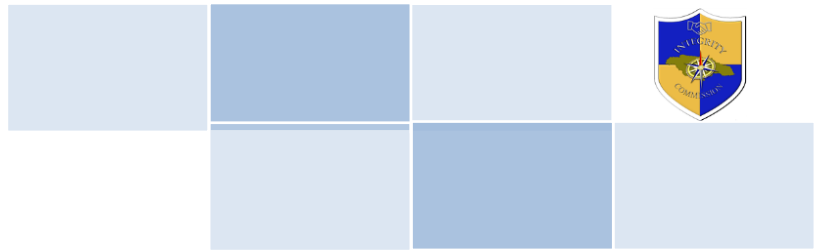
4.9.12 Favouritism is defined as a "preference or selection, usu. invidious, based on factors other than merit."²⁷⁰

²⁶⁷ The Corruption (Prevention) Act, 2000. Section 14 (1) (b).

²⁶⁸ Black's Law Dictionary. Ninth Edition. Thompson Reuters. 2009.

²⁶⁹ Ibid.

²⁷⁰ Ibid.



4.9.13 Upon a review of the documentary evidence within his possession, the DI sought to determine whether certain relationships and/or affiliations existed between Petrojam Limited officials/employees, other GoJ officials and other persons. In this regard, the following was noted:

Mr. Floyd Grindley and Mrs. Ronique Budram-Ford

4.9.14 In furtherance of the Investigation, the DI sought to ascertain whether there was any relationship and/or affiliation, other than a professional one, between Mr. Floyd Grindley, former General Manager, Petrojam Limited and Mrs. Ronique Budram-Ford, former Procurement Unit Head, Petrojam Limited. During the course of a hearing held on October 17, 2018 which was convened with Mrs. Budram-Ford, the following, inter alia, was disclosed:

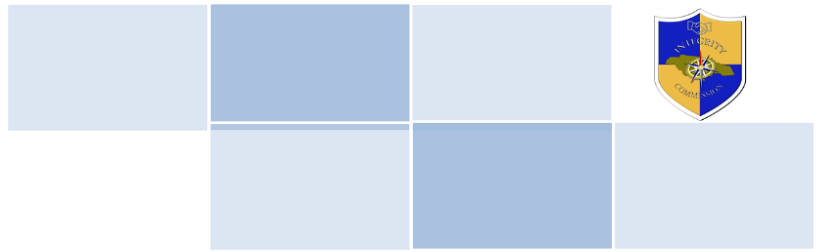
“CHAIRMAN: Did you know Mr. Floyd Grindley prior to or before he became general manager at Petrojam?

A: No.

CHAIRMAN: How would you describe your knowledge of him, business, personal, any form of relationship?

A: Business.” ²⁷¹ (DI Emphasis)

²⁷¹ Transcript of hearing held on October 17, 2018 involving Mrs. Ronique Budram-Ford. Page 13.



4.9.15 Further, Mr. Grindley, in his response dated July 23, 2019, stated, inter alia, as follows:

“Mrs. Ronique Budram-Ford held the post as Head of Procurement Unit at Petrojam, she reported to me, in my capacity at the time as General Manager. However, I am not related to or affiliated with her in any other way.”²⁷² (DI Emphasis)

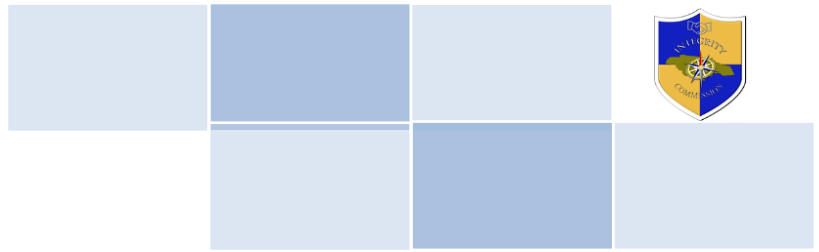
4.9.16 A thorough examination was conducted on text messages between Mr. Floyd Grindley, former General Manager of Petrojam Limited and Mrs. Ronique Budram-Ford, former Procurement Unit Head, Petrojam Limited. Based upon the foregoing, the DI found evidence of a more than platonic relationship between them.

Mrs. Ronique Budram-Ford, Ms. Rishka Budram and Mr. Robert Chin

4.9.17 In the conduct of the Investigation, the DI sought to determine whether there was any issue of conflict of interest, nepotism and/or favouritism surrounding the circumstances in which ASC Business Services was awarded several contracts by Petrojam Limited.

4.9.18 By way of letter dated September 7, 2018, Mrs. Ronique Budram-Ford, former Procurement Unit Head at Petrojam Limited, was invited to attend a disciplinary hearing in which the following, inter alia, allegations made against her were considered:

²⁷² Response dated July 23, 2019 which was addressed to the IC by Mr. Floyd Grindley, former General Manager, Petrojam Limited. Response 17 (d).



"10. Gross negligence and/or incompetence in that you failed to comply with the Company's conflict of interest policy, by having the Company enter into a contract with ASC Business Services, a company where a relative, Rishka Budram, is employed and/or is connected, and failing to disclose such connection.

11. Dishonesty in failing to disclose Rishka Budram's connection to ASC Business Services when required to do so.

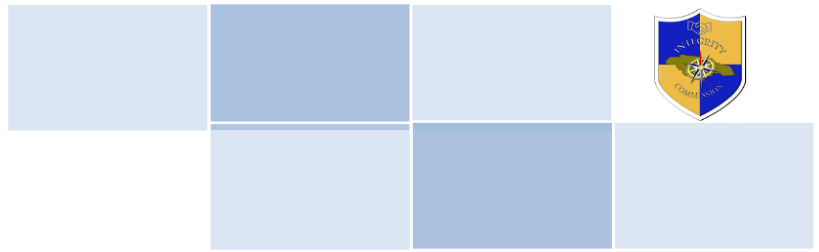
...

14. Gross negligence and/or incompetence in that you took part in the implementation of a contract with ASC Business Services, in breach of the GOJ Handbook of Public Procurement Procedures in respect of conflict of interests.

Gross negligence and/or incompetence in that you failed to declare your relationship with ASC Business Services in accordance with the Procurement Guidelines regarding conflict of interests." ²⁷³ (DI Emphasis)

4.9.19 By way of a document entitled "**Response of Ronique Budram Ford to allegations of misconduct in letter dated 7th September, 2018.**" dated

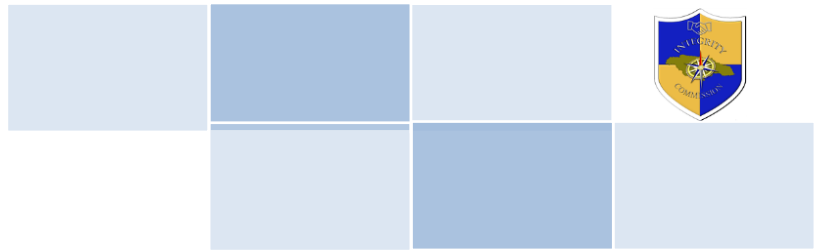
²⁷³ Letter dated September 7, 2018 addressed to Mrs. Ronique Budram-Ford from Mrs. Tamara Robinson, Legal Officer/Corporate Secretary, Petrojam Limited.



September 27, 2018 and which was prepared by Mrs. Budram-Ford's attorney, Ms. Deborah Martin, the following, inter alia, was indicated:

"Mrs. Budram-Ford denies the allegations as:-

- A)** *She did not demonstrate any gross negligence and/or incompetence when Petrojam entered into contract with ASC Business Services as she neither elected them nor had any interest in this organization. On observing the name of the business owner on their proof of TRN, she did recognize the owner's name, Robert Chin as someone her sister, Rishka Budram had a relationship with. She did indicate this to Mr. Floyd Grindley who did not then withdraw his decision to support this small business.*
- B)** *Ms. Rishka Budram is currently employed full time at ... and prior to that she was employed with ... as a sales representative: though she has a relationship with Mr. Chin, she is not connected with his business. Mrs. Budram Ford has never used her position at Petrojam to enable her sister as an employee of ...*
- C)** *She denies any dishonest dealings with Rishka Budram. The latter had no contractual relationship with Petrojam neither did her employer company on account of her relationship with Mrs. Budram Ford. She is aware that on a few occasions, invoices and brochures were forwarded through Rishka Budram on behalf of*



ASC Business Services because Mr. Chin had asked the latter to convert them to a particular computer format for forwarding...

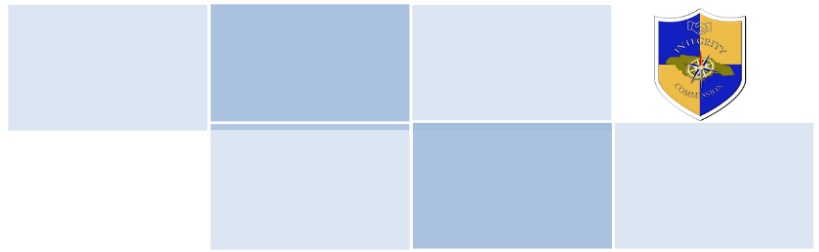
...

- F) She told the General Manager that she knew of Robert Chin on recognizing the name. **She has no personal dealing with him and did not herself initiate any of the contracts for services that existed between Petrojam and that entity.** All requests for services came from the various Departments and/or the General Manager: her job was to ensure GOJ's requirements were met and performance under the various contracts..."²⁷⁴ (DI Emphasis)

4.9.20 Upon a review of the Companies Office of Jamaica records for ASC Business Services, the DI observed that the proprietor of the entity is one, Mr. Robert Phillip Chin.

4.9.21 The DI also confirmed the affiliation between Mrs. Ronique Budram-Ford's sister, Ms. Rishka Budram, and the proprietor of ASC Business Services, Mr. Robert Phillip Chin. By way of his response to the DI dated March 4, 2019, The Acting CEO, Registrar General's Department (RGD), advised the DI of, inter alia, the following:

²⁷⁴ Document entitled "***Response of Ronique Budram Ford to allegations of misconduct in letter dated 7th September, 2018.***" dated September 27, 2018 and which was prepared by Mrs. Budram-Ford's attorney, Ms. Deborah Martin. Response 37.



“Mrs. Ronique Budram-Ford...is one of three girls registered to parents Roy Budram and Anette Budram formerly Chance.

...

Other children born to Roy Budram and Anette Budram formerly Chance are;

...

Rishka Ann Budram

...

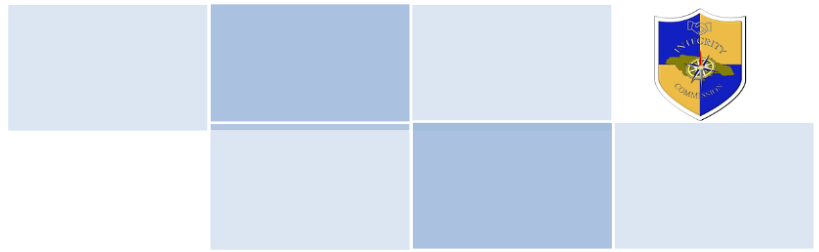
Rishka Budram had a son named [Child 1]²⁷⁵ ...[Child 1]’s father as indicated on his birth record is Robert Phillip Chin...At the time of [Child 1]’s birth...”²⁷⁶ (DI Emphasis)

4.9.22 In furtherance of the Investigation, the DI deemed it prudent to determine whether Mrs. Ronique Budram-Ford’s sister, Ms. Rishka Budram, is connected to ASC Business Services.

4.9.23 The DI notes that, upon an examination of the properties of an electronic copy of a document entitled “Teamwork Quotation” which was a quotation from ASC Business Services dated September 20, 2017, in the amount of \$1,418,195.20, submitted to Petrojam Limited, for the provision of desktop clip puzzles and hard hat stickers, Ms. Rishka Budram was listed as the author of the document. Further, upon an examination of the

²⁷⁵ Name withheld for security purposes

²⁷⁶ Response dated March 4, 2019 which was addressed to the IC by Mr. Desmond Davis, Acting CEO, RGD. Response 3.



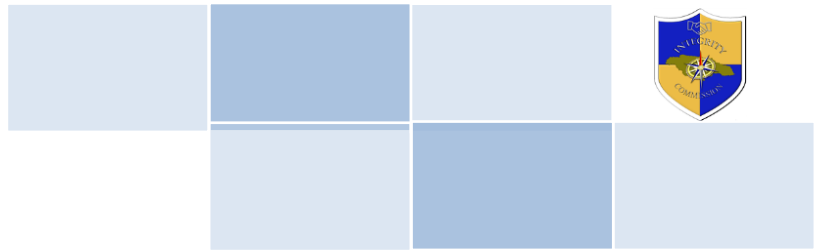
properties of the referenced document, it was observed that same was last saved by Mr. Floyd Grindley.

4.9.24 The DI observed email correspondence, during the period of May 10, 2018 to May 28, 2018, indicating the involvement of Mrs. Ronique Budram-Ford in the process concerning contracts awarded to ASC Business Services by Petrojam Limited.²⁷⁷

4.9.25 Of note, Mrs. Budram-Ford made the following statement to the DI during the course of a hearing held on October 17, 2018:

"CHAIRMAN: ...Mr. Chin is related to your sister?
A: Had.
CHAIRMAN: Had or is.
A: Had a relationship.
CHAIRMAN: So you felt strongly enough to indicate that point.
A: But from where I sit I don't see it as being a conflict because it is not like my sister works with this company or that I am aware of. It

²⁷⁷ (a) Email correspondence dated May 28, 2018 under the subject "Re: Invoice ASC Business" which was addressed to Debra Wellington and Latoya T. Pennant and copied to Richard Lowrie and Yolande Ramharrack attached to the response of Mrs. Tamara Robinson, Legal Officer/Corporate Secretary, Petrojam Limited dated February 27, 2019 which was addressed to the IC, (b) Email correspondence dated May 16, 2018 under the subject "Fwd: Memorabilias" which was addressed to Rishka Budram from Mrs. Ronique Budram-Ford. Attached to the response of Mrs. Tamara Robinson, Legal Officer/Corporate Secretary, Petrojam Limited dated February 27, 2019 which was addressed to the IC, (c) Email correspondence dated May 10, 2018 which was addressed to Mrs. Ronique Budram-Ford from Rishka Budram. Attached to the response of Mrs. Tamara Robinson, Legal Officer/Corporate Secretary, Petrojam Limited dated February 27, 2019 which was addressed to the IC.

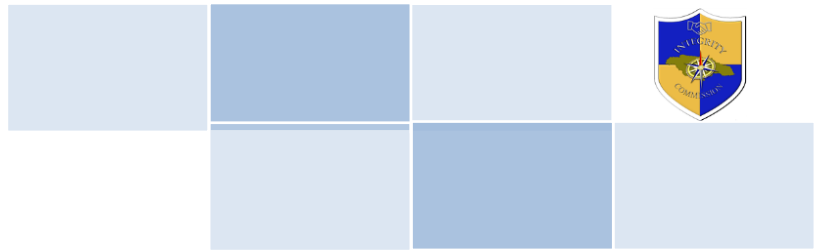


*is not that she owns the company, so I didn't see it as a conflict."*²⁷⁸ (DI Emphasis)

4.9.26 The DI also notes that the evidence gleaned is also inconsistent with the foregoing responses provided by Mrs. Budram-Ford during the course of her disciplinary hearing where she stated that her sister, Ms. Rishka Budram, is not connected to ASC Business Services²⁷⁹.

²⁷⁸ Transcript of hearing held on October 17, 2018 involving Mrs. Ronique Budram-Ford. Page 10.

²⁷⁹ Response dated September 27, 2018 of Mrs. Ronique Budram-Ford to allegations of misconduct in letter dated September 7, 2018. Response 37 (B).



Chapter 4 – Conclusions

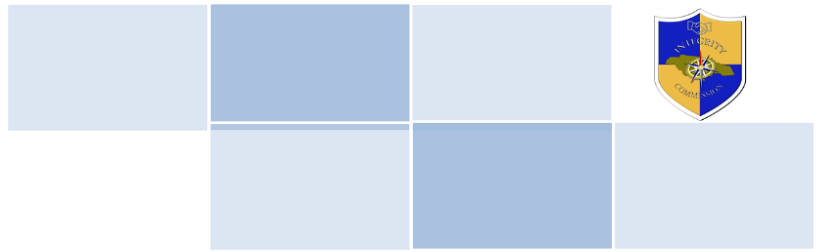
5.1.0 This chapter outlines the conclusions determined by the Director of Investigation based upon the findings of this investigation.

Construction Solutions Limited

5.1.1 The DI, having examined the evidence and the justifications provided by Petrojam Limited in relation to the utilization of the Emergency Contracting procurement methodology, for the engagement of Construction Solutions Limited to construct the referenced wall and/or fence, has reasonable grounds to conclude that Petrojam Limited breached the provisions of Section 1.1.5 of the GoJ Handbook of Public Sector Procurement Procedures, (March 2014), which govern the utilisation of the emergency procurement methodology and which outline the circumstances under which emergency contracting is permissible.

5.1.2 Based upon the information adduced in the findings of this report, Petrojam Limited was advised, in advance, of the infrastructural upgrades to Marcus Garvey Drive which would result in an elevation of the road. Therefore, there was no evidence seen of any sudden or unexpected state of affairs which would have necessitated the utilisation of the emergency contracting procurement methodology.

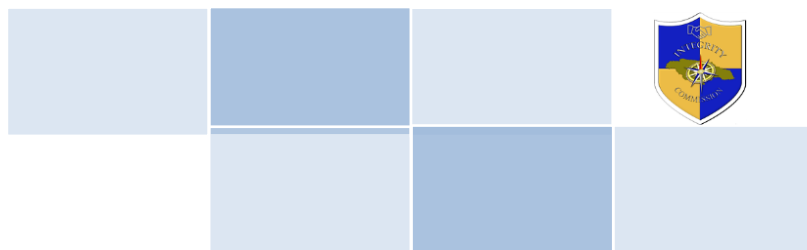
5.1.3 The Director of Investigation, notes, the variance of \$20,439,970.20 between the comparable estimate prepared by Petrojam Limited and



the eventual contract sum which was awarded to Construction Solutions Limited. In point of fact, the comparable estimate determined by Petrojam Limited for the replacement of the North Perimeter Fence was in the amount of \$76,321,016.75 and the value of the contract which was awarded to Construction Solutions for the replacement/construction of the northern perimeter fence/wall was in the amount of \$96,760,986.95, approximately 26.78% more than the comparable estimate.

5.1.4 In relation to the representation made to the DI, by Mr. Floyd Grindley, that he was instructed by Dr. Perceval Bahado-Singh, then Chairman, Petrojam Limited, to engage Construction Solutions Company Limited, and the denial by Dr. Perceval Bahado-Singh of any such involvement or directive, the DI is constrained to highlight the provisions of Principle 1 of the GoJ Corporate Governance Framework for the Public Sector in Jamaica (2012). The referenced Framework stipulates that *"There should be clear separation of the responsibilities at the very top leadership of the Public Body where the Chairperson is responsible for leading the Board in the development of the policies and strategies of the organization."* On the other hand, *"the Chief Executive Officer is responsible for the day to day management of the Public Body"*.

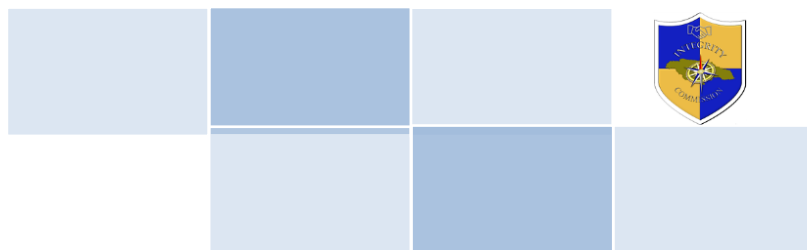
5.1.5 Having regard to the foregoing, the DI has reasonable grounds to form the conclusion that it was the responsibility and obligation of the then General Manager to ensure that a credible procurement process was



undertaken to engage a contractor for the construction of the referenced fence/crash wall.

Asha Corporation

- 5.1.6 Based upon the evidence stated, herein, the DI the concludes that the utilisation of the Direct Contracting procurement methodology for the award of contracts to Asha Corporation, in relation to the provision of financial consultancy services was in breach of the provisions of Circular No. 27 of the Ministry of Finance and the Public Service, which outlines the procurement contract approval limits and procurement methodology thresholds as at September 28, 2016.
- 5.1.7 The DI is of the view that there is reasonable grounds to conclude that the utilisation of the Direct Contracting procurement methodology for the award of contracts to Asha Corporation, in relation to the provision of financial consultancy services, restricted the required level of competition which would have been warranted given the contract values, therefore limiting the ability of Petrojam Limited to comparatively assess and test the market with a view to obtaining value for money.
- 5.1.8 The DI has reasonable grounds to question the credibility of the evaluation process undertaken by Petrojam Limited on the basis that Asha Corporation was allowed to resubmit a new proposal subsequent to its failure to obtain the minimum score of 75 points in relation to the bid for the Financial and Marketing Assessment of the refinery. Subsequently,



Asha Corporation obtained a score of 80 points and was awarded the contract in the amount of US\$59,500.00.

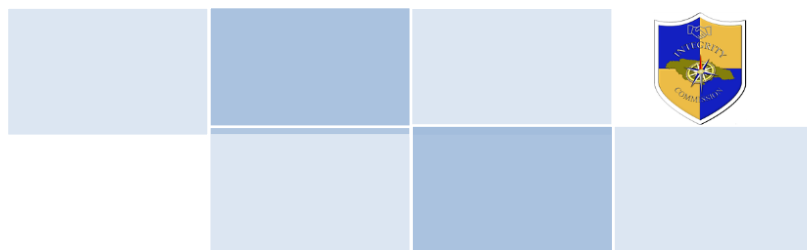
5.1.9 The actions of Petrojam Limited, in this regard, undermined the integrity of the procurement process and compromised the equity and confidence which ought to have underscored the process.

5.1.10 The DI has reasonable grounds to conclude that the variations which were approved by Mr. Floyd Grindley, in relation to the Financial and Marketing Assessment contract, were in contravention of Section 1.5 of the GPPH.

5.1.11 It was noted by the DI that the required written approval of the General Manager was provided on June 9, 2017, after the variations were already executed.

5.1.12 Section 1.5 of the GPPH requires approval for contract variations to be written and given **prior to** the execution of the variation.

5.1.13 The DI concludes that there was a discrepancy between the periods for the implementation of the contract for the provision of Consulting Services & Advisory Support as stated on Petrojam Limited's "**EMERGENCY FORM – APPROVAL TO PROCEED**" and that which was stated in Asha Corporation's proposal. The period stipulated on the referenced form was March 26 - April 6, 2018, whereas, a period of three (3) months was outlined in the entity's proposal.



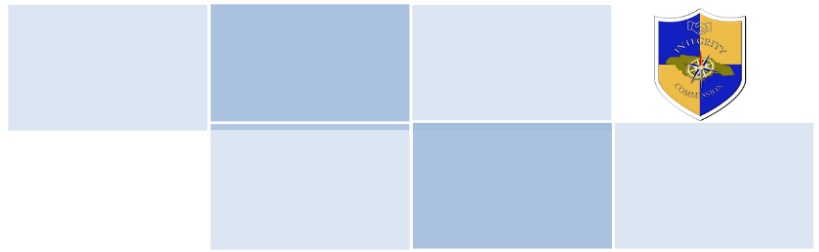
5.1.14 In relation to the involvement of Dr. Bahado–Singh in the engagement of Asha Corporation by Petrojam Limited, for the provision of financial consultancy services, the DI concludes that there was a disparity in the representations made by Dr. Perceval Bahado–Singh, then Chairman, Petrojam Limited, and Mr. Floyd Grindley.

5.1.15 Dr. Bahado–Singh, in his submission to the DI, advised that he had no input in the procurement of the referenced engagement, while Mr. Grindley provided in his response to the DI, that he was instructed by the former Chairman of Petrojam Limited to engage the services of Asha Corporation for the provision of financial consultancy services.

5.1.16 Having regard to the accountability principles and the roles and responsibilities assigned to the Chairman and the Board pursuant to the Corporate Governance Framework, the operational responsibility to procure goods, works and services resides with the General Manager and thereby out-with the remit and authority of the then Chairman.

Main Event Entertainment Group Limited

5.1.17 The DI has reasonable grounds to conclude that the utilisation of the Direct Contracting procurement methodology, in the award of contracts to Main Events Entertainment Group Limited, for the provision of public relations consultancy and event planning services was in contravention of Section 1.1.4 and 1.1.5 of the GPPH. The referenced action on the part of Petrojam Limited also breached Circular No. 27 of the Ministry of Finance

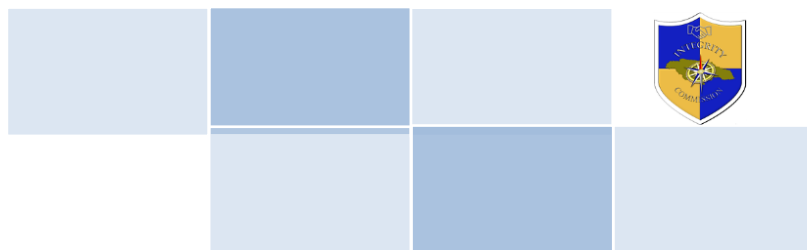


and the Public Service which outlines the procurement contract approval limits and procurement methodology thresholds as at September 28, 2016.

5.1.18 The DI's conclusion is premised upon the following facts:

- a) The justification for the utilisation of the Direct Contracting procurement methodology fell outside the remit of the permissible exceptions outlined in Section 1.1.4 and 1.1.5 of the GPPH;
- b) The contracts which were awarded in relation to the provision of public relations consultancy and event planning services in the amount of J\$13,985,825.00 and J\$26,999,500.00, respectively, exceeded the threshold of J\$1.5M as outlined in Circular No. 27 of the Ministry of Finance and the Public Service; and
- c) The utilisation of the emergency contracting procurement methodology for the procurement of event planning services did not constitute a sudden, unexpected or pressing necessity or exigency, as required by Section 1.1.5 of the GPPH.

5.1.19 Further, the DI's has reasonable grounds to conclude that Mr. Floyd Grindley acted negligently by his apparent disregard of the former Procurement Unit Head's advice and caution, concerning the aberrance from the procurement guidelines and his subsequent approval and insistence in the award of contracts to Main Event Entertainment Group Limited utilising the Direct Contracting procurement methodology.



ASC Business Services

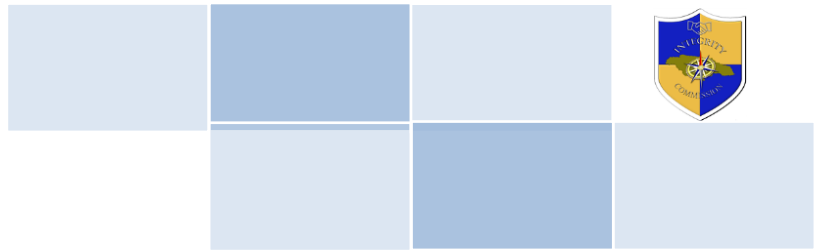
5.1.20 Having regard to the fact that Petrojam Limited issued four (4) contracts to ASC Business Services on June 8, 12, and 13, 2017, for the provision of memorabilia, the DI has reasonable grounds to conclude that the referenced procurement activities were undertaken to 'splinter' the contract. The DI's conclusion is premised on the fact that if a single contract had been awarded, the cumulative value would have exceeded the \$1,500,000.00 threshold, thereby invoking the utilisation of the Limited Tender procurement methodology which would require a minimum of three (3) quotations.

5.1.21 The frequency of the requests for procurement of memorabilia demonstrates the absence of a procurement plan and effective scheduling of procurement activities as required by the GoJ Handbook of Public Sector Procurement Procedures and contravenes Appendix A1.1 of the referenced Handbook.

Seal Construction Company Limited

5.1.22 The DI has unanswered questions regarding the evaluation process which was undertaken by Petrojam Limited in the selection of Seal Construction Company Limited. The DI's concerns are premised on the following:

- (a) The component relating to the experience and staff complement of the contracting entity was not completed; and

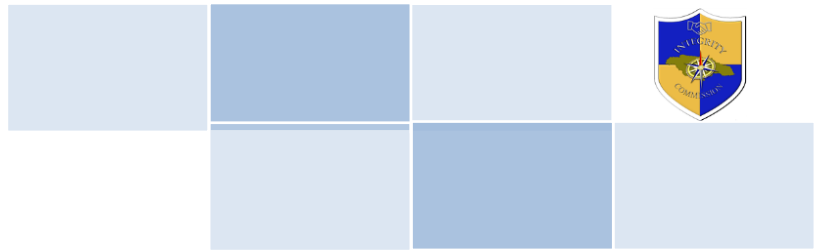


(b) The criterion relating to the number of building construction projects completed in the last ten (10) years exceeding J\$60M each was not listed in the evaluation criteria specified in the Standard Bidding document/Instruction to Bidders.

5.1.23 The DI notes with approbation, the opinion of the National Contracts Commission (NCC) that Petrojam Limited should have utilized the pre-qualification bidding process to engage a suitable and financially viable contractor for the construction of the New Petroleum Testing Laboratory. The DI also considers it necessary to reiterate that the utilization of the post-qualification bidding process, as employed by Petrojam Limited, *prima facie*, breached Section 1.3.4 of the GoJ Handbook of Public Sector Procurement Procedures (2014), which states that it is a mandatory requirement for all procurement which exceed \$150 Million to undergo the pre-qualification bidding process.

5.1.24 Based on the factors which have contributed to the delays in the implementation of the contract for the construction of the referenced laboratory, the DI has reasonable grounds to conclude that the pre-qualification process would have provided Petrojam Limited with the ability to conduct a detailed assessment of the capacity and competence of contractors who had demonstrated an interest in the procurement opportunity.

5.1.25 In addition to the factors documented in the findings of this Report, which accounted for the delays in the construction of the laboratory, the DI has

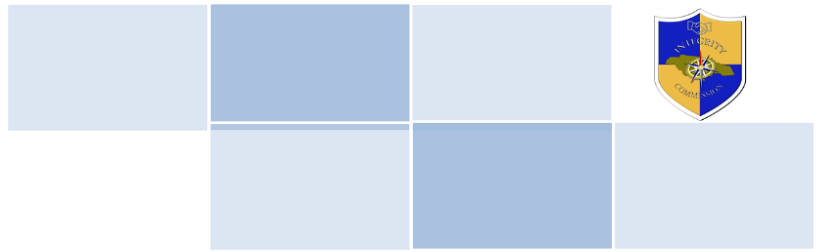


reasonable grounds to conclude that the causal factors were due primarily to what appear to be management ineptitude, lack of financial accountability and the absence of procurement planning at Petrojam Limited. The DI also considers the process which obtained in relation to the construction of the laboratory to be atypical in appearance and that consideration should be given to whether Petrojam Limited should be compensated by Seal Construction Company Limited for liquidated and ascertained damages as per Clause 22 of the referenced contract.

5.1.26 The DI's conclusion is also buttressed against the compendium of the following facts:

- (a) A total of approximately two (2) years and four (4) months were appropriated by Petrojam Limited and the contractor to construct the laboratory, instead of the contractually agreed period of twelve (12) months;
- (b) There was a variation in the sum of the construction contract which was awarded to Seal Construction Company Limited which resulted in an increase in the contract sum from \$337,341,149.04 to \$422,037,280.04 (or by approximately 25%); and
- (c) The delays in the implementation of the contract resulted in five (5) variations to the consultancy contract which increased the contract sum to a total of \$39,243,763.23 (or by approximately 274.08%).

5.1.27 The DI has reasonable grounds to conclude that the Notices of Default which were served on Seal Construction Company Limited were in fact



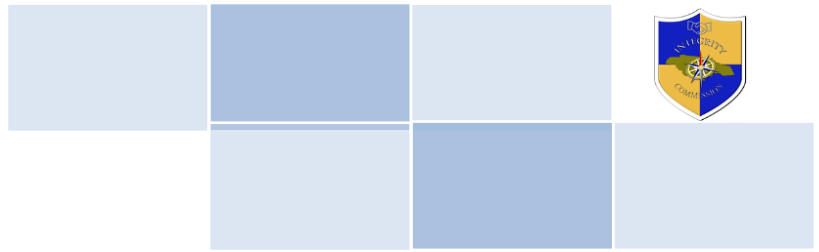
warranted and that a justifiable claim for liquidated and ascertained damages may be made by Petrojam Limited as discussed above.

5.1.28 Having regard to the vast cost overruns which obtained during the implementation of the contract for the construction of the new petroleum testing laboratory, the DI has seen no evidence to either suggest that the contract was implemented in harmony with the dictates of the Financial Administration and Audit Act (FAAA) or any other relevant GoJ legislation/policies, which are enacted to promote fiscal prudence and accountability.

Shalk Electronic Security Limited

5.1.29 Having regard to the award of contracts to Shalk Electronic Security Limited, the DI has reasonable grounds to conclude the following:

- a. there was no formal tender process utilised by Petrojam Limited in the award of three (3) contracts to Shalk Electronic Security Limited for the provision of security services for the former Chairman and General Manager of the entity for the period 2017 to 2018; and
- b. the award of contracts to Shalk Electronic Security Services Limited in relation to the provision of security services for Dr. Perceval Bahado-Singh, former Chairman and Mr. Floyd Grindley, former General Manager were **irregular**.



5.1.30 The DI premises the aforementioned, upon the fact that it is a practice of Petrojam Limited for the Internal Security Unit, in conjunction with the JCF, to provide close protection security services to its staff, upon the execution of the required risk assessments.

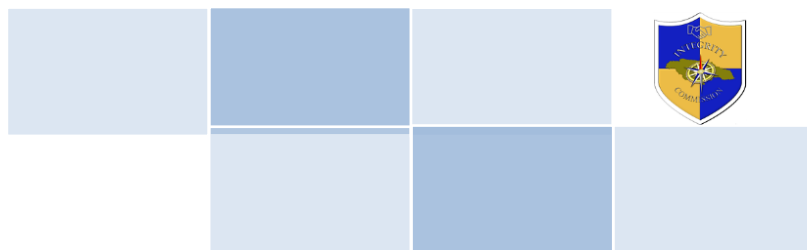
West Indies Petroleum Limited

5.1.31 The DI has reasonable grounds to conclude that West Indies Petroleum Limited was not awarded a contract for the provision of petroleum products by Petrojam Limited during the period 2017 to 2018.

Vacuum Distillation Unit (VDU)

5.1.32 The DI is unable to determine whether value for money would be achieved in relation to the upgrade of the VDU as the project was not executed. The DI is unable to make the foregoing determination on the basis that, there are insufficient variables to determine efficiency and effectiveness prior to the execution and completion of the project. Notwithstanding the foregoing, the DI has reasonable grounds to conclude that Sinohydro's cost proposal was uneconomical on the basis that its cost proposal significantly exceeded the budget and cost estimate prepared by Becht Engineering Co. Inc.

5.1.33 Having regard to the fact that the VDU Project is considered to be a key component of the overall upgrade of Petrojam Limited's refinery, the DI



considers the delay in the implementation of the project which emanated from the apparent mismanagement of its operations and practices to be incongruous to the intended objectives of Petrojam Limited.

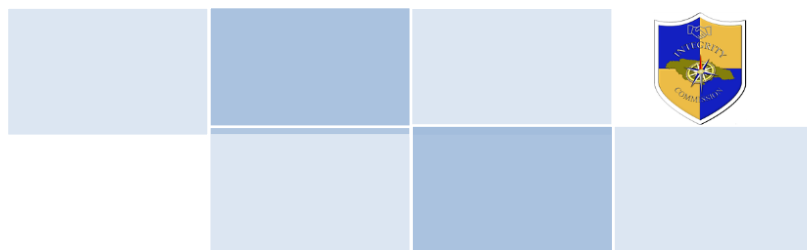
5.1.34 The DI finds merit in the recommendations which were made by Ms. Chevril Shaw concerning the utilisation of a competitive bidding process in the selection of a contractor for the upgrade of the VDU project.

Allegations of Conflict of Interest

5.1.35 The Director of Investigation's review of the documentary evidence within his possession, has found no evidence, at this time, of a conflict of interest which resulted in the award of contract(s) to the following contractors:

- i. Construction Solutions Limited;
- ii. Seal Construction Company Limited;
- iii. Asha Corporation;
- iv. Main Event Entertainment Group Limited;
- v. Shalk Electronic Security Limited; and
- vi. West Indies Petroleum Limited.

5.1.36 Having regard to whether Dr. Bahado-Singh influenced the decision making process in the award of contracts to Asha Corporation, the DI also found that there was a discrepancy in the representations made by Mr. Floyd Grindley and Dr. Bahado-Singh. Mr. Grindley advised the DI that Dr.

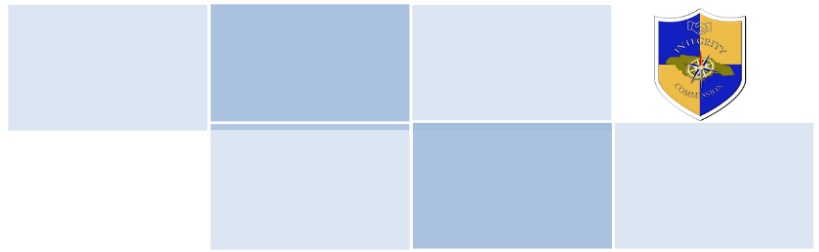


Bahado-Singh instructed him to engage Asha Corporation whilst Dr. Bahado-Singh denied having any input in the procurement process.

5.1.37 In the aforementioned regard, the DI again reiterates the provisions of the Corporate Governance Framework which stipulates that “...*There should be clear separation of the responsibilities at the very top leadership of the Public Body where the Chairperson is responsible for leading the Board in the development of the policies and strategies of the organization*” and “*the Chief Executive Officer is responsible for the day to day management of the Public Body*”.

5.1.38 The DI concludes that a more than platonic relationship existed between Mr. Floyd Grindley and Mrs. Ronique Budram-Ford for the period 2017 to 2018, as evidenced by the contents of certain WhatsApp communiqué between the parties.

5.1.39 The mere existence of such a relationship between the former General Manager and the former Procurement Unit Head is cause for concern, especially given the apparent irregular award of several contracts to ASC Business Services, the company with which Mrs. Ronique Budram-Ford's sister, Ms. Rishka Budram, is affiliated. These contracts were awarded by Petrojam Limited on the apparent instructions of Mrs. Ronique Budram-Ford as the former Procurement Unit Head and the subsequent approval by Mr. Floyd Grindley in his capacity as then General Manager.

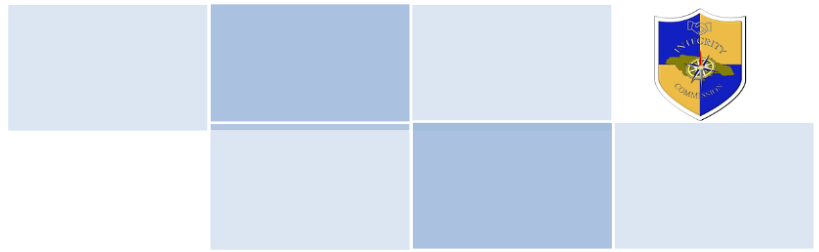


5.1.40 The DI has reasonable grounds to conclude that the award of contracts to ASC Business Services by Petrojam Limited may have been as a direct result of the involvement of Mrs. Ronique Budram-Ford, former Procurement Unit Head, in the procurement process. The DI has found no evidence which suggests that Mrs. Budram-Ford recused herself from the procurement process involving the award of contracts to ASC Business Services, the company which her sister, Ms. Rishka Budram, acted on behalf of and is affiliated with.

5.1.41 The failure of Mrs. Budram-Ford to recuse herself from the procurement process especially as it relates to the award and implementation of contracts to companies which her sister acted on behalf of and is affiliated, may amount to favouritism and is a contravention of Section 36 of the Contractor General Act-Public Sector Procurement Regulations, 2008, which was applicable at the time.

Act of Corruption

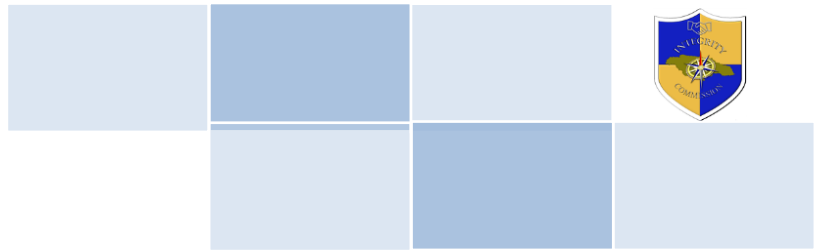
5.1.42 The involvement of Mrs. Ronique Budram-Ford, former Procurement Unit Head, Petrojam Limited in the procurement process regarding the award of contracts to ASC Business Services, the company which her sister acted on behalf of and is affiliated, is probative of a conflict of interest and may amount to the common law offence of misconduct in public office and a breach of public trust. The DI is satisfied, for the purpose of Section 2 of the Integrity Commission Act, that, if the facts as found were to be proved on admissible evidence to the requisite criminal standard, an appropriate tribunal, would find that Mrs. Ronique Budram-Ford, had committed the



offence of misconduct in public office. Accordingly, the DI is satisfied that the jurisdictional requirements of Sections 6 (1) (a) and 33 (1) (a) and (b) of the Integrity Commission Act are satisfied.

5.1.43 As a public servant in the execution of her public function, Mrs. Ronique Budram-Ford seemingly advanced a private interest which resulted in a monetary benefit to her sister and/or her sister's child's father. In this respect, her actions may have contravened the principles of integrity and good governance.

5.1.44 Consideration must be given as to whether Mrs. Budram-Ford, in this regard, breached Section 14 (1) (b) of the Corruption (Prevention) Act and whether she obtained an illicit benefit for her sister and/or her sister's child's father or herself, in her capacity as a public servant.



Chapter 5 – Recommendations

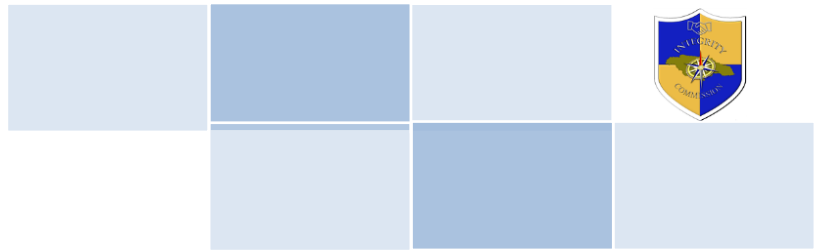
6.0 This chapter outlines the recommendations and corruption prevention initiatives identified by the Director of Investigation based upon the findings and conclusions of this investigation.

Recommendations to the Director of Corruption Prosecutions

6.1.0 The Director of Investigation (DI) refers Mr. Floyd Grindley, former General Manager, Petrojam Limited, and Mrs. Ronique Budram-Ford, former Procurement Unit Head, Petrojam Limited, to the Director of Corruption Prosecution for such further action, as deemed appropriate, regarding the common law offence of misconduct in public office, breaches of the 2014 Government of Jamaica Handbook of Public Sector Procurement Procedures, breaches of the Contractor General Act-Public Sector Procurement Regulations 2008, and breaches of the Corruption (Prevention) Act which have been identified herein.

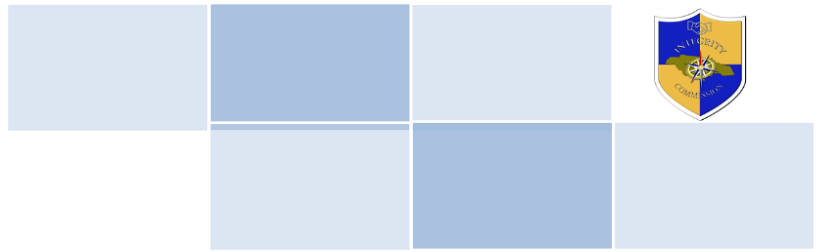
6.1.1 The DI's recommendation is premised on the following:

- (a) Mr. Floyd Grindley may have acted negligently in the discharge of his fiduciary obligations and responsibilities as then General Manager of Petrojam Limited, by his apparent disregard of the former Procurement Unit Head's advice and caution, concerning the aberrance from the procurement guidelines and



his subsequent approval and insistence in the award of contracts to Main Event Entertainment Group Limited utilising the Direct Contracting procurement methodology.

- (b) Further, by his own admission, Mr. Grindley acted on the alleged improper instructions of then Chairman, Dr. Bahado-Singh, to approve what appears to be the irregular award of contracts to Construction Solutions Limited, Main Event Entertainment Limited and Asha Corporation.
- (c) The apparent more than platonic relationship between Mr. Floyd Grindley, former General Manager and Mrs. Ronique Budram-Ford, former Procurement Unit Head, which existed in the period in which several contracts were awarded in an apparent irregular manner to ASC Business Services, the company with which Mrs. Ronique Budram-Ford's sister, Ms. Rishka Budram, acted on behalf of and is affiliated. These contracts were awarded by Petrojam Limited upon the instructions of Mrs. Ronique Budram-Ford as the former Procurement Unit Head and the subsequent approval by Mr. Floyd Grindley in his capacity as then General Manager;
- (d) The involvement of Mrs. Budram-Ford in the award of contracts to ASC Business Services, the company with which her sister, Ms. Rishka Budram, acted on behalf of and is affiliated, may amount to nepotism and a conflict of interest and a contravention of Section 36 of the Contractor General Act-Public Sector Procurement Regulations, 2008 and Section 4.2, "Conflict of

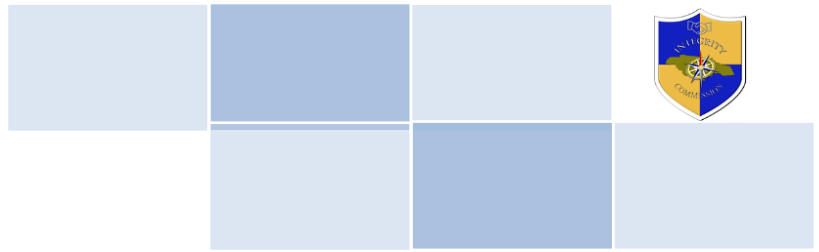


Interest" of the GoJ Handbook of Public Sector Procurement Procedures; and

- (e) Mrs. Ronique Budram-Ford, in the execution of her public function, appeared to have advanced a private interest which resulted in a monetary benefit to her sister and/or her sister's child's father. In this respect, the DI has reasonable grounds to suspect that the actions of Mrs. Budram-Ford gave rise to a breach of Section 14 (1) (b) of the Corruption (Prevention) Act.

6.1.2 The DI is referring a copy of his Report of Investigation to the Director of Corruption Prosecution, having particular regard to breaches of the following provisions:

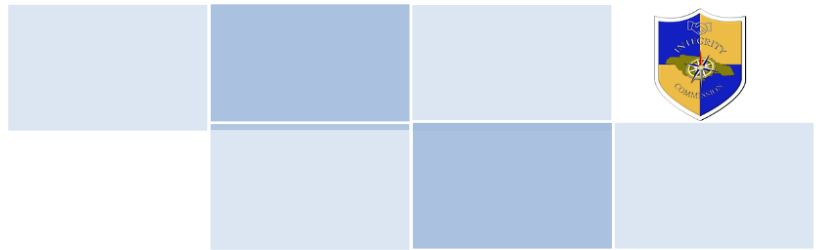
- a) Section 4.2, "Conflict of Interest" of the GoJ Handbook of Public Sector Procurement Procedures (March 2014);
- b) Section 36 of the Contractor General Act Public Sector Procurement Regulations (2008);
- c) Section 14 of the Corruption (Prevention) Act;
- d) R v Dytham [1979] Q.B. 722; Williams v R (1986) 39 WIR 129 and Attorney-General's Reference (No 3 of 2003) [2004] EWCA Crim 868 in relation to the common law offence of misconduct in public office; and
- e) Any other applicable law/regulation/policy which the Director of Corruption Prosecution deems appropriate for consideration in all the circumstances of this case.



6.1.3 The DI recommends that this Report be referred to the Director of Corruption Prosecution, pursuant to Section 48 (3) of the Integrity Commission Act, Section 11E of the Commission of Enquiry Act and Section 4 of the Perjury Act, in relation to whether Mrs. Ronique Budram-Ford, former Procurement Unit Head, Petrojam Limited, misled the DI in her representations concerning her affiliation with Mr. Floyd Grindley, former General Manager, Petrojam Limited.

6.1.4 The DI recommends that this Report be referred to the Director of Corruption Prosecution pursuant to Section 48 (3) of the Integrity Commission Act, Section 11E of the Commission of Enquiry Act and Section 4 of the Perjury Act in relation to whether Mr. Floyd Grindley, former General Manager, Petrojam Limited, misled the DI in his representations concerning his affiliation with Mrs. Ronique Budram-Ford.

6.1.5 The DI recommends that this Report be referred to the Director of Corruption Prosecution pursuant to Section 54 (3) (b) of the Integrity Commission Act and Section 14 of the Corruption Prevention Act, in relation to whether Mrs. Ronique Budram-Ford, in her capacity as the former Procurement Unit Head of Petrojam Limited, committed acts of corruption by her involvement in the award of contracts to ASC Business Services, company with which her sister, Ms. Rishka Budram, was affiliated.



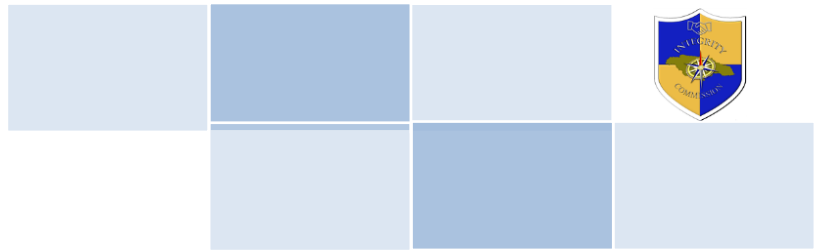
Recommendations to the Auditor General and Financial Secretary

6.1.6 Having regard to the expenditure of public funds in the absence of a formal tender process, a copy of this report is also being referred to the Auditor General and the Financial Secretary for the consideration of a surcharge pursuant to Section 20 of the Financial Administration and Audit Act, against Mr. Floyd Grindley, then General Manager, Petrojam Limited, for the reimbursement to Petrojam Limited of a total of \$3,960,000.00 which was made payable to Shalk Electronic Security Limited for the provision of security services for the period 2017 to 2018.

Anti-Corruption Recommendations and Initiatives

6.1.7 The DI recommends that Petrojam Limited ensures that at all times it has in place a comprehensive procurement plan which facilitates value for money, prudent financial management and allows the entity to plan more effectively in the procurement of goods, works and services, whilst adhering to international best practices and applicable laws and procurement guidelines.

6.1.8 The DI strongly recommends that the respective Public Officers at Petrojam Limited, who are charged with the responsibility of administering the award of government contracts, become familiarised with and strictly adhere to the Public Procurement Act, the Integrity Commission Act, and the



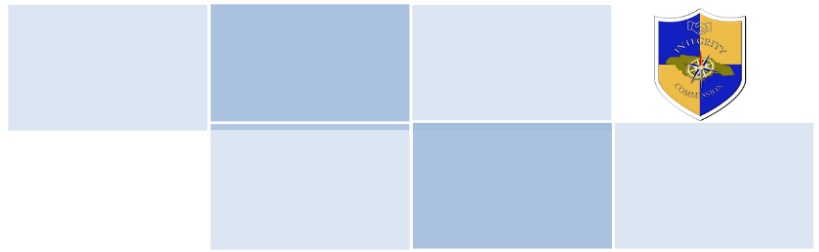
Government of Jamaica Handbook of Public Sector Procurement Procedures.

6.1.9 In an effort to ascertain value for money in public sector procurement, the DI urges Petrojam Limited to employ best practices which will enable Petrojam Limited to obtain the maximum benefits from Goods, Works and Services acquired with available resources.

6.1.10 The DI recommends that Petrojam Limited and the Ministry of Science, Energy and Technology take reasonable steps to ensure that its public officials are made aware of the requirements for identifying and disclosing instances of conflicts of interest, and enforce these requirements.

6.1.11 The DI recommends that public officials adhere to the following principles outlined in the Framework for Commonwealth Principles on Promoting Good Governance and Combatting Corruption:

“...the rule of law should apply to all those involved in the administration and provision of services in the public interest, as it does to the whole of civil society. Those holding offices of trust need to be bound by well publicized Codes of Conduct with appropriate sanctions for breaches that are enforced consistently and vigorously. These Codes should, inter alia, cover: standards of integrity, potential conflicts of interest, acceptance of gifts, misuse of



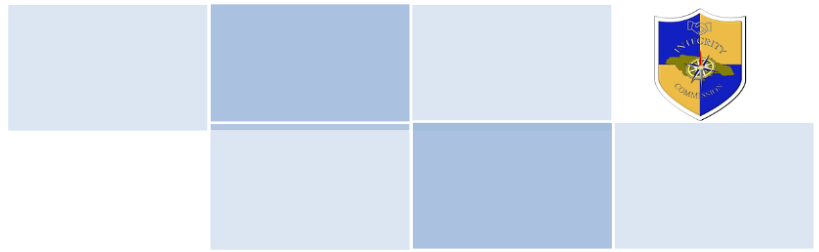
information for personal gain, and disclosure of assets and financial interests. Ethical standards should be promoted--through education and training where necessary-- which instil pride in the virtues of integrity, professionalism, efficiency, transparency and impartiality in the public service".²⁸⁰

6.1.12 The DI recommends that Petrojam Limited and, by extension, public bodies refrain from awarding contracts to the relatives and affiliates of public officials and officers in an effort to avoid even the slightest perception of bias, nepotism/conflict of interest.

6.1.13 The DI recommends that public officials and officers recuse themselves from the decision making processes which involve the award of government contracts in circumstances which may exhibit potential conflicts of interest and in particular, where there is even the slightest hint and/or suggestion of nepotism, whether real or perceived.

6.1.14 The DI recommends that public bodies should, in keeping with the stipulated procurement guidelines, establish robust and transparent systems and processes to ensure that the processes for the award of contracts are free from bias and corruption, whether real or perceived.

²⁸⁰ Framework for Commonwealth Principles on Promoting Good Governance and Combatting Corruption. Nicholls, Colin. *Corruption and Misuse of Public Office, 2nd Edition*. Oxford University Press. 2011. Para. 11.96, Page 407.

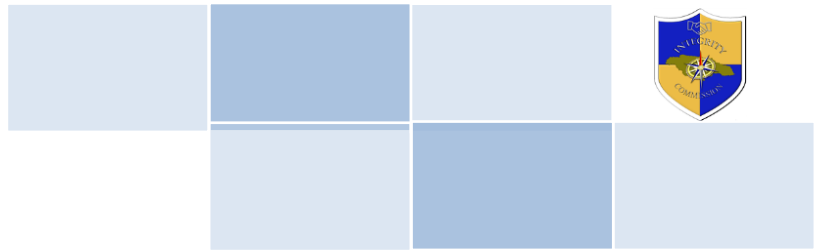


6.1.15 It is also being recommended that Petrojam Limited implements a due diligence/vetting process through which the possible relationships and/or affiliations between its employees and contractors may be determined and that where these relationships are identified, that proper checks and balances are implemented to restrict the involvement of conflicted individuals from the procurement process.

This will enable Petrojam Limited to ensure the legitimacy and credibility of its contracting and procurement processes and guard against any possible conflict of interest which may taint the mentioned processes.

6.1.16 The DI recommends that in circumstances where a public body has identified that there is a breach of the procurement procedures, the responsible entity should seek to remedy the said breach in an expeditious and effective manner as opposed to continuing with the implementation of the project in violation of the applicable GOJ public sector procurement procedures, the attendant Regulations and other governing laws.

6.1.17 The DI recommends that, in an effort to institute strict controls to reduce instances of the abuse of the Direct Contracting procurement methodology, the Ministry of Finance and the Public Service may adopt a similar approach on its procurement notice board as taken by the European Union, where procuring entities are required to publish a notice in an Official Journal of their intent to award a contract under the single sourcing procedure. The notice must explain the grounds for excluding



competition and its publication should trigger a ten day standstill period during which contractors may challenge the decision not to advertise.

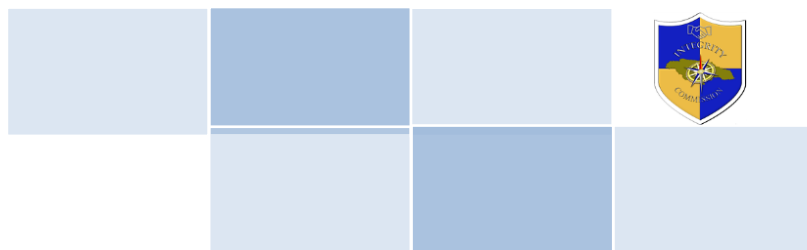
6.1.18 Having regard to Clause 22 of the Contract between Petrojam Limited and Seal Construction Company Limited for the construction of the new petroleum testing laboratory, and the factors which led to the protracted delays in the completion of the project, the DI recommends that Petrojam Limited enter into negotiation with Seal Construction Company Limited to determine liquidated and ascertained damages.

6.1.19 The DI strongly recommends that the GoJ implement a public contract management system/registry that will publicize contractors who failed to adhere to their contractual arrangements and defaulted on their contracts.

6.1.20 The DI recommends that Heads of entities give serious consideration to and be guided by the professional advice given by procurement officers so as to ensure strict compliance with the procurement policies/laws/guidelines which are in force from time to time in Jamaica.

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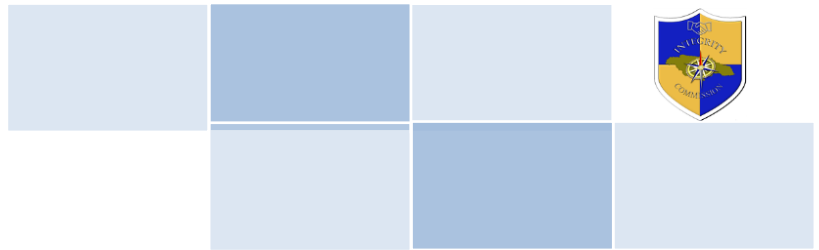
Kevon A. Stephenson JP
Director of Investigation
Integrity Commission



Appendices

The following are the list of documents which have been appended to the Investigation Report:

1. Letter dated March 10, 2017, addressed to Mrs. Hillary Alexander, Permanent Secretary, Ministry of Science, Energy and Technology, from Mr. Raymond McIntyre, Chairman, NCC, under the caption "Emergency Contracting – Petrojam Limited - Contracting Under Emergency Circumstance: North Perimeter Fence Replacement (Refinery)" – **Labelled as Appendix 1**
2. Progress Reports dated May 31, 2018 and June 13, 2018 from Mr. Rodney Davis addressed to Mr. Floyd Grindley "Re: Financial & Market Assessment of Petrojam Limited Phase 2" - **Labelled as Appendices 2 and 3**
3. Table showing procurement activities between Petrojam Limited and ASC Business Services- **Labelled as Appendix 4**
4. Table showing procurement activities between Petrojam Limited and ASC Business Services - Response from Mr. Paul Tyndall, Procurement Unit Head (Acting) dated March 20, 2019 to the DI's requisition dated March 14, 2019, Response 1 - **Labelled as Appendix 5**
5. Table detailing the Name(s) and Title(s) of the Petrojam Limited Employees who were involved in the Award of Contract(s) to ASC Business Services - **Labelled as Appendix 6**
6. Instructions detailed in Petrojam Limited's "*Instructions to Bidders*" document- **Labelled as Appendix 7**



7. Table detailing the Comparative Evaluation and Assessment of the Four (4) Bids Which were Deemed Responsive by Petrojam Limited - **Labelled as Appendix 8**
8. Section 4.3 of the GoJ Handbook of Public Sector Procurement Procedures, March 2014. Volume 1- Unethical Conduct - **Labelled as Appendix 9**
9. Extract of Clause 3 of Petrojam Limited's Ethics & Conflict of Interest Policy which was made Effective October 2003 - **Labelled as Appendix 10**