



OFFICE OF THE CONTRACTOR-GENERAL
JAMAICA

THE TWENTY-SIXTH ANNUAL REPORT
OF
THE CONTRACTOR-GENERAL





Any reply or subsequent reference to this communication should be addressed to the Contractor-General and the following reference quoted:-

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November 25, 2013

The Hon. Michael Peart, MP
Speaker of the House of Representatives
Houses of Parliament
Gordon House
81 Duke Street
Kingston

Senator the Hon. Floyd Morris
President of the Senate
Houses of Parliament
Gordon House
81 Duke Street
Kingston

Dear Honourable Speaker and Honourable President:

In accordance with the provisions of Section 28 (2) of the Contractor General Act, I have the good honour to submit, to you, One Hundred and Ten (110) copies of the Twenty-Sixth Annual Report of the Independent Parliamentary Commission of the Contractor General of Jamaica for calendar year 2012.

As you will recall, Section 28 (3) of the Contractor General Act mandates that Reports of the Contractor General "... shall be submitted to the Speaker of the House of Representatives and the President of the Senate who shall, as soon as possible, have them laid on the Table of the appropriate House."

I, therefore, so respectfully advise and avail myself of this opportunity to renew to you the assurance of my highest considerations.

Very respectfully yours,

Dirk Harrison (Signed)

Dirk Harrison
Contractor General

OFFICE OF THE CONTRACTOR-GENERAL

ANNUAL REPORT 2012

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CONTRACTOR GENERAL'S INTRODUCTORY REMARKS

Having been sworn in as the fifth (5th) Contractor General of Jamaica, on February 25, 2013, I officially took up Office on 1 March, 2013. Therefore I am submitting this, the twenty-sixth (26th) publication of the Annual Report of the Office of the Contractor General, not as work conducted under my leadership but that of my predecessor, Mr. Greg Christie, who gave seven (7) years of remarkable service to the people of Jamaica and who demitted office in November of 2012.

Unlike in previous years however, the volume of the Annual Report has been significantly reduced, as the decision was taken to publish only the Executive Summaries for the respective Divisions, along with the reports for Portfolio assignments. All other information has been included on compact discs which shall be packaged with each copy of the Annual Report of 2012.

This Report is being submitted pursuant to Section 28 (2) of the Contractor-General Act, which states that: "*A Contractor-General shall submit to Parliament an annual report relating generally to the execution of his functions...*" In honouring this mandate, it is my privilege to submit to the Honourable Houses of Parliament of Jamaica, the 26th Annual Report of the Commission of the Contractor General, for the calendar year 2012.

The Contractor General is an Independent Commission of the Parliament of Jamaica, charged under Section 4 (1) of the Contractor-General Act, to monitor the award and implementation of Government of Jamaica (GOJ) contracts, with the aim of ensuring that such awards are made impartially, on merit and under circumstances which do not involve impropriety or irregularity. The Contractor General is also mandated under the same conditions, to monitor "*the grant, issue, suspension or revocation of any prescribed licence...*"

In addition to the foregoing obligations, Sections 15 (1) and 16 of the Contractor-General Act, gives a Contractor General, the discretionary power to formally investigate any matter associated with the award of Government contracts, the issuance of Government licences and permits, procurement procedures and the registration of Contractors.

The Office of the Contractor-General (OCG) does not have the powers to stop a contract already in progress or to prosecute offending parties where impropriety or irregularity is uncovered. Our powers are limited to investigating allegations and where necessary, making Referrals to the relevant authorities for further action, pursuant to Section 21 of the Contractor-General Act. The OCG therefore functions as an Ombudsman.

The OCG also provides technical and administrative support to the National Contracts Commission (NCC), thus enabling the NCC to effectively execute its functions as mandated under Section 23 of the Contractor-General Act. It should be borne in mind however, that as at the time of this report, the process for the separation of the NCC from the OCG was at an advanced stage. The OCG is in full support of the pending separation, as it augurs well for the independence of both entities.

Being cognisant of our role in ensuring that the Government procurement procedure is free of impropriety and irregularity and thus meets the highest standards, we have declared this commitment in our Mission Statement, which states that:

"The Mission of the Office of the Contractor General is to effectively discharge the requirements of the Contractor-General Act and, in so doing, to:

- *Monitor and investigate the award and implementation of contracts, licences, permits, concessions and the divestment of government assets;*
- *Improve and make fair and equitable, the system of awarding contracts, licences, permits, concessions and the divestment of government assets;*

- *Ensure that all public sector agencies give the widest possible opportunity to qualified persons to bid for contracts and divestments or to apply for licences and permits;*
- *Create a positive image of the public procurement process by promoting integrity, professionalism, transparency, efficiency and, in so doing, to thereby engender public confidence.”*

As Ombudsman, the OCG discharges its mission and core operating functions through three (3) operating divisions; namely, the Inspectorate Division (which is divided into (i) the Construction and (ii) the Non-Construction, Licenses and Permits Units), the Special Investigations Division, and the Technical Services Division. These Divisions are ably supported by two (2) additional Divisions; namely, the Corporate Services Division and the Information Systems Division. Combined, the OCG had a staff complement of fifty-six (56) persons during 2012.

In spite of the limited staff, the OCG is aware of the critical and necessary role it plays in our society and remains committed to meeting its obligations under the law. We must however discharge our mandate, bearing in mind that the principle of natural justice must always be practised and observed.

The OCG in carrying out its duties, is also mindful of its obligation to the people of Jamaica and is grateful for the ongoing support of those Jamaicans who take the time to communicate their appreciation for the work of the Office, whether directly or indirectly. This appreciation was borne out in the results of a National Integrity Action Limited's commissioned, Don Anderson, Market Research Services Poll of 2011, which saw the OCG being ranked as the agency that enjoyed the highest level of public satisfaction, from a group of seven (7) anti-corruption and law enforcement agencies.

I too, on February 25, 2013, swore to uphold the integrity of the office and to serve the people of my country to the best of my ability and according to law. I take this promise very seriously and shall abide by same.

Like most well-thinking Jamaicans, I dream of living in a country that is morally and spiritually grounded in truth, integrity and peace. I however recognise the fact, as it is set out in my very first address upon being sworn in as the Contractor General, that, as we examine the landscape:

“... it cannot be business as usual. We cannot keep on ‘passing the buck’... waiting on the next generation or the next person to solve or begin to seriously tackle the ills of today. We must take back our country, but time shall be the master of change, as I would be naïve to suggest or think that change can or shall occur overnight. We must however be prepared to be committed to do whatever it takes, for however long it takes to continue, renew, reshape our strategy in our fight against the abominable crime called CORRUPTION.”

On that day, I further asked the people of Jamaica, in an effort for us to take back Jamaica from the stranglehold of criminal elements intent on further eroding the moral fabric of society, to tell what they know. I also invited stakeholders to share information in the united fight against corruption and maintaining law and order and I went further to ask the ‘legislative thinkers’ to draft the appropriate legislation(s) to allow for the sharing of information between state agencies.

In accepting the appointment as Contractor General of Jamaica, I am well aware that challenges that I will be faced with are par for the course.

Having said that, the OCG is tasked with ensuring probity, transparency, fair competition and accountability in Government contracting. It is however evident that despite strides made by this office and a few other stakeholders, much more needs to be done about fighting corruption in all areas of our society. It is my considered view that the Legislative and Executive Arms of the State, should unreservedly demonstrate to the Jamaican people and international interests alike, through legislation and related action, that they are serious about fighting corruption in all its forms and at all levels.

While the concept of 'corruption' is understood, social and cultural norms make defining 'corruption' somewhat challenging, as capturing all forms of corruption in a single definition has proven difficult. The Commission for the Prevention of Corruption (CPC) in its "Guide to the Corruption (Prevention) Act 2000 & Regulation 2002," for instance, defines Corruption as *"the misuse of public office for private gain for the benefit of the holder of the office or some third party."* Similarly, corruption is defined by Transparency International (TI) as *the abuse of entrusted power for private gain.* TI further classifies corruption in three (3) categories. These are: Grand Corruption, Petty Corruption and Political Corruption. 'Grand Corruption', according to TI, refers to *"acts committed at a high level of government that distort policies or the central functioning of the state, enabling leaders to benefit at the expense of the public good."* TI defines 'Petty Corruption' as *"everyday abuse of entrusted power by low and mid-level public officials in their interactions with ordinary citizens, who often are trying to access basic goods or services in places like hospitals, schools, police departments and other agencies."* 'Political Corruption' is defined by TI as *"the manipulation of policies, institutions and rules of procedure in the allocation of resources and financing by political decision makers, who abuse their position to sustain their power, status and wealth."* These definitions of corruption are general in nature and as such, may be further broken out according to the social, political and economic circumstances of any country.

Corruption is not unique to Jamaica and as such, there are many international Instruments which seek to counter corruption around the world. As at the time of this report, Jamaica had signed to and/or ratified the following international Instruments: The Inter-American Convention Against Corruption, The Inter-American Convention on Mutual Legal Assistance in Criminal Matters, The United Nations Convention Against Transnational Organised Crime and its three (3) Protocols, The 1971 United Nation Convention on Psychotropic, The 1961 United Nations Single Convention as amended by the 1972 Protocol and the United Nations Convention Against Corruption, which was signed by Jamaica in 2005 and ratified in 2008. Having been inserted in these agreements, Jamaica is expected to adhere to certain protocols as contained in the Instruments.

Locally, the OCG is not alone in the fight against corruption. Other public entities such as The Commission for the Prevention of Corruption (CPC), The Integrity Commission, The Anti-Corruption Branch of the Jamaica Constabulary Force, The Office of the Director of Public Prosecutions, the Revenue Protection Division, the Financial Investigation Division and the Major Organised Crime and Anti-Corruption Task Force (the Jamaica Constabulary Force), to name a few, are also fighting corruption and its perception, with limited resources available to them. There are also Non-Governmental Agencies committed to stemming the proliferation of corruption and its perception. These include: The National Integrity Action, Jamaicans for Justice, Jamaica Civil Society Coalition, The Private Sector Organisation of Jamaica, The Centre for Governance, University of the West Indies, Mona, among others. The fight is on but all other concerned parties need to join us in stemming all forms of corruption.

It is a known fact that public anti-corruption agencies are under-resourced and as a result, many have unfortunately been labelled as being inefficient; much to their chagrin. The reality is that though progress has been made, the number of cases closed, pale in comparison to the workload and files pending action. In light of this most unfortunate state of affairs, the introduction of a Single Anti-Corruption Agency with far-reaching powers to treat solely with corruption matters is highly anticipated and welcomed.

The OCG has made significant progress in highlighting activities in relation to its mandate and the same can be said of the Anti-Corruption Branch of the Jamaica Constabulary Force and the National Integrity Action (NIA), among a few others. While much has been done in an attempt to mold the anti-corruption landscape toward more favourable ratings, the fact is that not all local anti-corruption agencies have made significant in-roads in that regard and this is a cause for concern.

The NIA's main objective is to combat corruption in Jamaica in a wholesome way; and since being officially established in 2011, they have done much to keep the spotlight on the matter of corruption, including sensitising the public through varying media and fora on the issue of corruption. The NIA has also been very vocal on the matter of the establishment of a single anti-corruption agency, with prosecutorial powers, among other matters. The entry of the NIA into the anti-corruption 'arena' has been a welcome one and from all indications thus far, they will continue to push for meaningful change socially and legislatively.

Our country has featured unfavourably in multiple international publications over the years, when surveyed to determine the level or perception of corruption among Jamaicans. Unfortunately, while the findings may be debatable to some extent, the reality is that as a nation, we are well aware of what we refer to as 'the runnings' phenomenon, when it comes to conducting business in Jamaica, where 'favours' are allegedly granted for one reason or another. 'The runnings' it is suggested, exists where someone is 'ably assisted' in circumventing standard operating procedures and getting the desired outcome, often through the exchange of money. Such practises must come to an end; but our reality is that only through the exposure and prosecution of wrong doers will we begin to effectively address this concern.

Each year, Transparency International (TI), an independent international agency which aims to "*stop corruption and promote transparency, accountability and integrity at all levels and across all sectors of society*", publishes its Findings on the perceived level of corruption within the public sector, in select countries. Jamaica has consistently ranked at the lower level of the scale, referred to as the "Corruption Perception Index" (CPI). For instance, of the 174 countries assessed in 2012, Jamaica was ranked at 86th. The reality is that, though the perception of corruption in Jamaica's leaves a lot to be desired, there have been advancements made in how corruption-related matters are handled. For instance, several legislative changes have been effected to address corruption and there has been an increase in the number of arrests made and convictions obtained by the relevant authorities. This reality is somehow not evidenced in the ranking 'given' to Jamaica on the CPI annually. TI has however maintained that prior to 2012, the scores were not to be compared from year to year or against those 'given' to other countries. This clearly has not prevented comparisons and rankings being expressed, with the CPI being the source.

Au contraire, Dr. Omar Hawthorne, Lecturer in the Department of Government at the University of the West Indies, wrote for her PhD. Designation in 2012. The Paper, entitled "Do International Corruption Metrics Matter? Assessing the Impact of Transparency International's Corruption Index", examined the matters of the world's political and economic responses and whether Jamaica responds to the CPI results. In addressing flaws identified, Dr. Hawthorn criticised TI's methodology, stating that, "*The study also shows that the CPI lacks construct validity, in that, it exhibits no correlation to other measures that it should correlate with if indeed it measured the perceptions of business and policy leaders.*" Noting the steps taken by Jamaica to address corruption over the years, she stated, *inter alia*, "... it would seem that Jamaica is improving and or making increased gains in fighting corruption but nonetheless the ranking on the CPI continues to decrease. While TI will be the first to say that the index cannot be compared yearly, this is an inherent flaw in their argument."

Further, Dr. Hawthorne found no evidence of Jamaica's credit rating or investment in Jamaica being affected by the CPI ranking. In the same Paper, she states, *inter alia*, that "*Political institutions give credence to TI's CPI. In general, the CPI is used as a standard measure for countries' perception levels by the various agencies within the US Department of State. But while there is increased use of TI's CPI by world policymakers there is no clear evidence that aid and or loans have been withheld because of a country's corruption level.*"

However, it was determined that the Jamaican Government pays keen attention to its annual ranking and has made policy decisions in relation to same.

It should be noted that TI has modified its methodology effective 2012 and has advised that it will now be possible to make year-to-year comparisons to gauge corruption perception levels.

The OCG's Annual Report of 2011 gives an illustration of Jamaica's performance in earlier CPI reports. Readers of this report, who are not in possession of a physical copy of previous Annual Reports issued by the OCG, may retrieve same from URL: <http://www.ocg.gov.jm/ocg/view/annual-reports>

Far too often, policies are put in place and then seemingly forgotten and studies are conducted and recommendations made to effect favourable change, but more often than not, these recommendations are not embraced.

Case in point; in 2001, Transparency International developed the concept of National Integrity Systems (NIS) assessments. The assessments seek to evaluate *"the anti-corruption efficacy of all principal institutions and actors that form a state. These include all branches of government, the media, the public and private sector, and civil society. Through a nuanced analysis of national efforts to stamp out corruption it provides a framework which local organisations and citizens can use to analyse both the vulnerabilities of a given country to corruption, as well as the effectiveness of national anti-corruption efforts."*

The first NIS assessment for the Caribbean region was conducted in Jamaica in 2003. The report makes for interesting reading, as, in the Executive Summary, the following statement was made concerning Jamaica's state of affairs, in relation to corruption: *"Corruption in its various forms derives, in the main, from public tolerance towards "beating the system", strong political traditions of patron clientelism, a 'winner-take-all' concentration of state power in the executive and Jamaica's strategic location on a main cocaine trafficking route to North America."*

The statement though embodied in a report of 2003, reads as if it were today, because arguably, it is still relevant to the state of affairs in Jamaica.

The report is 55 pages long and upon conclusion, makes five (5) recommendations, three (3) of which I will here quote verbatim:

"Firstly, the need to hasten and to deepen constitutional and political reform around consensus measures to strengthen the independence of Parliament, the service commissions, the rights of the people etc. in relation to the Executive.

Secondly, the urgency of enforcement of anti-corruption law against offenders from high society - in the public and private sector – as one means of reaffirming equality before the law, undermining popular conviction that the highly placed corrupt are untouchable and thereby helping to stimulate now dormant public involvement in the anti-corruption processes.

Thirdly, the implementation of a comprehensive program of public education and cultural change management on the issue of corruption."

In spite of the fact that the referenced report was published some ten (10) years ago, we espouse the very recommendations today, as the situation has seemingly remained static. The fact is that these recommendations have not been adopted nor implemented, but we are hopeful that change may come soon.

Notwithstanding the foregoing, Jamaica is by no stretch of the imagination, the only country confronted by the beast of corruption. On the contrary, corruption is now one of the 'problems' that now threatens the economic and social stability of many countries. It is considered a priority globally and one (1) example of an attempt to discuss the issue is seen where every two (2) years, people from countries across the world gather for the International Anti-Corruption Conference (IACC). The latest conference was held in Brasilia, Brazil in November 2012 and prior to that, in Bangkok, Thailand (2010). The conference which was held in Thailand, saw more than 1,200 people from 135 countries in attendance, while that which was held in Brazil, saw more than 1,900 people from 140 countries in attendance. The sheer number of attendees gives an idea of the 'crisis' that corruption has become worldwide.

At the end of each conference, a Declaration is passed, which is a collective commitment to continue the 'fight' against corruption. The Bangkok Convention as part of its Declaration, stated that *"Good laws will not defeat corruption in the face of public indifference... the rules of the corruption game won't change unless people are willing to stand up and demand integrity from their leaders, and demonstrate integrity themselves.* The Declaration also posited that *"Committed leadership and strong political will are critical to preventing and suppressing corruption in its various forms and dimensions, synergy between leadership, civil society and media and private sector are critical to successfully curbing corruption."* These excerpts from the Bangkok Declaration of the 14th IACC, are telling and bare a stark similarity to our landscape and what is required to effectively address the issue of corruption.

The United Nations Convention against Corruption (UNCAC), was adopted by the United Nations General Assembly in December 2003. The UNCAC is the first international, legally binding anti-corruption instrument. It recognises the importance of preventative and punitive measures in the fight against corruption and addresses the cross-border nature of corruption, with provisions on international cooperation and on the return of the proceeds of corruption. States which sign to the Convention are required to implement anti-corruption measures which may ultimately affect their laws, institutions and practices, thus preventing corruption and criminalising certain 'corrupt practices'. The UNCAC meets annually and as at December 2012, 165 countries were bound by the UNCAC.

The International Association of Anti-Corruption Authorities (IAACA) was formally established in 2006 and also meets on an annual basis. The aim of the IAACA is to facilitate the implementation of the UNCAC dictates. The membership of the IAACA is comprised of law enforcement organisations for national institutions and bodies tasked with fighting corruption, from 228 countries and regions. In addition, the UNCAC has 32 international organisations and more than 2000 individual members, which include professionals with experience in anti-corruption practice or research in their respective countries.

Jamaica is a Signatory to these groups and Jamaican representatives are usually in attendance at these seminars and conferences. However, whether the information coming out of these gatherings have resulted in any significant and obvious change to the level and perception of corruption locally is up for debate. While there have been positive action in relation to anti-corruption initiatives, there remains, in my opinion, more than enough room for improvement. Much more has to and can be done.

Corruption in its many forms has become like a parasite intent on having its way with its subjects; and without decisive action, it will ultimately engulf us. The anti-corruption 'war' therefore needs to be fought fiercely and relentlessly. We cannot at anytime relax and allow things to simply continue as is. It cannot be business as usual. The apathy toward corruption is to be rejected and while the objective is not to convert the unconcerned, they ultimately should get to the point where they do the right thing for the right reason, if we want the best for our country. It is up to each individual who is concerned about the impact of the scourge of corruption on this Fair Isle, to let their voice be heard. Further, the seeming imbalance of the social landscape, where the general perception is that the higher you are on the social ladder, the greater the possibility that you will escape punishment for wrong doing, has to be erased. This shift in behavior however, will have to start at the top.

The concern about impunity is real. Transparency International defines impunity as *"getting away with bending the law, beating the system or escaping punishment."* The more impunity is encouraged, the less the level of trust for those in authority. As stated in the Brasilia Declaration, *"impunity undermines integrity everywhere. Whether we are investing collective efforts and resources in fighting poverty, human rights violations, climate change or bailing out indebted economies, we need to give the people a reason to believe that impunity will be stopped."* The Declaration called on *"leaders everywhere to embrace not only transparency in public life but a culture of transparency leading to a participatory society in which leaders are accountable."*

A further concern, is the need to aggressively address the matter of mistrust of authorities. While significant inroads have been made in this regard, with the introduction of 'Hotlines', where reports may be made anonymously and agencies where persons can report crimes of varying nature, there is more work to be done in gaining the trust of the populace in them being assured of their personal safety and that of their loved ones.

In giving my acceptance speech at King's House in February 2013, I invited Jamaicans to *"tell us what you know and we will take the fight to the corrupt. We will protect the whistleblowers and report wrongdoing in the confines of observing fairness, the laws of natural justice and seek to make Jamaica a better place for us to live, work and play."* My invitation still stands.

Consequently, I am of the view that the fight against corruption will not be won if only the 'authorised' bodies are doing so in accordance with their given mandates. All Jamaicans should get involved. All Jamaicans should by now realise that they have to play their part in tackling corruption. We have to work as a team. We have to work hard at developing mutual trust. We have to recognise that once we stand united for the cause, we will overcome, as there is strength in numbers. Every Jamaican has a responsibility to assist in changing the negative perception of our country, as one mired in corruption. I anxiously await the day when the Transparency International's CPI ranks Jamaica at the upper end of its scale. It is an attainable goal but it requires a collective change of attitude and related action.

As I have said before, it cannot be business as usual. We cannot continue to collectively turn a blind eye to tax evasion, abuse of power, misappropriation of funds, misuse of inside knowledge and confidential information, treason, deceit and fraud, bribery, election tampering, acceptance of 'improper' gifts, cronyism, perversion of justice, nepotism, manipulation of regulation, and the list goes on. Corruption in any form should be seen by all as being unacceptable and therefore shunned. Only this approach will turn things around for us and cause the world to stand and take notice of our accomplishments.

Allegations of non-transparency, impropriety and irregularity in procurement and divestment processes continue to be reported to the OCG on a daily basis and there seems to be no end in sight. For corruption to thrive, all that is needed are the right 'players'; a corrupt public officer, a member of the public keen on being dishonest and observers who are aware but say or do nothing.

While I am aware that as at the time of this report, there is a Draft Bill (The Public Procurement Act, 2013) and the related Public Procurement Regulations, 2013 being reviewed, we recognise that the passage of same will take time and proverbially speaking, it will not happen overnight. However, its passage is highly anticipated.

It is further anticipated that with the passage of these important pieces of legislations, the penalties will be increased for breaches, depending on the nature of same. The OCG wishes to here place on record, that it does not support any Clause which seeks to give a Procuring Entity the right not to award a contract to any party with whom it is in litigation, or with whom it has an unresolved contractual dispute, as is currently contained in Volume 2, Section A8.16, of the Government of Jamaica Handbook of Public Sector Procurement Procedures (May 2012). The OCG sees this as a possible violation of the rights of the affected party, as such a provision in no way supports the old adage of being innocent until proven guilty. Having said that, Procuring Entities should be careful to employ the observance of the rules of natural justice, which is very impartial and ultimately, fair. In the foregoing regard, the OCG is heartened by the proposed omission of such a Clause from the referenced Draft documents.

ADVANCEMENTS MADE

The OCG has noted that the Government of the day has commenced the process for the establishment of a Single Anti-Corruption Agency. The commitment was given in Parliament during the delivery of the 2012 Throne Speech by the Governor General of Jamaica, His Excellency Sir Patrick Allen and the process for same is in progress. The Office will continue to observe the progress of this undertaking and earnestly hopes that its opinion and comments shall be sought. The previous administration had unsuccessfully sought to pass by the Houses of Parliament, the Corruption Prevention (Special Prosecutor) Bill, which would result in the present Corruption Prevention Act and the Parliament Integrity of Members Act, being repealed, as they would be absorbed into the new Act. Whether passage of this Bill will be pursued, is left to be seen.

The introduction of a Single Anti-Corruption Agency into the Jamaican landscape would be a welcome addition, as with corruption-related matters being 'handled' under the 'same roof', the backlog in treating with corruption cases will be addressed, though it is understood that the reduction in the caseload will not be immediate. Having said that, the OCG is fully aware of the challenges being faced by the Office of the Director of Public Prosecution (ODPP), with the demands made on the Office for 'processing' of cases. It is of note that the Commission for the Prevention of Corruption (CPC) has referred in excess of eighteen thousand (18,000) matters to the Director of Public Prosecutions (DPP) for appropriate action to be taken. With the limited resources available to the DPP, it is clear that with more such matters being added on an ongoing basis, it is highly unlikely that much gain will be made in addressing the matter of the backlog and matters referred for its attention. Bearing in mind that the DPP has other matters to treat with relative to general law and order, any serious attempt at addressing corruption-related cases, may require some consultation with the stakeholders in the Judicial System. It is submitted that the proposed Single Anti-Corruption Agency with prosecutorial powers would take us a far way to address this issue and though it will take time, corruption-related cases will be addressed more speedily with the dedicated attention.

The OCG has noted steps being taken in the fight against corruption. Though these may be considered 'baby steps' in the right direction, some are worthy of note: Advances have been made with respect to the Whistleblower Legislation, which is aimed at providing protection for people in the workplace that provide information on criminal activities at their place of employment. The CPC is the designated authority named to undertake the statutory functions of the Protected Disclosures (or Whistleblower) Act.

It has also been noted that progress has also been made in relation to the separation of the National Contracts Commission (NCC) from the OCG. The OCG currently provides administrative and technical support to the NCC and in so doing, functions as the Secretariat for the NCC. Though we merely support the NCC in this regard and are in no way involved in the NCC's decision-making, it has proven difficult for persons to differentiate between the two entities, owing to the close 'relationship'. As said previously, the OCG is in full support of the separation and will continue to provide the necessary support to the NCC until the relevant legislation is passed to confirm the separation. Upon separation, the OCG will continue to monitor the activities of the NCC, in accordance with its mandate. More importantly, I believe both institutions must continue to complement each other even after separation, as both play a vital role in the procurement process, ensuring that the necessary checks and balances are in place and that all participants observe the principles of fair play. The two (2) institutions are essentially on the same 'team', with the NCC as facilitator and Linesman and the OCG as Umpire.

It is also of significant note that the Honourable Chief Justice of Jamaica, her Ladyship Mrs. Zaila McCalla, has in recent years, designated Court 4 at Half-Way-Tree to try cases of corruption. This should ultimately result in the speedy determination of corruption cases.

MONITORING AND PORTFOLIO MANAGEMENT

In keeping with its monitoring responsibilities, the OCG, through the Inspectorate Division, monitored a total of nine hundred and sixty-seven (967) procurement opportunities in 2012. The Division is divided into two (2) Units; namely, the Construction Contracts Unit and the Non-Construction, Licences and Permits Unit. Of the 967 procurement undertakings monitored, six hundred (600) were non-construction projects, while the remaining three hundred and sixty-seven (367) were construction projects.

A reduction in the number of contracts monitored in 2012, was as due to a multiplicity of factors, to include, the division undertaking a more focused approach in relation to the nature of the contracts monitored and based upon the observation of the procurement practices of certain entities over time, plus the strategic monitoring of procurement opportunities and management of Portfolio assignments. It is anticipated, that as further information is gathered on the procurement practices of Public Bodies, the number of contracts monitored on a sustained basis, will be further reduced.

The Table below shows the number of procurement projects monitored between 2008 and 2012:



The primary mandate of the Inspectorate Division is the monitoring of government contracts. However, Inspectors are also charged with other Portfolio responsibilities, to include, the Auditing of the procurement activities of Government entities, monitoring the divestment of State Lands and Assets, Enquiry Management (conducting enquiries into allegations of impropriety and/or irregularity in procurement processes), the Monitoring of Licences and Permits issued by Government entities, the monitoring of projects under the Constituency Development Fund (CDF) programme, the monitoring of projects under the Jamaica Development and Infrastructure Programme (JDIP) and the Jamaica Emergency Employment Programme (JEEP) and the management of the Quarterly Contract Award Portfolio.

In 2012, the Division also undertook a special assignment, which saw the OCG reviewing the engagement arrangements by Government entities, for the following services: Garbage Disposal, Cleaning and Portering/Janitorial Audit and Security.

More detailed information pertaining to this undertaking, as well as the aforementioned Portfolio assignments, can be found under the sections entitled 'Monitoring of Non-Construction Contracts, Licenses, Permits and Concessions' and 'Monitoring of Construction Contracts'.

Matters Pertaining to Procurement Monitoring

In May 2012, by way of Circular No. 16, the Ministry of Finance and Planning, informed all relevant parties of an increase in the contract value thresholds for the procurement of goods, services and works. The Government of Jamaica (GOJ) Handbook of Public Sector Procurement Procedures was subsequently revised to reflect the threshold changes, among others. As at the time of the drafting of this report, the latest version of the GOJ Handbook of Public Sector Procurement Procedures was dated May 2012.

Through its monitoring, the OCG has observed that Public Bodies have demonstrated greater compliance with standard GOJ procurement procedures. However, there is still room for improvement, as the following deviations persist among some Public Bodies:

1. The Non-Utilisation of the Standard Bidding Document in accordance with threshold stipulations
2. Improperly-prepared Evaluation Criteria
3. The Non-Preparation of Comparable Estimates
4. The Non-Disclosure of Comparable Estimates at Tender Opening Ceremonies
5. The failure of Public Bodies to obtain documented Head of Entity Approval of contract award recommendations
6. The failure of Public Bodies to utilise the GOJ-approved Bid Receipt and Bid Opening forms
7. The failure of Public Bodies to disclose the Evaluation Criteria to be utilised in evaluating Bids
8. The failure of Public Bodies to advise potential Bidders of the requirement for them to be registered with the National Contracts Commission (NCC) in order to be eligible to submit Bids, where applicable
9. The failure of Public Bodies to prepare Contract documents

It should be noted however, that once deviations are identified, offending Public Bodies are notified of same and instructions given regarding how to address the issues raised.

Cost Overruns and Variations

In an effort to ascertain the value of Cost Overruns and Contract Variation costs incurred on contracts, the OCG at the beginning of 2013, requested from all Public Bodies, information pertaining to same, for the period January 1, 2012 to December 31, 2012. Public Bodies were also required to state the reason for any Cost Overrun or Variation declared. The requested information was in relation to projects with a value of J\$500,000.00 and above. One hundred and ninety-eight (198) Public Bodies were requisitioned and all responded to the OCG's request by the stipulated deadline.

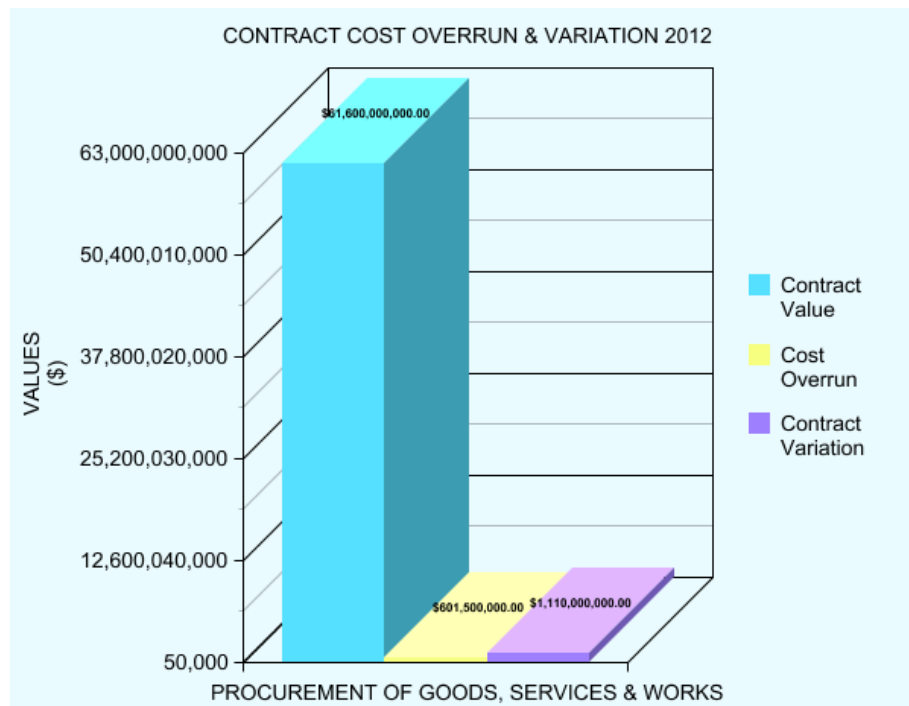
Of the one hundred and ninety-eight (198) Public Bodies which responded, one hundred and thirteen (113) reported no Cost Overrun or Contract Variation. The remaining Public Bodies reported incidents of Cost Overrun and/or Variation to contracts.

From the information obtained, the OCG determined that for the reporting period January to December 2012, contracts amounting to J\$61.60B, attracted Cost Overruns and Contract Variations amounting to J\$601.50M and J\$1.11B respectively, for Goods, Services and Works contracts combined.

The Table below illustrates the total Contract Cost Overruns and Variations (CCOV) for 2012:

Procurement Type	Total Contract Value (J\$)	Total Value Cost Overrun (J\$)	Total Value Variation (J\$)	% Cost Overrun	% Variation
Goods	0.62B	9.50M	(36.47 M)	1.54	-5.9
Services	1.72 B	111.50M	288.04M	6.50	16.80
Works	59.24 B	480.5M	858.6M	0.81	1.45
TOTAL (Goods/Works/ Services)	61.60B	601.50M	1.11B	0.97	1.81

The graph below, illustrates the total value of contracts awarded as well as total Cost Overruns incurred on contracts and total Contract Variations for 2012



The Selection of Sub-Contractors to Conduct Work on Major Projects

The engagement of Sub-Contractors on projects, as at the time of this report, fell outside of the purview of the OCG. However, in spite of same, the OCG has, over the years, expressed by way of letters and its Annual Reports, its concerns pertaining to how Sub-Contractors are engaged for major infrastructural projects. The OCG has been strident in its efforts to get the powers that be, to consider implementing a procedure whereby, only Contractors registered with the NCC and therefore qualified to perform work in the respective categories and at the required levels, would be considered for engagement on major projects, as Sub-Contractors. The OCG in recommending that this approach to sub-contracting be undertaken, further recommended that any such award of contract should be conducted in a fair and transparent manner, thus allowing equal opportunity for any qualified and competent Contractor to be selected. This posture we maintain.

This recommendation has been made against the background that infrastructural works, unless awarded according to the level of competence, will ultimately cost the people of Jamaica more than the agreed amount, as the likelihood for remedial work to correct any defects identified, will be greater in the long run. The increased likelihood of Cost Overruns and Contract Variation costs being incurred on projects is also of concern to the OCG, as, without the Sub-Contractors being duly registered with the NCC, thus ascertaining their level of competence, availability of resources (human and capital) and current workload, there is no guarantee that the works performed will be in accordance with the desired end result. Engaging a Sub-Contractor that has not been subject to the necessary and thorough due diligence conducted by the NCC prior to approving their ability to provide the service at the required level, is at best, risky and may be more costly in the long run.

Further, the OCG has sought to engage the GOJ and the Parliament of Jamaica, to make the necessary steps for it to undertake the monitoring of the engagement of Sub-Contractors, as well as monitoring of the works to be carried out by them. As at the time of this report however, no official position had been put forward by the said authorities pertaining to the engagement of Sub-Contractors.

Nonetheless, the OCG has noted with keen interest, the occasional calls for its office to intervene where Sub-Contractors are faced with challenges in relation to non-payment of monies for works conducted. Until the necessary legislation is passed however, the OCG is not empowered to take any action in relation to Sub-Contractors, as only the engagement of the main Contractor falls within the ambit of the OCG's jurisdiction. That said, it is advisable that Sub-Contractors, while being receptive of offers to perform works on these projects, take all the necessary steps to ensure that their interests are protected. Sub-Contractors should as best as possible, ensure that a duly signed Contract is in place prior to commencement of the agreed works and that the terms and conditions of the contract are clearly understood and acceptable. This will allow for the Sub-Contractor to 'have a case' should the main Contractor fall short of the agreement.

OCG Presentation to Accounting and Accountable Officers of GOJ Ministries and their Reporting Agencies

In 2012, the OCG embarked on a 'mission' to sensitise Accounting and Accountable Officers, along with their reports, to their respective roles in the GOJ procurement process, as well as the role of the OCG. The planned presentations, also sought to highlight recurring areas of deficiencies/deviations identified by the OCG in its monitoring of procurement undertakings by Public Bodies over time and to make recommendations regarding how to address same.

We consider it our duty to assist Public Bodies in relation to the GOJ procurement procedures, where possible, and as such, the Office has found that owing to its monitoring function, it has the advantage of identifying the shortcomings which occur on an ongoing basis during the procurement process. It is with this in mind, that the OCG thought it necessary not to train, but to guide the necessary personnel within Public Bodies, in avoiding common 'mistakes' made in undertaking procurement exercises. We believe that our presentations, complements that offered by the Procurement Unit of the Ministry of Finance and Planning, and that both are useful to all stakeholders.

The presentations commenced in March 2012 and as at January 2013, a total of thirteen (13) presentations had been made to all but one Ministry and its agencies. The Ministry of Youth and Culture, through its Permanent Secretary in June 2012, declined the OCG's offer, opting instead to seek any procurement-related training or sensitisation from the Ministry of Finance and Planning, when required. It should be here noted that the Ministry of Finance and Planning welcomed and was privy to the presentations made by the OCG. There were instances where Ministries requested and were granted repeat presentations, as they found the presentations to be enlightening and desired that more personnel within their respective agencies benefit from the information. All presentations were followed by Question and Answer and discussion sessions and in this regard, many procurement-related matters were addressed indepth.

The presentation sessions were attended by Permanent Secretaries, Heads of Entities, procurement personnel within Ministries of Government and their reporting Agencies, as well as members of the Board of Directors within the respective Ministries and Agencies. The feedback received from all parties that benefitted from the presentations has been positive to date and all have expressed their gratitude to the OCG for the independent initiative.

The OCG hereby uses this opportunity to publicly thank the different Ministries and Agencies for accommodating its teams and for sharing in the experience. It is hoped that the information gained from the presentations will be applied where necessary.

The OCG wishes to also take this opportunity to encourage all procurement personnel to make every effort to keep abreast of any amendments to the GOJ Public Sector Procurement Policy and Procedures, by routinely checking the website of the Ministry of Finance and Planning. Further, where procurement training opportunities arise, you are encouraged to partake of same, as any training will be of benefit.

Submission of Quarterly Contract Award (QCA) Reports

The OCG has over the years, required that Public Bodies submit to its office, a quarterly report indicating all contracts awarded within a stipulated contract threshold, below the value requiring NCC endorsement. Since 2009, the OCG has seen a 100% compliance rate, with the sole exception being the 1st Quarter of 2012, where one entity failed to submit its report within the timeframe stipulated. In keeping with the OCG's Zero Tolerance Policy for non-submission of said report, the offending Public Body has since been referred to the Director of Public Prosecutions for the necessary action to be taken.

Based on information gathered from the contracts reported by way of QCA report submission, a total 9,399 contracts were reported over the reporting period, at a total value of J\$25,752,214,653.20.

In 2012, the 'avenue' for submission of the referenced report was upgraded. As at the third (3rd) Quarter of 2012, Public Bodies commenced the submission of their QCA reports by way of the QCA Online Web Portal. The new system also coincided with the OCG's new thrust to have Public Bodies submit the details for all contracts awarded, valued above J\$500,000.00. The new format of the report now allows for the input of justification for the use of certain procurement methodologies and also for comments. Further, the Portal prevents procurement personnel from submitting an incomplete report, as it rejects any attempt at submitting the report without completing the required fields.

Owing to the change in reporting format among other things, the reports submitted are no longer scored and as such, Public Bodies have ceased to receive scores in accordance with their levels of compliance. This decision was taken, as the OCG was of the considered view that by merely submitting the report on time, unless the records of the entity are audited for accuracy of information, the scoring of the entity based on its own submission is flawed and does not in any way reflect the procurement practices of said entity.

For more detailed information on Procurement Monitoring and Portfolio Management activities for 2012, please visit the sections of this report entitled 'Monitoring of Non-Construction Contracts, Licences, Permits and Concessions' and 'Monitoring of Construction Contracts', respectively.

CORPORATE SERVICES DIVISION

The Corporate Services Division comprises the Human Resource Management Department, the Finance and Accounting Department, the Office Management Department and the Registry.

Staff Matters

Training of staff is a primary focus of the Corporate Services Division; and in 2012, twenty-one (21) staff members benefitted from local training opportunities which were identified by the Human Resource Management Department. In addition, three (3) senior staff members completed short training courses overseas, while select staff members were able to attend various seminars and conferences locally and overseas.

In November 2012, the Division continued with its hosting of the OCG's Annual Awards and Recognition Ceremony. Staff members received awards in a variety of categories, with one employee receiving an award for twenty-four (24) years of service to the OCG.

Receipt of CIDA Grant

In keeping with its thrust of strengthening the OCG through technology, the Office requested and was awarded a grant of CDN\$40,000.00, courtesy of the Canadian International Development Agency (CIDA). The funds were utilised to enhance the OCG's information technology systems and capabilities and the project completed within budget and the stipulated timeframe. Receipt of the items, have resulted in the office operating more efficiently.

Further information pertaining to the activities of the Division during 2012, may be found in the section of this report, which is entitled 'Corporate Services Division'.

INFORMATION SYSTEMS DIVISION

During 2012, the Information Systems Division (ISD) continued to offer outstanding technological support to the various Divisions within the OCG. One of the many undertakings of the ISD to improve the efficiency of the Divisions, was the conversion and introduction of two (2) Servers to the Virtualisation Solution and the repurposing of one (1) Virtual Server Host.

Further information pertaining to the activities of the Division during 2012, may be found in the section of this report, which is entitled 'Information Systems Division'.

SPECIAL INVESTIGATIONS DIVISION

The Special Investigations Division (SID) concluded six (6) Special Investigations in 2012. The referenced Reports were duly submitted to the Principal Officer of the Public Body and the respective Minister of the relevant Ministries in accordance with Section 20 (1) of the Contractor-General Act. The Reports were also submitted to the Houses of Parliament, in accordance with the mandates of Section 21 of the Contractor-General Act.

The Reports of Investigation have been Tabled in the respective Houses and are now available for viewing on the OCG's website, at www.ocg.gov.jm.

The Reports concluded in 2012, were:

1. Special Report of Investigation - The Award of a Security Contract for the Provision of Landside Security Services to Protection and Security Limited;
2. Special Report of Investigation - Conducted into the Circumstances Surrounding the Award of a Contract to Syncon Technologies Limited for the Supply and Installation of a Telephone System in 2007;
3. Special Report of Investigation – Allegations of Procurement Breaches regarding the Installation Ceremony for the Interim President of College of Agriculture, Science and Education (CASE);

4. Special OCG Report of Investigation – Conducted into the Circumstances Surrounding Procurement and Contract Award Issues at the National Youth Service (NYS);
5. Special Report to the Parliament of Jamaica - Concerning the Posture of the Cabinet of Jamaica with respect to certain Lawful Requisitions of the Office of the Contractor General; and
6. Special Enquiry Audit - QCA Reports filed by the Rural Electrification Programme Limited.

In line with the Findings unearthed in the conduct of our investigations, several key recommendations were made to the respective Public Bodies; all of which are detailed in the section of this Report, which is entitled 'Special Investigations Division'.

It should be noted, that upon conclusion of Special Investigation Reports, where deemed necessary, formal Referrals have been made by the OCG to the appropriate State Authorities for the requisite action(s) to be taken by them in accordance with the requirements of Section 21 of the Contractor-General Act.

TECHNICAL SERVICES DIVISION

The primary function of the Technical Services Division (TSD) is to provide Administrative and Technical support to the National Contracts Commission (NCC). The TSD functions as the Secretariat to the NCC and as such, carries out a variety of duties on behalf of the NCC.

In carrying out the duties of the NCC, the TSD continues to be hampered by the limited human resource. In spite of that reality however, the Division continued with its undertaking of ensuring that all registration applications received, are reviewed for 100% compliance with the requirements for registration and all information entered on the application are verified by an Officer within the Division. The verification of data is paramount, as it allows for the NCC to approve registration in the most appropriate category and in keeping with the competence level of the applicant.

In November 2012, in an effort to have a more comprehensive Application Form for the provision of Goods and Services to Public Bodies, a revised Application Form was introduced. Importantly and of great significance, was the increase of the registration period for Contractors from twelve (12) months to eighteen (18) months, a move which was welcomed by the Contractors who had long lobbied for a change in the registration period.

The total number of Contractors registered for the provision of Goods and Services in 2012, was 1397; up from 1396 in 2011. The total number of Works Contractors (Grades 1-4) registered with the NCC was 218, down from 219 in 2011. In either instance, the difference was at best marginal. Total registration for Grade 5 Works Contractors was 17, which represented a reduction of two, coming from 19 in 2011.

During 2012, the NCC endorsed the award recommendation of 512 contracts amounting to \$24,232,961,653.00.

It should be here noted, that effective May 14, 2012, the lower limit for NCC endorsement of contract award recommendations was increased from J\$10M to J\$15M.

More comprehensive information on the activities of the Division, can be viewed under the section entitled 'Technical Services Division'.

CLOSING COMMENTS

The OCG is cognisant of the important role it plays in the Jamaican landscape and as such, has been strident in ensuring that it fulfills its mandate. While there have been challenges, we have performed our duties to the best of our abilities, given our resources and the legislative limits within which we operate. Over the years, we have made significant in-roads in relation to our monitoring function, in that; we have sought to engage Public Bodies in an attempt for them to improve upon their procurement awareness and practices.

The OCG is aware that many agencies have taken steps to address deficiencies identified; however, the continued failure of some Public Bodies to adhere to proper procurement practices continues to be of great concern to the OCG. There continues to be far too many instances of procurement breaches. Deviations from the established procurement process, invariably lead to the perception of or actual delay, ultimately resulting in resources that could have been otherwise used by the entity being expended. Where Public Bodies are found to be in violation of established procurement procedures, these entities are generally advised in writing and recommendations made for the matters to be addressed.

One of the main issues which has come to the attention of the OCG in relation to procurement management, is the fact that there are Public Bodies which do not have staff dedicated to performing procurement duties. As such, persons assigned to carry out procurement functions, also have the added responsibility of other unrelated, on-the-job duties. For instance, the OCG has seen procurement personnel having the added responsibility of being Human Resource Managers or the Personal Assistant to the Head of Entity; two (2) otherwise demanding desks, which would not allow for the kind of attention required in performing procurement duties. Procurement is a specialised area which requires focus and the GOJ Handbook of Public Sector Procurement Procedures speaks to Public Bodies having established Procurement Units.

The OCG recognises that the size of some entities will not allow for such a Unit to be established; however, where this is not possible, Public Bodies should ensure that at a minimum, the parties who perform procurement duties are fully aware of the associated and approved policies and procedures and are given sufficient time to carry out procurement duties. Admittedly, the area of procurement is demanding and in most instances, time consuming. Notwithstanding same, the need for procurement practitioners to be meticulous in performing their duties cannot be overemphasised. Further, Public Bodies should ensure that as best as possible, every effort be made to ensure that even where there are human resource constraints, more than one person is trained in procurement procedures, to allow for continuity in the absence of the designated 'procurement person'.

In light of the foregoing, I take this opportunity to encourage heads of entities, including Permanent Secretaries, to make every effort to identify training courses in procurement for all individuals who are involved with procurement activities. Where identifying external training for staff poses a problem, the Public Body is encouraged to seek the relevant training from the Ministry of Finance and Planning (MOFP), who are the Managers and authors of the procurement process. Failing that, special sessions should be held internally and the Handbook perused, covering all relevant sections. Where there are questions, then the MOFP should be contacted in that regard for clarification.

The OCG is concerned about the continued occurrences of Contract Variations, Time and Cost Overruns being incurred on projects. While such occurrences are not indicative of corruption, it is my belief that the manifestation of such occurrences can be greatly reduced, through proper Procurement Planning and greater care being taken in the preparation of Comparable Estimates, ensuring that all elements of the undertaking are accounted for from the outset. These two (2) areas if properly undertaken, generally result in projects being completed on time and within budget, save for natural disasters or some unforeseen occurrence not related to the actual procurement. The Contract Variation and Cost Overrun amounts indicated earlier are exorbitant by any standard and should be of great concern to all Jamaicans and particularly to the Heads of all Public Bodies, whose responsibility it is to ensure that its reports are fiscally responsible in conducting all business on behalf of the people of Jamaica.

I wish here to take this opportunity, to remind Project Managers that they have a responsibility to carefully monitor projects to which they are assigned and in so doing, document any issue which may affect or has affected the project. Where it is found that a Project Manager is negligent in performing his duty, thus resulting in unfavourable outcomes for the Public Body, then that Project Manager is to be held accountable and the necessary action taken. Conversely, where there are disputes or issues in relation to projects and/or Contractors, Public Bodies should ensure that these are documented and the necessary action taken.

Public Bodies are reminded that the engagement of Contractors without a signed and dated Contract Agreement with the necessary Terms and Agreements stated therein, is a violation of the Procurement Policy. A standard Contract Agreement not only serves to indicate timelines; it also is an instrument of protection for both parties. It is therefore imperative that a proper Contract Document is prepared.

During its monitoring, the OCG has noted that most incidents of deviation occur during the Pre-Contract phase of the procurement process. While the office continues to bring these deviations to the attention of the offending Public Bodies, and while it is not my intention to offend any Public Body, it is not lost on the OCG that the Pre-Contract phase is the stage in the procurement process, which is most vulnerable to varying forms of corruption. As such, the OCG will watch with keen interest, how the relevant authorities, in reviewing the Contractor-General Act, will treat with its jurisdiction in relation to its monitoring of the Pre-Contract stage of the procurement process.

I have yet to complete my first year as the fifth (5th) Contractor General of Jamaica; however I look to the future with great anticipation of what is to come. I am fully aware that the fight against corruption is a team effort and as such, I encourage all Jamaicans to join hands and come aboard, as we confront the monster of corruption together. We need to stand united and make it known in no uncertain term that corruption in any form is not acceptable. The fight starts with us. Further, in our effort to cleanse Jamaica of corruption, we need to teach the next generation not to accept corruption in any form.

The National Vision for Jamaica is "*Jamaica, the place of choice to live, work, raise families, and do business*". This Vision is embodied in "*Vision 2030*" which is the National Development Plan for Jamaica; a product which resulted from extensive consultation between the Government and the people of Jamaica. All parishes were included in this effort, which has identified four (4) National Goals to be achieved by the year 2030. These are:

1. Jamaicans are empowered to achieve their fullest potential
2. The Jamaican society is secure, cohesive and just
3. Jamaica's economy is prosperous
4. Jamaica has a healthy natural environment

The Goals identified are interdependent and therefore cannot be achieved in isolation. For each Goal to be achieved, there are expected National Outcomes. In order to attain those Outcomes, there are detailed associated National Strategies.

The National Outcomes for each Goal are as follows:

Goal 1

- a. A Healthy and Stable Population
- b. World-Class Education and Training
- c. Effective Social Protection
- d. Authentic and Transformational Culture

Goal 2

- a. Security and Safety
- b. Effective Governance

Goal 3

- a. A Stable Macroeconomy
- b. An Enabling Business Environment
- c. Strong Economic Infrastructure
- d. Energy Security and Efficiency
- e. A Technology-Enabled Society
- f. Internationally Competitive Industry Structures

Goal 4

- a. Sustainable Management and Use of Environmental and Natural Resources
- b. Hazard Risk Reduction and Adaptation to Climate Change
- c. Sustainable Urban and Rural Development

The National Strategies to be undertaken in order to achieve the National Outcomes outlined, are quite detailed and space does not allow for me to list them accordingly. As such, and in an effort to gain a full appreciation of Vision 2030, I encourage all Jamaicans to visit the webpage for the Plan at URL: <http://www.vision2030.gov.jm/>.

Though for many the Vision outlined is what fairytales are made of, it is my belief that it is attainable. However, the only way to achieve these 'Goals', is to approach them in a united way. All Jamaicans, regardless of social or political standing need to be committed to the cause. Short term sacrifices may be required in order for us to achieve long term gains. It is not impossible once we invite God's presence and do what we have to do. We are not perfect but we are a blessed nation built on hard work and pride. In spite of some of the misfortune we have had to face, I believe all Jamaicans want for us to once again become a prosperous and peaceful nation.

We have to appreciate that Jamaica is no ordinary island. We are a small nation with a big image and we are admired; and in some cases revered the world over. Merely being Jamaican in some parts of the world accords you celebrity status. We however have our challenges, which also get its fair share of attention. Nevertheless, all is not lost.

As Jamaicans, we should re-commit to contributing to the growth, security, prosperity and general wellbeing of our fair nation. We need to live by the words of our National Pledge, which speaks to our spirit as Jamaicans:

"Before God and all mankind, I pledge the love and loyalty of my heart, the wisdom and courage of my mind, the strength and vigour of my body in the service of my fellow citizens; I promise to stand up for Justice, Brotherhood and Peace, to work diligently and creatively, to think generously and honestly, so that Jamaica may, under God, increase in beauty, fellowship and prosperity, and play her part in advancing the welfare of the whole human race."

I urge all Jamaicans to meditate on the words of this our National Pledge and re-commit to making our Jamaica, the best place to live. It will not happen overnight but it can be done. If the honest majority takes the decision "to stand up for

Justice, Brotherhood and Peace, to work diligently and creatively, to think generously and honestly,” then the minority bent on being dishonest and depraved will eventually fall. We have to unite for the cause. We need to stop waiting on the next man to do it. We cannot leave it for Politicians, Dons or future generations to effect change. As it is, that has not worked. We have to stand up and encourage each other to come together as one, for the same cause. We can do it.

In closing, I wish to take this opportunity to express my sincere gratitude to those who have supported the Office and its work. We ask for your continued prayers and support. We assure you that we will remain committed to the cause and will continue to confront the scourge of corruption without fear or favour.

On a personal note, I wish to thank the hardworking staff of the OCG for their unwavering commitment to the task at hand. I also wish to thank everyone who has in one way or another, supported my appointment as the fifth Contractor General of Jamaica. To you and all of Jamaica, be assured of my commitment to serving this country. May God continue to bless Jamaica.

Dirk Harrison

Contractor General

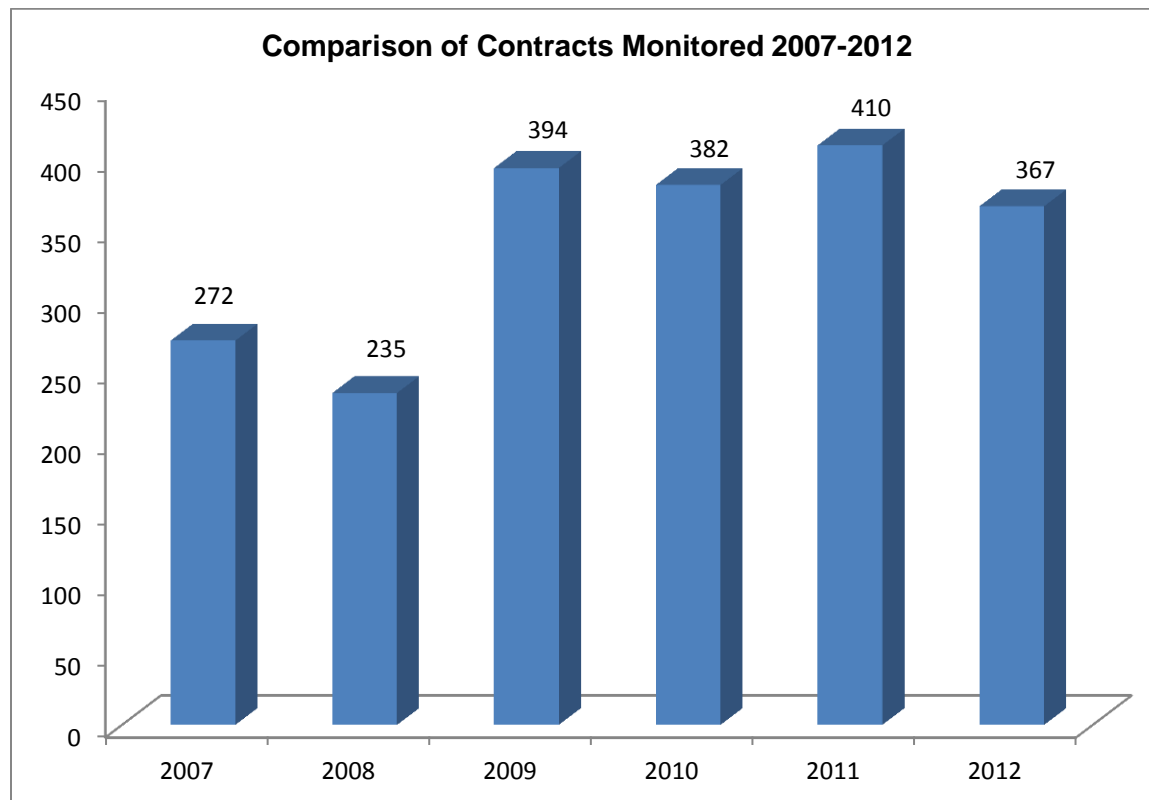
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MONITORING OF CONSTRUCTION CONTRACTS

During the 2012 calendar year, the Construction Contracts Division of the Office of the Contractor General (OCG) monitored the Pre and Post Contract stages of three hundred and sixty seven (367) contracts. As such, there was a 10.5% decrease in the number of works contracts which were monitored for the year 2012, in comparison to the previous year in which four hundred and ten (410) contracts were monitored. This reduction in monitoring activities was attributed to, primarily, the Inspectorate Division providing assistance to the Technical Services Department (TSD) with the Contractor Registration Process.

It must be noted that the NCC, during the year, endorsed a total of one hundred and forty eight (148) works contracts which had an aggregate value of J\$10,314,568,600.00, of which fifty-two (52) were monitored by the Construction Contracts Division.

Chart 1: Comparison of Number of Construction Contracts Monitored 2007-2012



CONTRACTING UNDER EMERGENCY CIRCUMSTANCES – HURRICANE SEASON

By way of a letter which was dated October 22, 2010, the OCG wrote to the then Permanent Secretary, Ministry of Transport and Works (MTW), Dr. Alwin Hales, and also to the then Director General, Ministry of Local Government, Major Richard Reese, expressing its concern regarding the manner in which the Emergency Contracting Procurement Methodology was being utilised. In the referenced letter, the OCG stated that:

“The Office of the Contractor General (OCG) has found that, in the past, the referenced procurement methodology [Emergency Contracting methodology] was used, by Public Bodies, in numerous situations, which were inappropriate for the primary reason that the decision to use the Emergency Contracting methodology was reported to the NCC/OCG several months after the emergency took place, thereby rendering the need for the use of the methodology to be null and void.”

Further, within the period, which was expended to enact the referenced procurement methodology, a competitive bidding process could have been utilized, by Public Bodies, to achieve lower contract sums, and ultimately, better value for money. The foregoing would also assure a transparent process which is free from irregularity and/or impropriety.

The solution to the referenced concern is proper procurement planning, which the Government Procurement Procedures promotes, as being the foundation of good governance for use of public funds.

It is therefore recommended, to secure a greater degree of efficiency, for the next hurricane season, and onwards, that Contractors should be duly prequalified, from as early as June of each year, so that in the event that there are any major infrastructural damages, caused by any unforeseen circumstances, attributed to a natural disaster, a substantial stage of a fair and transparent process would have already been undertaken.

Thereafter, if an emergency arises, during the course of the hurricane season, prequalified contractors would be asked to submit detailed price bids, at which time, the said prequalified contractor, with the most economical bid, would be awarded the associated contract.

In the foregoing regard, the OCG will be available to offer any guidance required.

...The OCG would be grateful if you communicate our formal position and concern, to the respective implementing agencies, such as, the National Works Agency and all Parish Councils."

A similar letter was also written to the referenced recipients on April 13, 2011.

In October 2012, Hurricane Sandy ravaged the Island causing significant infrastructural damage which led to emergency measures being undertaken by the Government, via a Memorandum, in an effort to have normality returned to the Country.

The aforementioned Memorandum, which was dated October 29, 2012, was in reference to 'Damage Caused by Hurricane Sandy - Use of the Emergency Contracting Procedures', and was issued by the Cabinet Secretary to the Financial Secretary, and all Permanent Secretaries. Therein, it was stated that "The Cabinet by way of decision No. 37/2012 dated 29 November [sic] 2012, has authorized the use of the Emergency Contracting Procedures method in respect of the disaster mitigation and reconstruction efforts in relation to damage caused by Hurricane Sandy."

Consequently, the OCG sought to determine the strategies which had been implemented by the various Public Bodies in dealing with the catastrophe. In so doing, the OCG dispatched requisition letters, which were dated November 14 and 29, 2012, to all relevant Public Bodies, requesting the following information:

- i. A comprehensive list and associated locations of the projects that will require implementation under the Emergency Contracting Procedures, as a result of Hurricane Sandy;
- ii. The contract value for each of the referenced projects;
- iii. The names of the Contractors along with the work schedules for all projects;
- iv. Whether the procurement process involved the prequalification exercise which was recommended by the OCG in its letters dated October 22, 2010 and April 13, 2011;
- v. If the answer to (iv) is yes, kindly provide the OCG with all documentation pertaining to the process; and
- vi. If the answer to (iv) is no, kindly provide the OCG with an Executive Summary outlining, inter alia, the rationale for the method used to select the Contractors and the manner in which value for money will be achieved.

Detailed hereunder, are particulars of the responses obtained by the Public Bodies.

Table A– Public Bodies Response to Contracting Under Emergency Circumstances – Hurricane Sandy

Public Body/ Contractor	Total Expenditure /Contract Awarded	Justification	Comments
Ministry of Health: South East Regional Health Authority (SERHA)	J\$37.9M	Damage to several health institutions resulted in the urgent need to remove the impediment and restore the facilities to normal working condition.	Entity indicated that twenty-seven (27) projects were identified with the total sum approved for all projects capped at approximately J\$67.6M. Additionally, due diligence was done in arriving at the contract value and selecting of the Contractors. Based on data submitted, only contract value of approximately J\$37.9M was evidenced. Numerous contractors were utilized to implement the works.
Ministry of Health: North East Regional Health Authority (NERHA)	J\$99.2M	Urgent need for repairs to damage to three (3) Hospitals, two (2) Health Departments, other health facilities including replacement of equipment.	Entity indicated that due diligence was done to ensure that value for money was achieved and the selection of Contractors was transparent. Numerous contractors were utilized to implement the works.
National Solid Waste Management Authority (NSWMA)	J\$115.4M	Clearing of roadways and removal of debris to preserve safety and avert public inconvenience.	Entity indicated that the engagement of Contractors was in accordance with the GOJ Procurement Guidelines and the hireage of equipment in accordance with the NWA's Schedule of Rates for Equipment Hire. Numerous contractors were utilized to implement the works.
Ministry of National Security	J\$30.0M	Urgent repairs required to building structures and equipment	Entity indicated that the Contractors which were engaged were appropriately registered with the National Contracts Commission (NCC). Numerous contractors were utilized to implement the works.
Ministry of Agriculture & Fisheries	J\$108.0M	Urgent requirement of fertilizer and seedlings to be supplied/distributed to farmers. Repairs to roof of Residue & Analytic Lab.	Entity indicated that the Direct Contracting Procurement Methodology was utilised to procure fertilizers, seedlings, seeds and small agricultural tools. Numerous contractors were utilized to implement the works. Numerous contractors were utilized to implement the works.
National Works Agency (NWA)	J\$206.0M	Cutting and removal of fallen trees, removal of landslides, clearing blocked roads and drains, temporary repairs to roads.	The NWA's data comprised ten (10) Parish Offices and Kingston. It indicated that a significant amount of the cost incurred was related to the hireage of equipment which was done in accordance with the NWA's Schedule of Rates for Equipment Hire. Numerous contractors were utilized to implement the works.

Public Body/ Contractor	Total Expenditure /Contract Awarded	Justification	Comments
Ministry of Local Government	J\$8.4M	Cleaning and removal of debris from road, cutting & clearing of trees, clearing land slippage.	Five (5) Local Authorities, namely the KSAC, St. Catherine Parish Council, St. Mary Parish Council, St. Thomas Parish Council and Portland Parish Council were affected. The St. Thomas, St. Mary and, St. Catherine Parish Councils, indicated that all post hurricane works were carried out by the NWA. The KSAC did not submit a report due to the inadvertent absence of its City Engineer. Numerous contractors were utilized to implement the works.

Data submitted by seven (7) Public Bodies indicated that approximately J\$604.9 million was either expended or awarded as contracts to carry out emergency works. At the time of submission to the OCG, the data indicated that the works were at various stages of completion.

The data indicated that a significant amount of the works undertaken included the hireage of equipment which was done in accordance with the National Works Agency's (NWA's) Schedule of Rates for Equipment Hire.

Majority of the Public Bodies indicated that the procurement process for Contractors to carry out repairs to buildings/structures was done in a diligent manner and Comparable Estimates were prepared to ensure that value for money was achieved.

As at December 2012, the requisitioned data was not received from the National Water Commission.

Variations and Cost Overruns

The GoJ Handbook of Public Sector Procurement Procedures defines a cost overrun as *"...an increase in the contract sum resulting from escalation in the price of labour and/ or material"* and a variation as *"...a change to the deliverable(s) under a contract caused by an increase or decrease in the scope of work to be performed, amount/type of goods to be supplied or services to be provided, and must be directly related to the specific contract."*

PUBLIC SECTOR CONTRACT COST OVERRUNS AND VARIATIONS (CCOV)

The OCG, in an effort to gather data from Public Bodies with regard to CCOV's incurred from the procurement of goods, works and services during 2012, requisitioned all Permanent Secretaries and Heads of Procuring Public Bodies to submit information on same.

The objective of this exercise was to enable the OCG to get better insight into (a) cost overruns and variations attendant to contracts awarded by Public Bodies, (b) the justification for these overruns, and (c) the possible impact that they might have had on the time taken to implement the contracts.

The information requested was relevant to all projects of value greater than J\$500,000.00, for which cost overruns and/or variations were approved during the calendar year 2012, and for which monetary disbursement was made, irrespective of the date of contract award.

In the foregoing regard, the OCG requisitioned one hundred and ninety eight (198) Public Bodies to provide it with the relevant information. All Public Bodies responded to the requisition and a review of the data showed that one hundred and thirteen (113) or 57.0% of the Entities indicated that no CCOV's had occurred during the period under review.

CCOV data submitted by the remaining eighty five (85) Public Bodies indicated that the combined goods, works and services contracts valued approximately J\$61.6 billion of which cost overruns and variations were approximately J\$601.50 million and J\$1.11 billion, respectively.

The results of the submissions are as follows:

Table B - Contract Cost Overruns and Variations (CCOV)

Type of Contract	Total Contract Value (J\$)	Total Value Cost Overrun (J\$)	Total Value Variation (J\$)	% Cost Overrun	% Variation
Goods	0.62B	9.50M	(36.47M)	1.54	-5.9
Works	59.24B	480.5M	858.6M	0.81	1.45
Services	1.72B	111.50M	288.04M	6.50	16.80
Goods/Works /Services	61.60B	601.50M	1.11B	0.97	1.81

Of the combined value of contracts awarded, works contracts represent the highest value of approximately 96.2%, services represent 2.8% and goods represent 1%.

The data also shows that services have the highest percentage of cost overruns and variations at 6.5% and 16.8% respectively. It is, therefore, recommended by the OCG that in order for the Entities to significantly reduce the occurrence of cost overruns and variations associated with these contracts, a greater level of diligence needs to be undertaken at the pre-contract stage and there needs to be greater supervision during the contract implementation stage.

CCOV FOR GOODS, WORKS AND SERVICES EXCEEDING J\$5 MILLION

The CCOV data for the procurement of goods, works and services exceeding J\$5 million was reviewed and tabulated. The table below indicates that total variations were significantly higher than that of total cost overruns.

Table C: CCOV Goods, Works and Services exceeding J\$5 Million

Procurement Threshold	Goods			Works			Services		
	J\$5M to J\$15M	J\$15M to J\$40M	J\$40M and above	J\$5M to J\$15M	J\$15M to J\$40M	J\$40M and above	J\$5M to J\$15M	J\$15M to J\$40M	J\$40M and above
Total Contract Value	32.93M	74.25M	451.00M	359.30M	565.60M	57.7B	283.52M	294.14M	960.40M
Cost Overrun	0.00	0.00M	9.44M	16.70M	49.20M	444.62M	6.6M	4.86M	94.25M
Variation	4.22M	6.40M	(50.11M)	37.46M	73.50M	686.9M	100.22M	51.33M	89.13M

Comparison of CCOV for Public Bodies with Works Contracts Exceeding J\$150 Million

The works CCOV was selected for analysis as it was observed that it represented 96.2% of the contracts which were awarded. See Table C below.

Table D: Public Bodies with Works Contracts over J\$150M

Public Body	Total Contract Value (J\$)	Total Cost Overrun (J\$)	% Cost Overrun	Total Variation (J\$)	% Variation
The Port Authority of Jamaica	10.92B	56.70M	0.52	137.15M	1.30
National Road Operating and Constructing Company	10.01B	0.00	0.00	12.17M	1.96
National Housing Trust	7.45B	196.50M	2.64	65.70M	0.88
Housing Agency of Jamaica Limited	4.10B	77.90M	1.9	24.20M	0.59
Jamaica Civil Aviation Authority	1.70B	0.00	0.00	5.52M	0.32
National Works Agency	1.25B	155.70M	12.46	407.70M	32.62
University of Technology, Jamaica	633.2M	(17.34M)	0.00	25.3M	4.00
Ministry of Justice	492.14M	0.00	0.00	21.83M	4.44
Petrojam Limited	369.01M	0.00	0.00	52.45M	14.21
National Irrigation Commission Limited	322.20M	0.00	0.00	(4.9M)	0.00
National Water Commission	257.30M	52.20M	20.29	11.70M	4.55
Southern Regional Health Authority	179.60M	0.00	0.00	4.80M	2.70

Table E represents the impact of variations and cost overruns on contract sums for four (4) Government contracts

Table E Selected Cases- Impact of variations and cost overruns

Contracts Variations and Cost Overruns									
Public Body / Entity	Name of Project	Contract Award Date	Contract Sum	Contract Duration (Months)	Contract Start Date	Scheduled Completion Date	Completion Date	Time Overrun (Months)	Variation /Cost Overrun
Ministry of Transport and Works / National Road Operating and Construction Company (NROCC) PPCM-6022	Highway 2000 - Phase 1B - Sandy Bay to May Pen	2011-01-13	US\$105M	19	2011-02-28	2012-09-28	2012-08-15	0	US\$0.212M
Office of the Prime Minister/National Housing Trust PPCM-5132	Longville Housing Development Phase 3	2010-02-10	\$2.7B	18	2010-04-12	2011-10-11	2012-09-27	11	J\$308.2M
Ministry of Education PPCM-4011	Completing Construction Works to the partly completed Steer Town High School	2011-12-09	J\$270.9M	6	2012-01-03	2012-07-03	2012-08-27	1	J\$15.9M
Ministry of Education/ Excelsior Community College PPCM-4281	Renovation of the Excelsior Community College, Deanery Road Campus	2011-09-05	J\$9.9M	4	2011-09-19	2012-02-29	On-going	10	J\$3.8M

Contract Performance Monitoring

The primary purpose of monitoring contract performance is to continuously review the planned, on-going or periodic activities of contracts. This facilitates the measurement and management of the Contractors and Entities' compliance in relation to the terms and conditions outlined in the contract, and assists the OCG in determining whether the required results are being achieved.

Table F below illustrates selected contracts that were monitored.

Table F: Selected Cases - Contract Performance Monitoring

Contract Performance Monitoring				
Contract Award Date	Ministry/Entity	Name of Project/ Contractor	Tender Method & Contract Value (J\$)	Remarks
2011-04-11 PPCM-6852	Ministry of Transport, Works and Housing /Housing Agency of Jamaica Limited	Boscobel Housing & Infrastructure Project N.F. Barnes & Equipment Company Ltd.	Local Competitive Bidding \$802,522,476.00	Poor performance in the timely execution of the works by the Contractor and less than diligent project management by the Entity has resulted in the project being significantly behind schedule.
2010-07-27 PPCM-6872	Ministry of Transport, Works and Housing / Housing Agency of Jamaica Limited	Westmeade Willows Y.P. Seaton & Associates	Local Competitive Bidding \$663,867,750.00	Continued tardy performance in the execution of the works by the Contractor resulted in the project being behind schedule.
2011-03-22 PPCM-4722	Ministry of Education	Construction of a Replacement School for Red Hills Primary School, Red Hills Alcar Construction and Haulage Company Limited	Open Tender \$256,030,060.00	The Contractor's slow rate of progress with the works and tardiness by the Ministry in implementing an acceleration proposal, contributed to delays completion of the project
2012-08-14 PPCM-4051	Office of the Prime Minister / National Housing Trust	Nashville Housing Development Nakash Construction & Equipment Limited	Selective Tender \$40,408,155.90	Consistent slow pace in the execution of works by the Contractor resulted in the project being significantly behind schedule.
2012-01-19 PPCM-4401	Ministry of Youth and Culture / Youth Development Programme	Construction of Youth Information Centre and National Youth Service Training Centre, 42 Young Street, Spanish Town Rogers Land Development Ltd.	Local Competitive Bidding \$70,801,165.00	Discrepancies in the Contract Drawings and Bills of Quantities issued to Contractor by the Consultants and general slow progress of the works by the Contractor has resulted in the project being significantly behind schedule.
2010-09-13 GCM-2231	St Mary Parish Council	Construction/Renovation of the Roads and Works Building Skymar Building Construction & Building Maintenance	Selective Tender \$20,216,724.56	Delays experienced on the project were as a result of poor project management by the Entity and the slow execution of works by the Contractor.

Contract Performance Monitoring				
Contract Award Date	Ministry/Entity	Name of Project/ Contractor	Tender Method & Contract Value (J\$)	Remarks
2011-10-04 GCM-8892	National Works Agency (NWA)	Transportation Infrastructure Rehabilitation Programme - Scott's Cove to Belmont, Westmoreland (Asphaltic Concrete Road Resurfacing Works) Asphaltic Concrete Enterprise Limited	Selective Tender \$279,092,105.05	Inadequate scheduling of activities and poor project management by the Entity has resulted in significant delays on the project.
2011-03-16 PPCM-5072	National Housing Trust	Creighton Hall Housing Development Infrastructure Construction Works Build-Rite Construction Company Limited	Selective Tender \$165,844,556.50	Continued slow performance of the works by the Contractor has resulted in a prolonged contract period and the Entity applying Liquidated Damages charges to the contract.

Notwithstanding the significant number of contracts that have been identified with deficiencies in the post-contract performance by the Entities, Consultants or Contractors, projects have been identified where the post-contract activities were executed in a diligent and expeditious manner by the respective professionals. Table H below reflects selected Good Performance Projects which there were identified.

Table G: Selected Cases - Good Performance Projects

Good Performance Projects						
Public Body/Name of Project	Contractor / Contract Sum (J\$)	Contract Award Date	Contract Start Date	Contract Scheduled completion Date	Contract completion Date	Comments
National Housing Trust Installation of 5.1km of Ductile Iron Pipeline, Bustamante Highway to Inverness	Bucchus Engineering Works Limited \$85.07M	2012-03-14	2012-03-19	2012-07-12	2012-07-12	Notwithstanding the busy thoroughfare where the works were being undertaken, the Contractor expedited and completed the activities on schedule and within budget.
National Works Agency (NWA) Transportation Infrastructure Rehabilitation Programme - Yallahs River Bunding Works	Surrey Paving & Aggregate Company Limited \$118.77M	2012-05-23	2012-05-28	2012-11-23	2012-09-13	Diligent coordination of the works by the Contractor resulted in the project being completed approximately 2 months ahead of schedule.
National Irrigation Commission Limited Installation of Pipes and Fittings and Ancillary Works for New Forest/Duff House Irrigation System Block B	Jamaica Drip Irrigation Limited \$54.66M	2011-11-22	2012-02-27	2012-11-27	2012-10-31	Implementation of the scheduled activities by the Contractor was done in an astute manner resulting in the project being completed on schedule and within budget.

Good Performance Projects						
Public Body/Name of Project	Contractor / Contract Sum (J\$)	Contract Award Date	Contract Start Date	Contract Scheduled completion Date	Contract completion Date	Comments
National Road Operating and Construction Company (NROCC) Highway 2000 - Phase 1B - Sandy Bay to May Pen	Bouygues Travaux Publics Jamaican Branch US\$105M	2011-01-13	2011-02-28	2012-09-28	2012-08-15	Notwithstanding variations to the works, the Contractor's diligence in the scheduling of activities and utilisation of resources resulted in the project being completed approximately 1.5 months ahead of schedule and within budget.
National Housing Trust Installation of 5.1km of Ductile Iron Pipeline, Inverness to Longville Park	Frederick Rodriques & Associates \$67.21M	2012-03-29	2012-03-26	2012-07-17	2012-07-12	The Contractor executed the works at a steady pace resulting in the project being completed on schedule and within budget.

PROCESS FOR THE SELECTION OF SUB-CONTRACTORS FOR MAJOR INFRASTRUCTURE PROJECTS TO BE IMPLEMENTED IN JAMAICA

By way of a letter to the Minister of Transport, Works and Housing, Dr. the Honourable Omar Davies, which was dated January 22, 2013, the OCG reiterated its position that Major Infrastructure Projects being undertaken by, in conjunction with, or for and on behalf of the Government of Jamaica (GOJ), should include, as a requirement, a fair, transparent and competitive selection process for local Sub-contractors.

The OCG expressed the foregoing recommendation from as early as September 15, 2010, in a letter to the then Permanent Secretary, MTW, Dr. Alwin Hales, regarding the US\$400 million Jamaica Development Infrastructure Programme (JDIP).

Further, by way of letter which was dated March 19, 2012, (check date) to the Permanent Secretary in the Ministry of Transport, Works and Housing (MTWH), Mrs. Audrey Sewell, the OCG recommended, inter alia, that with regard to the North South Link Highway 2000 - Spanish Town to Ocho Rios, that "...the following requirements be satisfied and/or settled prior to any contract award..."

- a. *...all sub-contracts, within a defined threshold, must be subjected to competitive tender, pursuant to the Government Procurement Guidelines, supported by Comparable Estimates which are developed by an Independent Quantity Surveyor, for each sub-contract, and, further, only National Contracts Commission (NCC) registered contractors, in the appropriate grade and category, will be eligible to tender..."*

Subsequently, in an Open Statement to Parliament, dated May 1, 2012, entitled 'Open Statement by the OCG Regarding the Proposed Highway 2000 North South Link and the Container Transshipment Hub Projects', the OCG outlined the following concerns regarding China Harbour Engineering Company Limited (CHEC) sub-contracts:

“Concerns Regarding CHEC Sub-Contracts

It is also of significant importance that the OCG highlights the fact that once the development and construction of the North-South Link of Highway 2000 is packaged and contractually consummated as a strict commercial transaction, to be undertaken by CHEC, then same would remove the construction component of the transaction from the scrutiny of the OCG and would leave the selection of subcontractors which are to be utilized on the project to the sole discretion of CHEC, despite the fact that the GOJ would be granting a 50 year Concession to CHEC, in exchange for the construction of the roadway.

If the facts regarding the true financial viability of the proposed project should be properly interrogated and taken into consideration, then based upon the CEO of NROCC's own admission, at an Internal Rate of Return of approximately 5%, using the projections of the GOJ's own advisors and consultants, Steer Davies Gleaves, the investment could only attract an amount of US\$100 million.

Therefore, it stands to reason that the additional US\$500 million for the construction of the North/South Link of Highway 2000 toll road, and the US\$120 million for the reimbursement of the Mount Rosser leg of Highway 2000, bears stark resemblance of the features of a gift to the People of Jamaica, as the revenue projections cannot in any way support a recovery of the overwhelming majority of the proposed entire investment.

It is, therefore, in the foregoing regard that the OCG, as one of its recommendations to the Government of Jamaica, had requested that all sub-contracts emanating from the Concession Agreement, which is being proposed for the North/South Link of Highway 2000, be subjected to the highest level of competition and scrutiny, and that the OCG be given the authority to monitor same. Given the foregoing, it is the view of the OCG that the GOJ and the Parliament of Jamaica should give the OCG, inter alia, the authority, to have full and unfettered monitoring oversight of all sub-contract awards emanating from the concession. The foregoing is of great exigency, and forms part of previous recommendations which have been advanced, by the OCG, to the Parliament and successive Administrations, which have seemingly fallen on deaf ears.

If given this authority, the OCG, acting solely for and on behalf of the People of Jamaica, will ensure, inter alia, that all sub-contract awards are subjected to the highest level of probity, and that said sub-contracts are not directed to politically aligned contractors, and that the resources of the state are not re-directed for unintended use and subjected to various levels of profit margins, which will, in effect, erode the true value of the benefit which should be legitimately given to the People of Jamaica.

The OCG would also ensure that there is equity in the award of said contracts and that all qualified and competent NCC registered contractors are afforded the opportunity to participate and benefit from this major and significant economic investment.”

The OCG opines that the foregoing principles, with respect to the attendant opportunities for local Sub-contractors, can be applicable to major investments and infrastructural projects that will be implemented as part of Jamaica's thrust to stimulate, inter alia, economic development, and create much needed employment.

It is the OCG's considered opinion that a fair, transparent and competitive process for the selection of local Sub-contractors for major investment and infrastructural projects can be achieved, will prove beneficial to qualified and competent local Contractors, and to a further extent, will send a clear signal to the international community and prospective investors that Jamaica is committed to eliminating any perception of corruption and/or political interference, in relation to the selection of local Sub-contractors.

Having regard to the foregoing arguments, the OCG recommends that the GOJ, in the interest of transparency and for the purpose of equity of access, pursue the selection of local Sub-Contractors on a competitive basis, and that same be a fundamental requirement for all agreements entered into for major investments and infrastructural projects.

MAJOR PROJECTS

Jamaica Development Infrastructure Programme (JDIP)

The GOJ, through the Road Maintenance Fund, entered into a Loan Agreement with the Export-Import Bank of China (EX-IM) to finance the JDIP. The Programme is the outcome of a Preferred Buyer's Credit Facility from the Government of China, through the EX-IM Bank, which provided funding in the amount of US\$400 million, over a five (5) year period, to carry out Works which are located island-wide.

The Sole Source Procurement Methodology was utilised to engage CHEC as the Contractor for the JDIP. By way of Cabinet Decision No. 30/10, which was dated August 16, 2010, the Cabinet approved the award of contract to CHEC for the implementation of the projects.

The JDIP continued throughout 2012 and the OCG continued its monitoring of selected projects. Detailed below are four (4) such major JDIP projects monitored:

Construction of Rio Grande Bridge

The Rio Grande Bridge project included the construction of a 240 metre long steel girder bridge along with 500 metres of approach roadway and tunnel. During the implementation period, it was reported that progress on the project was consistent throughout and that no major problems occurred to cause any significant delays. The contract sum of US\$28,301,740.00 remained unchanged and there is no expectation of overruns in the final accounts. The Taking Over Certificate became effective on October 11, 2012 and the Defects Liability Period will expire on October 10, 2013.

The Construction of Two (2) Reinforced Box Culverts, John's Hall, St. James

The Construction of Two (2) Reinforced Box Culverts, John's Hall, St. James commenced in November 2010. This project was approximately 50% complete as at December 2012 and although scheduled to be completed in March 2013, it was approved for a sixteen (16) month extension of time. Some of the issues that contributed to the poor progress of the project include the tardy removal of refuse from the site, poor quality workmanship, continued tardiness by the Sub-contractor and design issues with regard to land slippages. The original contract sum of \$384,026,081.51 has been revised to \$551,516,768.29.

Construction of Westmoreland Bridge

CHEC commenced construction of Westmoreland Bridge on February 27, 2012 with an original contract sum of US\$17,938,711.29. Due to the re-scoping of the works, which included the bridge construction and reconstruction of a section of the existing main road adjacent to the bridge, the original contract sum was revised to US\$13,486,561.83.

The passage of Hurricane Sandy in October 2012 caused disruption to the buildings and utilities on the site but did not affect the completed works. As at the end of the reporting period, the project was 77% complete in comparison to the projected completion of 71%, with 60% of the scheduled contract period having expired.

Construction of Cassia Park Bridge

Construction of Cassia Park Bridge commenced on September 19, 2011 and has been impacted by several work stoppages due to financial disputes between the Contractor, CHEC, and the Sub-Contractor, Y.P. Seaton and Associates Limited. Documents which were received by the OCG also indicated that the issues that affected the progress of the project included: Financial constraints of the Sub-contractor, poor quality workmanship, presence of informal settlers on the work site and tardiness of the Sub-contractor. By October 2012, the Sub-contractor's work output increased and as at December 2012, the project was approximately 77% complete with a time overrun of four (4) months. The contract sum for this project is \$183,767,834.51.

JAMAICA EMERGENCY EMPLOYMENT PROGRAMME (JEEP)

The OCG observed an article on the RJR’s News website on February 21, 2012, which alluded to plans which the MTWH had for the re-scoping of the JDIP, although the Programme was slated to be completed in late 2015.

The referenced article stated, inter alia, that “*The Government will soon hit the road with its much touted Jamaica Emergency Employment Programme, JEEP...*”

Two weeks ago the Government said it had identified four billion dollars to finance the employment initiative but did not reveal the source of the funds.

JEEP is expected to begin before March 31 and should last more than one fiscal year.”

In a letter to the MTWH, which was dated February 27, 2012, the OCG requested the following information with regard to the JEEP:

- An Executive Summary detailing the genesis of the JEEP;
- Evidence of the Ministry of Finance, Planning and the Public Service’s support for the Programme;
- Evidence of the source of funding and the planned budget for the Programme; and
- Details of the Procurement Methodologies which will be utilised to engage Contractors/Sub-contractors for the relevant projects.

The MTWH responded to the OCG by way of a letter which was dated March 7, 2012, and asserted that “*Indications are that the genesis of the Jamaica Emergency Employment Programme lies in the present Administration’s response to the issues of reduced economic activity, job losses and increased poverty.*”

The MTWH also made reference to the Peoples National Party’s 2011 Manifesto, wherein the origin and tenets of the Programme were articulated.

The Ministry advised the OCG that it had formally requested the comments of the Ministry of Finance and Planning and that a copy of the response would be forwarded to the OCG upon its receipt. The OCG is of the opinion that this situation is untenable as the JEEP had already been reported as having commenced.

The source of funding for the JEEP was given by the Ministry as follows:

Re-scoping of JDIP	\$4.2B
Petrocaribe Grant	\$1.0M
DBJ (loans through Agriculture Credit Board)	\$0.05M
Banana Board	\$0.002M
Technology Improvement Fund	\$0.006M
Agricultural Development Fund	\$0.0032M
MINAG Export Division	\$0.025M
Farmers Sweat equity	\$0.0133M
Salada Foods	\$0.0045M
HEART Trust/NTA	\$0.1477M
MLSS (savings under the rehab programme)	\$0.0405M
TOTAL	\$5.492B

The MTWH went on to explain further that no procurement had commenced and that details of the procurement methodologies to be utilised would be communicated to the OCG as soon as they were determined and accepted by the Ministry.

In a subsequent letter from the Ministry which was dated September 3, 2012, the Permanent Secretary asserted that *“The National Works Agency (NWA) has given an undertaking to ensure the sub-contractors’ eligibility as regards NCC registration and TCC compliance, through periodic audits when the information is received from CHEC, verifying details with the NCC and Tax Administration Jamaica.”*

The Ministry also advised that the funding that had been identified for the JEEP, through the re-scoping of the JDIP, was disbursed as follows: US\$10 million for Phase 1, which was completed in September 2012, and US\$40 million for Phase II. According to the Ministry, a total of \$6.2 billion has been identified to continue Phase II of the Programme.

North-South Link Highway 2000

The Highway 2000 project was originally planned to be implemented in the following four (4) phases:

- | | |
|----------|--|
| Phase 1A | Bushy Park to Sandy Bay; Kingston to Bushy Park; Portmore Causeway |
| Phase 1B | Sandy Bay to Four Paths; Four Paths to Williamsfield. |
| Phase 2A | Spanish Town to Ocho Rios. |
| Phase 2B | Williamsfield to Montego Bay. |

The Mount Rosser Bypass leg of Phase 2A commenced in June 2007, and was scheduled to be completed in January 2011, at a cost of US\$126.5M. However, this section encountered a major geological issue in Zone two (2).

Prior to this encounter, an agreement was signed between the National Road Operating Construction Company (NROCC) and the Contractor, Bouygues Travaux Publics Jamaica (BYTPJ), which would transfer any geotechnical risk from NROCC to BYTPJ.

Subsequently, a draft Cabinet Note dated September 15, 2010, was supplied by NROCC to the OCG which indicated that the works on the project was suspended by the Contractor in the affected area. It was further outlined that the Contractor carried out investigations and redesigns which were submitted to, and rejected by NROCC, as BYTPJ had not properly demonstrated the acceptability of the geological model or its analysis.

As a result of the geotechnical issues, NROCC sought advice from its technical experts, Attorneys and from the Solicitor General, in addition to a final legal assessment in the United Kingdom (UK).

A summary of the opinions from the referenced draft Cabinet Note are as follows:

- a) The Developer has liability for the ground conditions;
- b) NROCC should strongly refute the ground conditions claim;
- c) The Developer should propose a design solution and present this as a Developer variation to the outline design and core requirements;
- d) Resolution of the ground conditions claim would consist of negotiations, followed by expert determination and, ultimately, arbitration;

- e) NROCC should advise the Developer, reserving its rights to apply liquidated damages for delayed completion; and
- f) Should the Developer cease work or unreasonably prolong the development of the design solution, NROCC may be entitled to terminate the Concession Agreement.

By way of a letter which was dated February 22, 2011, the MTW advised that the matter was further referred to Cabinet for a ruling, and by way of Cabinet Decision No.6/11, dated February 14, 2011, Cabinet:

- Approved the proposed way forward for the completion of the Mount Rosser Bypass;
- Ratified the Variation Order for Phase 1B Early Works, which was signed on January 13, 2011; and
- Ratified the Memorandum of Understanding (MOU), which was signed by the MTW, NROCC and CHEC on January 13, 2011, for the construction of the North-South Link inclusive of the incomplete Mount Rosser Bypass leg.

CHEC, under the MOU, is to complete the works for Zone 2 of the Mount Rosser bypass if (a) it accepts the preliminary design which was prepared by BYTPJ or (b) it prepares an alternative design.

Additionally, under the said MOU, CHEC is to design and construct Section 1 (Spanish Town to Linstead) and Section 3 (Moneague to Ocho Rios) of the highway along with the operation and maintenance of all sections.

By way of a letter which was dated November 15, 2011, the MTW advised NROCC of Cabinet's approvals for the ratification of the Framework Agreement and the signing of the Implementation Agreement for the North-South Link of Highway 2000 (Spanish Town to Ocho Rios).

In a letter which was dated December 7, 2011, the OCG wrote to NROCC regarding the Highway 2000 – Spanish Town to Ocho Rios project, requesting a copy of a Bilateral Agreement between the GOJ and the People's Republic of China, which imposes the conditionality for CHEC to be the third party (the main contractor) for the North-South Link. The OCG also asserted its position that if the GOJ cannot produce or show a Bilateral Agreement then it should move swiftly to prepare a formal structure to test it in the international competitive market to assure value for money.

Additionally, the OCG stated that if its recommendation was not accepted, then it would be in clear violation of the GOJ Procurement Policy, specifically the fundamental principles of fairness, equity, competition and value for money.

The NROCC responded to the OCG by way of a letter which was dated December 14, 2011, and outlined, among other things, that at present there was no Bilateral Agreement and NROCC had suspended negotiations with CHEC.

In a letter which was dated December 20, 2011, NROCC reinforced its position that negotiations with CHEC had been suspended pending the resolution of the following issues:

1. The implementation of the project without the support and agreement of the Government of the People's Republic of China;
2. The implementation of the project on a commercial basis only;
3. The variance in the alignment of the corridor in relation to that envisaged by the GOJ;
4. The significant impact on the economic development of the country; and

5. NROCC's ability to obtain all the necessary procurement approvals which are required to implement the project.

The OCG responded to the NROCC by way of a letter which was dated December 23, 2011, wherein it sought to clarify that its position was to utilise an Open International Competitive Bidding process in the selection of the most appropriate candidate for the proposed contract. The OCG also requested that NROCC provide it with details of all studies which informed the NROCC that the project was not commercially viable.

NROCC responded by way of a letter which was dated December 30, 2011, that the details of the commercial viability were contained in a traffic study conducted in March 2008. NROCC also revealed that no Comparable Estimate had been prepared.

In a letter which was dated March 13, 2012, NROCC requested from the NCC, approval of the North-South Link Concession Agreement as an Unsolicited Proposal. NROCC summarized the proposal as follows:

1. The project fits within the provisions for Unsolicited Proposals as envisaged by the Procurement Regulations;
2. The project will require no loans, guarantees or investments by the GOJ;
3. The project will repay NROCC for the investment already made in Mt. Rosser estimated at US\$120M;
4. The project will significantly benefit the Jamaican economy, not only through the construction of the road, but the housing/commercial development which will also be constructed;
5. At the end of the 50 year lease, the lands along with the roadway will be returned to the GOJ, free of costs;
6. The ability of the Chinese to undertake this project is in their view solely related to the large pool of funds available to them and their desire to expand globally; and
7. In comparison to the existing project, the benefits of this proposed arrangement are far superior.

On March 14, 2012, Mr. Ivan Anderson, Managing Director of NROCC attended on the NCC to make a presentation regarding the North South Link Highway 2000 – Spanish Town to Ocho Rios leg.

The Commission:

- 1) Noted that CHEC was a company owned by the Chinese Government;
- 2) Offered 'no objection' to NROCC pursuing the Unsolicited Proposal;
- 3) Noted that the proposal was not a procurement as defined in the GoJ Procurement Handbook; and
- 4) Recommended that the merits of the proposal be discussed with the Ministry of Finance and Planning for guidance and further action.

By way of a letter which was dated March 19, 2012, the OCG expressed to the Permanent Secretary at the MTW, inter alia, its advocacy for the following:

- i. That in relation to any Government contract award, all Sub-contractors must be subjected to competitive tender, pursuant to the Government Procurement Guidelines and that only NCC registered Contractors, in the appropriate grade and category, will be eligible to tender for the said sub-contracts; and

- ii. That the current negotiations between NROCC and CHEC should be terminated forthwith, and that the said transaction should be subjected to a transparent and international competitive bidding process whereby value for money can be secured for the benefit of the people of Jamaica.

Notwithstanding the foregoing, in a letter which was dated June 26, 2012, the MTW provided a copy of the Implementation Agreement and the Concession Agreement between the GOJ and CHEC which were signed on June 21, 2012.

Monitoring of the Constituency Development Fund (CDF)

The Constituency Development Fund (CDF) became fully functional in the 2008/2009 financial year. The Revised CDF Operational Procedures, which was promulgated on January 17, 2011, provides that "*The Constituency Development Fund (CDF) is a fund established to provide members of Parliament with financial resources to execute approved social and economic programs [sic] within their constituency.*"

The main thrust of the fund is to:

- *"Promote human and infrastructure development at the community and constituency level;*
- *Catalyze economic activities at the constituency level;*
- *Foster local governance including good environmental stewardship;*
- *Increase the effectiveness of the elected representative welfare activities/projects."*

The operational framework of the Fund is based upon a consultative relationship between the Member of Parliament (M.P.) and his/her constituency, which results in the development of projects for the 2011/2012 financial year. This is undertaken in conjunction with a five (5) year development plan for the respective constituencies, for a specified timeline. Projects are undertaken on a yearly basis, under the oversight of the Constituency Development Fund Programme Management Unit (CDFPMU).

During 2012, the OCG embarked upon an audit of the main implementing agencies of CDF projects, namely; the National Works Agency (NWA) and all Parish Councils.

The scope of the audit programme included works projects which were implemented during the period September 2008 to August 2012, and focused on, *inter alia*:

1. Identifying any irregularity or impropriety in the selection of works Contractors for CDF projects; and
2. To determine whether Implementing Agencies are aware of, and adhered to, the CDF Operational Procedures of September 2008, and the Revised CDF Operational Procedure dated January 17, 2011.

Audit initiation letters, with questionnaires attached, were dispatched between September and October 2012, to all NWA offices. The information requested on the questionnaires sought to determine, *inter alia*, the following:

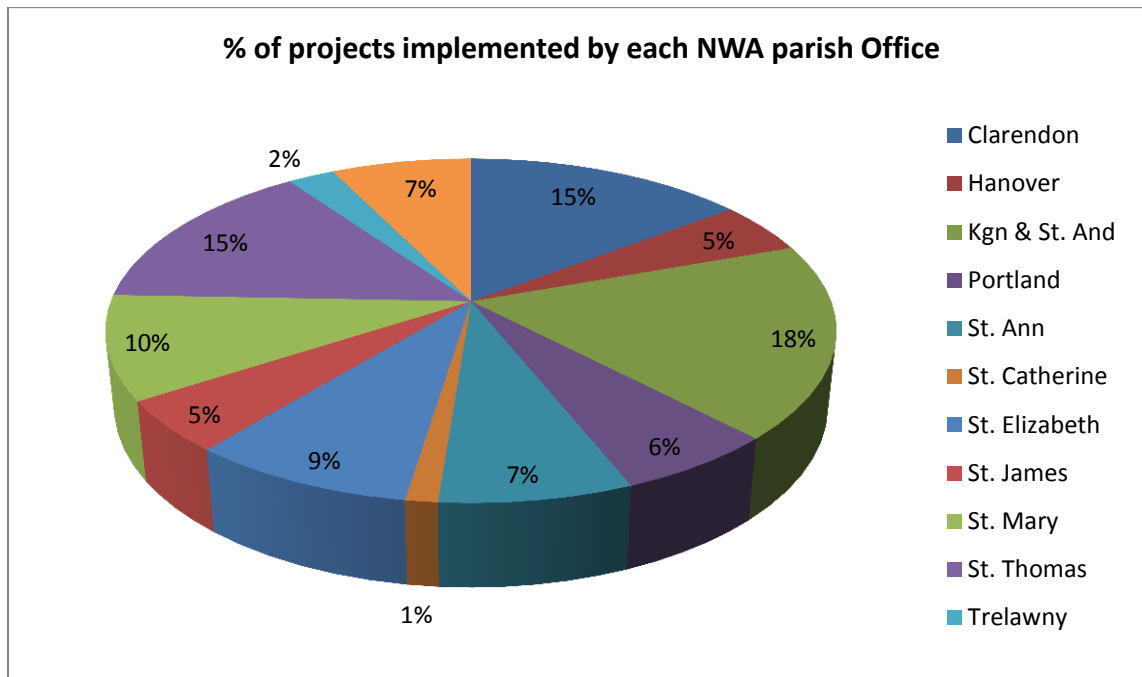
1. Whether CDF Contractors were selected by way of a fair and competitive procurement process;
2. Whether Accountable Officers were aware of, and guided by, the CDF Operational Procedures;
3. Whether there is an internal procurement policy which governs the implementation of CDF projects;
4. Whether there are third party influences involved in the procurement process and implementation of CDF projects; and
5. The record keeping activities for CDF projects.

Four hundred and fifty two (452) projects were selected for review of which eighty two (82) were implemented by the NWA and the remaining three hundred and seventy (370) implemented by the various Local Authorities.

Of the 452 projects, four hundred and thirty four (434) were physical infrastructure works, thirteen (13) were disaster recovery and mitigation projects, and five (5) were related to economic enablement.

Visits were made to all NWA Parish Offices, except Manchester, as that Office had not implemented any CDF projects. This was confirmed by the CDFPMU by way of an email dated October 2, 2012.

The Pie Chart below illustrates the percentage of projects each NWA Office implemented over the period of the scope of the audit:



The audit exercise unveiled several projects that were implemented by NWA Parish Offices which were not previously disclosed to the OCG. The number of additional projects, per parish office, is listed below:



NWA Parish Office	Number of additional projects encountered during the audit process
Clarendon	0
Hanover	5
Kingston & St. Andrew	9
Portland	4
St. Ann	16
St. Catherine	11
St. Elizabeth	5
St. James	2
St. Mary	3
St. Thomas	0
Trelawny	0
Westmoreland	8




The Parish Council audit commenced in November 2012, with the first visit conducted at the Kingston and St. Andrew Corporation. The Portmore Municipal Council and the remaining Parish Councils are scheduled to be audited during 2013 and the respective audit reports compiled.



Special CDF Assigned Projects in December 2012




In December 2012, the OCG, by way of letters, informed Implementing Agencies of its intent to conduct site visits to verify the extent and quality of works which were undertaken for the assigned Beautification/Employment Generation Projects. In response, some Implementing Agencies informed that they were unaware of the approved projects and, in some instances, indicated that the requisite funds were not received from the CDFPMU or that directives were not received from the Member of Parliament's office to execute the works.



In the foregoing regard, the OCG selected projects located in eighteen (18) Constituencies, and conducted visits to the specific sites where works were executed or scheduled to be completed during December 2012 and January 2013. The table below outlines some observations made by OCG officers during the site visits.

Constituency	Type & Value of Works	Quality of Work/Finishes:	Comments/Notes	Photographs
Northern Clarendon	Drain Cleaning & Beautification - \$2,500,000.00	Satisfactory	The works included minor road works (marl and gravel overlay) and bushing in twenty (20) locations. These locations included: Bamboo, Guava Ground, Top Scheme, Lambson, Scheme, Brandon Hill Road, Brandon Hill Parochial, Wedge Well Road, Kellits Market, Collington, Crooked River, Red Hills, Jericho, Mason River, Burns, Shooters, James Hill, John's Hall, Aenon Town and Gayle Town.	 <p data-bbox="1480 560 1722 584">Bushed area in Lambson</p>  <p data-bbox="1480 941 1711 966">Bushed area in Shooter</p>

Constituency	Type & Value of Works	Quality of Work/Finishes:	Comments/Notes	Photographs
Central Clarendon	Drain Cleaning & Beautification - \$1,200,000.00	Satisfactory	<p>The works included bushing and painting of sidewalks. These areas included: Manchester Avenue/Main Street, Glenmuir Road, Trenton Road/Railway, Sewell Crescent, Chapleton Road, Denbigh Crescent, Paradise Street and Chatteau Road.</p> <p>The Parish Council's representative informed that the works were carried out approximately 10 days prior to the OCG's site visit. Sections of all the roadways listed, with the exception of Chatteau Road, were verified.</p> <p>Based on the Member of Parliament's letter dated December 7, 2012, the scope of works for Paradise Street were mucking, bushing and drain cleaning, however, the Parish Council's representative informed that due to the flooding which occurred in the area, the Parish Council, in conjunction with the NWA, constructed a block and steel drain. The procurement process utilised for the engagement of the Contractor and the value of the works is unconfirmed.</p> <p>The Parish Council representative noted that the high wall drain should not have been constructed without the required columns which would provide support to the walls.</p>	 <p>Cleaned Drain on Sewell Crescent</p>  <p>Drain being built on Paradise Street</p>  <p>Cleaned drain on Manchester Avenue</p>

Constituency	Type & Value of Works	Quality of Work/Finishes:	Comments/Notes	Photographs
Central Kingston	Drain Cleaning & Beautification - \$3,000,000.00	Satisfactory	<p>The works included bushing of drain embankments and cleaning and clearing of road verges, throughout the Constituency. The work areas included the following streets: Williams, John (Potters Rowe to Michael Manley Blvd.), Rae (Elleston Rd. to Paradise St.), Campbell, Lord Elgin, Prince of Wales, Regent, Sarah, Hannah, Water, Victoria, Hitchen, Higholborn, East Queen, Hanover, Sutton, Grace, Hibbert, Laidlaw, Liverpool, Seaforth, Wildman and Paradise (Windward Rd. to Michael Manley Blvd). In addition, works were undertaken along Rosemary Lane (East Queens St. to Harbour St.), Upper Elleston Road, Arnold Road and Goodwin Park Road and Foster Lane.</p> <p>Works on most of the listed areas were either completed or ongoing at the time of the site visit, however, it must be noted that works conducted along Foster Lane could not be verified due to civil unrest in that area.</p>	 <p>Upper Elleston Road</p>  <p>Section of Barnes Gully</p>

Constituency	Type & Value of Works	Quality of Work/Finishes:	Comments/Notes	Photographs
North West St. Andrew	Bushing and Beautification – \$2,857,500.00	Satisfactory	The works were implemented by the KSAC and included bushing of drain embankments and cleaning and clearing of road verges throughout the Constituency. The work areas included Daytona & Lockhart Avenues, sections of Patrick Drive and Queensbury, Leas Flat, Lady Hamilton Drive, Jackson Drive, Hughenden Avenue, Top Marverley, Cairncurran Avenue, Annandale Avenue, Aqualita Vale, Mosquito Valley, Ackee Walk, and Queensborough Drive.	 <p data-bbox="1480 513 1638 537">Abernathy Drive</p>
East Kingston & Port Royal	Bushing and Beautification – \$3,335,000.00	Satisfactory	The works were implemented by the KSAC and included bushing of drain embankments and cleaning and clearing of road verges, throughout the Constituency. The work areas included Windward Road (Mountain View to D'Aguillar Road), Unity Church Cemetery, Penso Park, Sirgany Drive, Harbour Road Park and Behind Port Royal Housing Scheme.	 <p data-bbox="1480 943 1669 967">Harbour Road Park</p>
St. Catherine Southern	Bushing - \$3,500,000.00	Satisfactory	The works were implemented by the Portmore Municipal Council and was carried out throughout the municipality. At the time of the visit works were on-going, the quality was deemed to be satisfactory.	 <p data-bbox="1480 1195 1942 1243">A section of a road in Greater Portmore (Behind Kensington Primary School)</p>

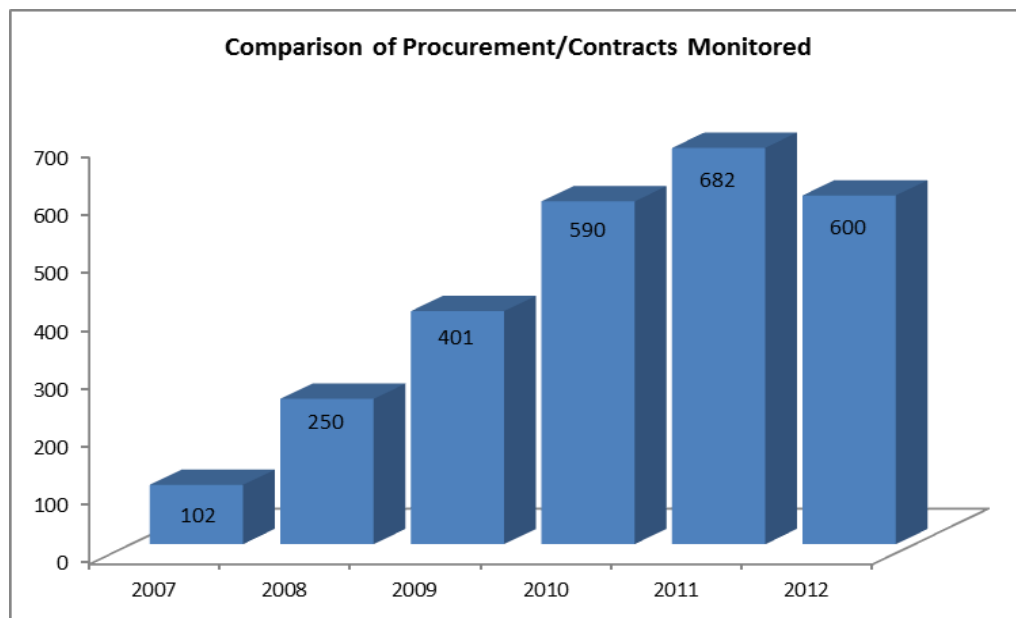
Constituency	Type & Value of Works	Quality of Work/Finishes:	Comments/Notes	Photographs
St. Ann Western	Bushing - \$200,000.00	Satisfactory	The work was executed by the St. Ann Parish Council. At the time of the visit, works were substantially complete and the quality was deemed to be satisfactory.	 <p data-bbox="1478 435 1896 461">Completed bushing exercise at Calderwood</p>
Western Westmoreland	Building Renovation - \$1,584,609.82	Satisfactory	The works were being executed by the Westmoreland Parish Council and entailed the renovation of the Grange Hill Library. At the time of the visit, works were on-going and progressing steadily.	 <p data-bbox="1478 760 1776 786">Works underway inside Library</p>
Central St. James	Bushing - \$475,000.00	Satisfactory	Bushing works were undertaken at five (5) locations within the Salt Spring Division. Work quality at these locations was deemed to be satisfactory.	

MONITORING OF NON-CONSTRUCTION CONTRACTS, LICENCES, PERMITS AND CONCESSIONS

The Non-Construction Contracts, Licences and Permits (NCCLP) Division, pursuant to Section 4 of the Contractor General Act, monitors the award and implementation of goods and services contracts, and prescribed licences. The Division monitored approximately six hundred (600) opportunities/contracts during the calendar year 2012, in comparison to six hundred and eighty-two (682) procurement opportunities/contracts which were monitored in 2011. This represents a twelve percent (12%) decrease in the number of non-construction contracts and licence which were monitored over the corresponding period.

Of the 600 opportunities/contracts which were monitored during the year, four hundred and sixty three (463) represents monitoring assignments which were carried forward from 2011. The remaining one hundred and thirty seven (137) or approximately twenty three percent (23%) represents new monitoring assignments during 2012.

The reduction in the amount of non-construction contracts and licences which were monitored is attributed to various factors. This includes a more targeted assignment of projects monitored, the revamping and aggressive thrust towards conducting more procurement audits and a re-assignment of human resources to assist with the reduction of a backlog which was faced by the Technical Services Division, which has the responsibility of registering GOJ Contractors.



Of the six hundred (600) opportunities/contracts which were monitored, represented herein are details of one hundred and twenty (120) reports on projects from a cross-section of Public Bodies, which were at various stages of the procurement process and/or contract implementation. Reports containing specific information on a further two hundred and seventy-eight (278) projects are also represented. Please see details of the referenced contracts at Appendices 4, 6 and 8.

PROCUREMENT MONITORING

By way of Circular No. 16 dated May 14, 2012, captioned 'Increased Approval Thresholds for Public Sector Procurement', the Ministry of Finance and Planning advised of the increase in the approval thresholds which were applicable to the procurement of goods, services and works. Subsequently, the Ministry amended the Handbook of Public Sector Procurement Procedures to incorporate the various changes.

In this regard, the NCCLP Division continued to perform its statutory mandate in accordance with the applicable procurement guidelines. The following section details some of the deviations which have been observed by the Division, in the conduct of its monitoring activities.

Deviations/ Deficiencies Identified in the conduct of Monitoring Activities

Non-utilization of the Standard Bidding Document

Similar to the previous Handbook of October 2010, Appendix 7 of Volume 2 of the Handbook (May 2012), states that “*Based on the nature and value of procurement, Procuring Entities are required to utilize Standard Bidding Documents as prescribed, for established contract thresholds. It should be noted that Procuring Entities may need to modify the Standard Bidding Documents to suit the specific procurement.*”

The most common deviation which the OCG observed during its monitoring activities, has been the failure of Procuring Entities to utilise the requisite Standard Bidding Documents within the applicable thresholds. The OCG had previously written to all Public Bodies on April 12, 2011, and a subsequent Circular from the Ministry of Finance dated July 28, 2011, advised of this requirement. While the OCG has noted that there has been improvement in terms of compliance with this requirement, there are still Public Bodies which fail to utilise the requisite document.

Of the projects represented herein, approximately 3% exhibited issues related to the failure of Public Bodies to utilise the requisite Bidding Document. Examples of some of the projects wherein the OCG made these observations were:

Procuring Entity	Project Name	Reference No.
National Irrigation Commission Limited	Supply and Installation of Light-emitting Diode (L.E.D.) Lighting Fixtures	Pre and Post Contract Monitoring Reference No. 6752
Tourism Product Development Company Limited	Tourism Security Courtesy Corps	Pre and Post Contract Monitoring Reference No. 8332
Caymanas Track Limited	Provision of Janitorial & Maintenance Services	General Contract Monitoring Reference No. 11142
Mines and Geology Division	Security Services	General Contract Monitoring Reference No. 7072

The Absence/Insufficiency of the Evaluation Criteria

Appendix 7 of Volume 2 of the Handbook, Content of Bidding Documents outlines the provisions for the evaluation and award of contracts. The OCG has maintained that the evaluation criteria which are to be applied to tender proceedings are to be disclosed in the Bidding Document so that potential bidders will be aware of the criteria against which their bids will be evaluated. The OCG considers lack of clear instructions in this regard to be a deviation from acceptable procurement practices.

The NCCLP Division has made observations regarding the adequacy of the evaluation criteria for the following projects:

Procuring Entity	Project Name	Reference No.
Youth Development Programme	Supply and Delivery of Office Furniture for Youth Information Centres	General Contract Monitoring Reference No. 7362
Edna Manley College of the Visual and Performing Arts	The Provision of Server	General Contract Monitoring Reference No. 7312
Port Authority of Jamaica	Design, development, supply and commissioning of a Port Community System for Jamaica	General Contract Monitoring Reference No. 7142
St. Catherine Parish Council	Expression of Interest: Supply of Vehicle Impounding Devices/Clamps	Pre and Post Contract Monitoring Reference No. 8342

No Comparable Estimate Prepared by Public Body

The Handbook defines the Comparable or Pre-tender Estimate as an estimate that is compiled from the same documentation which is made available to the contractors and further indicates that it is used for the comparison of tenders. Accordingly, the importance of the preparation of this estimate prior to the commencement of any procurement proceeding is noted and recommendations for same has been made to the Public Bodies.

Of the projects represented herein, approximately 2.25% exhibited issues related to the non-preparation of Comparable Estimates. Examples of some of the projects for which the OCG made these observations were:

Procuring Entity	Project Name	Reference No.
Mines and Geology Division	Security Services	General Contract Monitoring Reference No. 7072
Wallenford Coffee Company Limited	Procurement of an External Audit	Pre and Post Contract Monitoring Reference No. 9202
St. Catherine Parish Council	Expression of Interest: Supply of Vehicle Impounding Devices/Clamps	Pre and Post Contract Monitoring Reference No. 8342

Other Deficiencies and/or Deviations Observed

No Head of Entity Approval
Failure to utilize the Bid Receipt Record
Evaluation not conducted in accordance with evaluation criteria outlined in Tender Document
No contract document prepared
No Procurement Committee Approval (within applicable threshold)
Number of bidders who sign the Bid Receipt Record does not correspond with bids removed from Tender Box

The foregoing are reported in Appendix 4, 6 and 8.

REVIEW OF PORTFOLIOS UNDER THE NCCLP DIVISION

The NCCLP Division continues to rely on the efficient management of its various portfolios in order to fully discharge its mandate. This section provides a brief overview of the Portfolios of the Division; a more detailed review of each is provided in subsequent pages.

Licences and Permits

The Phase II Licences and Permits Monitoring Project was not implemented during 2012, as was previously intended. Selective monitoring of specific prescribed licences continued during the reporting period and is reported upon in the section which follows.

Asset and Land Divestment

There were challenges to the OCG's jurisdiction concerning the monitoring of the divestment of state assets inclusive of actions which were brought in the Court of law. This, however, did not stop the Division from the continuation of its monitoring of such transactions in accordance with the provisions of the Contractor-General Act.

Of significance was the ratification of the Government's Privatisation and Public/Private Partnership (PPP) Policies by the Houses of Parliament on November 20, 2012. The PPP Policy is an addendum to the Policy Framework and Procedures Manual for the Privatisation of Government Assets, and defines a PPP as a long-term procurement contract between the public and private sectors, in which the proficiency of each party is focused in the designing, financing, building and operating an infrastructure project or providing a service, through the appropriate sharing of resources, risks and rewards. The Policy limits the aforementioned definition to assets of high value and areas where the Government is faced with fiscal constraints and is obligated to provide the infrastructure service.

In keeping with the approval of these policies, the NCCLP Division is in the process of developing the related internal procedures to monitor transactions which may be undertaken pursuant to same.

A representative of the OCG continues to attend the Land Divestment Advisory Committee (LDAC). As it relates to the revision to the Policy Framework for the Divestment of Government-owned lands, and as was previously reported in the 2011 report, as at the end of December 2012, the document was still in draft stage and had not yet been approved.

Reported in the sections which follow are details related to thirty one (31) asset divestment opportunities, and nineteen (19) land divestment opportunities, which were monitored during the year 2012.

Enquiry Management

The Inspectorate Division, in accordance with Sections 4 and 15 of the Contractor-General Act, continued its initiative to review all complaints which are received by the OCG through its Enquiry Management Portfolio.

During the year, three (3) matters which had commenced as Enquiries were transferred to the Investigation Division, namely: Rural Electrification Programme Pole Lines Construction, Ministry of Education Bookmarkers and the Ministry of Youth and Culture Jamaica 50th Celebrations.

Reported herein are the findings regarding twenty-five (25) enquiries which were completed/substantially completed during 2012, and for which the findings have already been dispatched to the requisite Public Body. Among the noteworthy Enquiry Management Reports which have been concluded were; Enquiry into the procurement practices at the Sugar Industry Research Institute (SIRI) - Supply of spare parts and equipment for use in the Sugar Industry; Lease of Tarentum Factory and Fishing Works at the Wallenford Coffee Company Limited; Complaint regarding the Tender for Insurance Placement - Housing Agency of Jamaica Limited; Complaint regarding Divestment of Spring Garden, Portland and Gray's Inn, St. Mary; and Allegations of Potential Conflict of Interest Situation and the Procurement of Biopsy Needles.

Audit

The OCG revised and recommenced its Parish Council Audit Programme within the final quarter of 2012, and had completed data collection activities related to one (1) Parish Council during December 2012. The data collection process for the remaining Parish Councils will continue in 2013, and a Report of said findings will be sent to Parliament in keeping with the provisions of the Contractor-General Act.

The OCG also received feedback in relation to two (2) previously finalised audits which were reported in the 2011 Annual Report; details of same are provided in the section which follows.

While not handled under this Portfolio, the Division assisted with the data collection efforts related to the audit of projects implemented by the National Works Agency (NWA) Parish Offices under the Constituency Development Fund (CDF) programme.

Exempted Public Bodies

Section 1.2.2 of Volume 1 of the Handbook (May 2012) entitled "Business Sensitive and Other Related Procurement Provisions" defines business sensitive procurement as special procurements undertaken to take advantage of business opportunities that would impact the financial viability and core business of the procuring entity. Among other things, this section allows specific exemptions to Petrojam Limited and the Port Authority of Jamaica.

In the section which follows, the contracts which were awarded pursuant to the aforementioned are indicated.

Parliamentary Exemptions

The OCG continues to report on Exemptions Motions which have been approved. A total of seventeen (17) Exemption Motions were granted during the calendar year.

This year, the OCG has also included a report on the contracts which have been awarded by Procuring Entities, to Companies which have been the recipient of such exemptions, during 2012.

Quarterly Contracts Award (QCA)

With the exception of the 1st quarter 2012, the OCG has recorded 100% compliance with regard to the submission of QCA Reports. The aforementioned quarter saw one (1) Public Body, Ministry of Agriculture and Fisheries, being non-compliant to the requirement, and which resulted in a referral to the Director of Public Prosecutions (DPP) in accordance with the OCG's zero tolerance policy.

Of significance during the year, was the launch of the OCG's webportal which has changed the way QCA Reports are completed and submitted by Public Bodies. The new format of reporting requires Procuring Entities to submit more information related to their procuring activities, including the date of tender opening, and will more accurately gauge compliance to the procurement guidelines.

The assessment results, based upon QCA Reports which were submitted, were only communicated for the 1st quarter 2012. This was based upon a change in the approval thresholds announced by the Ministry of Finance in May 2012 and the launch of the webportal. The assessment of the QCA will be undertaken upon completion of the development of the requisite application software in 2013. The section which follows provides further details in this regard.

STRATEGIC INITIATIVES - REVIEW OF 2012

Pages 141 - 142 of the Annual Report 2011 outlined the Strategic Initiatives which were proposed for 2012.

In this regard, the OCG has successfully launched the web-based portal and expanded the QCA Reporting, and has completed its Presentations to Accounting and Accountable Officers (details provided below). The Referral Process, while developed, has not yet been implemented, and the Division continues to rely on the resources of the Investigation Division where required. As indicated above, Phase II of the Licences and Permits Monitoring has not yet been launched as a result of a strategic shift.

Further, and as it relates to the Risk-Based Approach to Contract Monitoring, due to the strategic focus and certain external factors related to the jurisdiction of the Office, the decision was taken to place the project on hold.

Presentation to Accounting and Accountable Officers of Government of Jamaica Ministries and their Departments

By way of Media Release dated March 12, 2012, the OCG announced the launch of the captioned initiative, and advised that the first round of presentations targeting four (4) Ministries could commence in March. The aim of the referenced initiative was communicated by way of letters to the various Permanent Secretaries, that the OCG will *“... deliver a series of Procurement-related presentations to Permanent Secretaries, Heads of Public Bodies and their respective Procurement Officers. The aim of the planned presentation is to ensure compliance with the Government of Jamaica Public Sector Procurement Procedures, through sensitising Accounting Officers of Government Ministries and the respective Dependent Public Bodies, to their roles in the Public Sector Procurement Process.”*

The OCG’s Media Release clearly stated, *inter alia*, that *“Although the OCG is not charged with the responsibility of conducting procurement-related training within the Jamaica Public Sector, the OCG believes that its assistance in providing such training is one way in which a greater understanding of and compliance with the Government’s Procurement Process can be readily achieved. The OCG is also hopeful that its targeted interventions will assist Public Bodies to execute their procurements in a more timely, efficient and cost-effective manner.”*

Subsequent to the initial presentations, by way of letters dated June 6, 2012, the remaining Ministries, inclusive of the Ministry of Youth and Culture. were advised of the proposed dates for the second round of presentations. were By way of a letter which was dated June 6, 2012, which was received by the OCG on June 12, 2012, the then Permanent Secretary in the Ministry of Youth and Culture stated, *inter alia*, the following:

“Thank you very much for your letter of June 6, 2012, in which you invited yourself to deliver a Procurement-related training presentation in the Ministry of Youth and Culture. This with a view to sensitize the Accounting Officer/Permanent Secretary and the Accountable Officers about the Public Sector Procurement Procedures and Guidelines.

At this time, there is no need for any such training in this Ministry, and whenever training is required, the guidance of the Ministry of Finance and the Public Service will be sought. Until advised otherwise, it is our understanding that training in Procurement-related matters remains the purview of the Ministry of Finance and the Public Service.”

The OCG responded by way of a letter which was dated June 13, 2012, stating, *inter alia*, that *“Having regard to your response, it is important, given the unfortunate posture which you have taken and for the avoidance of doubt, to advise you, and by extension, the individuals which you have copied, of the genesis and the aim of the series of Public Body Presentations which are being delivered by the Office of the Contractor General (OCG).*

The OCG developed the referenced presentation based upon a request from a Public Body which was received in September 2011. The President of said Public Body had invited representative(s) of the OCG to brief a group of its Senior Management Executives and its Board Members on certain major areas of concerns regarding their procurement activities. Accordingly, and given the positive feedback which was received from that initial presentation, the OCG had established, as one of its strategic objectives for 2012, the delivery of similar presentations to the various Ministries and their Subjects of Government.”

The OCG’s letter of response highlighted the contents of the presentation, which were:

- (a) an overview of the OCG, its role, functions and powers;
- (b) deficiencies observed by OCG Inspectors during the administration and application of the Government’s Procurement Procedures by Public Bodies;
- (c) instances of non-compliance with the Procurement Procedures identified on the part of Public Bodies;

- (d) the role of the Accounting and Accountable Officers ;
- (e) applicable legislation governing Public Body Accounting and Accountable Officers and Board Members and
- (f) key recommendations, including appropriate corrective and remedial measures to be implemented by Accounting and Accountable Officers.

The letter further stated, “*By no stretch of the imagination can the foregoing be construed as training in the Government of Jamaica (GOJ) Procurement Guidelines*”, and that it was the Contractor General’s belief “*that no one state and/or private institution has propriety knowledge of the procurement discipline... and that given... the OCG’s vantage, it is more than well positioned to impart a wealth of knowledge concerning challenges, concerns and practices experienced by state Public Bodies, on a whole.*”

The letter concluded with an expression of regret for the missed opportunity to interact with the Ministry of Youth and Culture and its subjects, and thanked the then Permanent Secretary for his response. The response was copied to the subject Agencies within the said Ministry.

By way of a letter which was dated June 14, 2012, the OCG’s response was acknowledged by the Ministry’s Permanent Secretary.

Based upon feedback which was received from the Ministries/Public Bodies, the OCG’s presentations were well received and proved to be informative. The OCG also received feedback related to its interactions with Public Bodies and was able to explain the reasons behind some of its operations which might have been misunderstood by individuals, for example, the reason behind indicating a date for response to its letters.

Misconceptions about the mandate of the OCG were also cleared up, for example, some persons were of the impression that the OCG is the author of the Handbook of Public Sector Procurement Procedures and that the Office creates procurement guidelines. Participants were informed that same is within the purview of the Ministry of Finance and that the OCG monitors/enforces based upon established guidelines.

The main area of concern which was recognised based upon these presentations was the necessity of, and the seeming deficiency in the availability of procurement related training. The OCG, on previous occasions, has made the recommendation for the development of programmes for the certification of procurement personnel, and has indicated its belief that the profile and job classification of such personnel should be commensurate to reflect the level of responsibility which is attendant to the functions which they perform.

The Office continues to receive request for, and have made second Presentations to some Ministries. Consideration, however, for follow up presentations, is assessed on an individual basis and is dependent upon the availability of human resources to undertake same.

A full copy of the OCG’s presentation is provided as an Appendix to this Report.

HIGHLIGHTS OF SPECIFIC PROCUREMENT OPPORTUNITIES/CONTRACTS/PROJECTS WHICH WERE MONITORED

Ministry of Science, Technology, Energy and Mining – Liquefied Natural Gas Project

Reference is made to the OCG’s 2011 Annual Report wherein this matter was previously discussed. The OCG had continued its monitoring of the two (2) related procurement opportunities regarding the Floating Storage and Regasification Terminal and the Supply of LNG during the year 2012.

As it relates to the tender for the Floating Storage and Regasification Terminal, three (3) Bidders submitted tenders by the stipulated due date of April 27, 2013. An Evaluation Committee was constituted, which was supported by the LNG Project Advisors. As it relates to the Supply of Liquefied Natural Gas (LNG), as at December 2011, three (3) companies had been shortlisted for the submission of proposals. The final date for the submission of tenders was July 27, 2012, at which time two (2) proposals were received. One (1) tender was late and was not accepted.

Further to same, certain media reports in September 2012 indicated that the government was in discussions with the Jamaica Public Service Company Limited (JPS). Particular reference is made to a Sunday Gleaner article which was dated September 9, 2012, and which was entitled 'JPS to save the LNG Project?'. The OCG also received a copy of a letter which was dated October 5, 2012 from the former LNG Project Manager to the Members of the former LNG Steering Committee wherein concerns regarding pronouncements about the Project were detailed. The OCG was also in receipt of a copy of letter from the former Chairman of the LNG Steering Committee to the Honourable Minister, which was dated October 8, 2012.

In this regard, the OCG wrote to the Minister of Science, Technology, Energy and Mining on October 16, 2012, regarding the propriety of the transaction. The full content of the OCG's letter is provided below.

"We write to formally advise you that the Office of the Contractor General (OCG) is in receipt of a letter dated October 8, 2012 from Mr. Christopher Zacca, former Chairman of the Government of Jamaica (GOJ) Liquefied Natural Gas (LNG) Steering Committee, as well as a letter dated October 5, 2012, from the former LNG Project Manager, Mr. Ernie Megginson. The referenced letters were both received in our Offices, via email, on October 8, 2012, and relate to the matter at caption.

Reference must also be made to a Newspaper Report which was printed in the Jamaica Observer on Thursday, October 4, 2012, which was entitled "Paulwell: JPS to source LNG". The referenced newspaper article, which extensively quoted you, in your capacity as Minister of Energy, reported, inter alia, as follows:

"ENERGY Minister Phillip Paulwell says that the Jamaica Public Service Company (JPSCo) will now be responsible for sourcing the Liquefied Natural Gas (LNG) needed to fuel its new generation plant...

... Also, he said the decision to continue with the LNG project, ten months into the new administration, was to preserve the country's integrity in the international marketplace.

"...It would have done severe damage to our integrity in the international LNG marketplace if a new government was to come and unravel everything, so we persisted," he said.

He also disclosed that discussions began with JPSCo from as early as March for the company to take over the process.

"While we were doing so we were very careful to be engaging with JPSCo all along and to get the assurance that if we fail, they would be able to step in," he said."

Having regard to the foregoing, the OCG must place upon the record the fact that the letter which was directed to you by the former Chairman of the LNG Steering Committee, Mr. Christopher Zacca, a copy of which is enclosed herein, expressed certain concerns regarding the implications of the statements which have been attributed to you. The referenced letter, advised, inter alia, that:

*"If this article has accurately quoted what you said, this would create some concern for me as in fact I was still the Chairman as of March 2012. **I would like to state clearly that at no time have I ever had any such discussions about taking over the LNG process with JPS or any other entity, and I am not aware of any such discussions being held with them by any other person.** All discussions with JPS that I am aware of have focused on their role as a potential major offtaker i.e. customer, of the Jamaica Gas Trust which as you are aware was the conceptual commercial anchor of the LNG Project."* (OCG Emphasis)

To further compound the matter, Mr. Ernie Megginson, former LNG Project Manager, in his letter which was dated October 5, 2012, a copy of which is enclosed herein, asserted, inter alia, that:

1. *"I do not want to get into any political debate regarding the recent decisions by Minister Paulwell related to the direction of the Jamaica LNG Project. However, I do want to point out some of the consequences of these actions. **First is the damage caused in the international perception of the Government of Jamaica as a credible business partner and, second, in the lack of effort or transparency by the Government in assessing the true cost of the LNG project before it was cancelled and turned over to the Jamaica Public Services Company (JPSCo).***
2. *This LNG Project Team, including the local Jamaican team members, were tasked to conduct these two major RFPs in complete compliance with the Government's Procurement Guidelines, which are consistent with acceptable international standards for the procurement of goods and services. This task was done and the LNG Project Team responded fully and timely to each request for information from the Office of the Contractor General (OCG) who was closely monitoring these RFP processes. The international players praised the way that the LNG Steering Committee ran the RFP processes. One of the key comments was related to the transparency of the processes. Businesses are attracted to transparency. Investment flows to places where the rules are clear and the playing field is level for everyone.*
3. *...it was disturbing to read in the Observer yesterday morning a statement attributed to the Minister where he "disclosed that discussions began with JPSCo from as early as March for the company to take over the process. 'While we were doing so we were very careful to be engaging with JPSCo all along and to get the assurance that if we fail, they would be able to step in,' he said." **It should be noted that these discussions reportedly occurred during the middle of the RFP processes, with the bids for the LNG Terminal due on April 27, 2012 and the bids for LNG Supply extended to July 27, 2012. These bid dates were all approved by the Minister. While I was Project Manager, no members of the LNG Project Team, nor to the best of my knowledge, the LNG Steering Committee and, in particular the then-Chairman Christopher Zacca, had any discussions of this sort with JPSCo or any of their shareholders or connected entities.***
4. *The foibles of the handling of these current RFP processes, as well as the previous attempts to secure affordable natural gas for Jamaica, are followed closely in the international press, with subsequent negative impacts on Jamaica's credibility as a place to conduct business and invest.*
5. *Second, and probably most important, to my knowledge, **the Government never engaged the bidders in any serious negotiations to determine whether an acceptable price could actually have been reached.** The bid prices for the LNG Terminal and the lowest LNG Supplier would have resulted in a delivered price for natural gas at the plant gates of the end-users of approximately USD 14.00 per MMBtu, if both JPSCo and Alcoa/Jamalco had remained in the project. This figure is lower than the USD 15.60 per MMBtu price that the Minister presented to Parliament on Tuesday this week.*
6. *The international advisors presented data to the Government that would indicate that there was significant room for lowering the USD 14.00 per MMBtu price through negotiations.*

7. **The current direction of cancelling the RFP processes without any negotiations and the turning of the project over to JPSCo, without any certainty of competitive pricing or pricing transparency, is of great concern.** (OCG Emphasis)

Given the content of the letters from the former Chairman of the LNG Steering Committee and the former LNG Project Manager, which have raised significant concerns, as well as the content of the Observer Newspaper article, it is incumbent upon the OCG, in the discharge of its ongoing monitoring activities, and having regard to the fact that the referenced LNG Project has now been aborted, to obtain better and further particulars, in regard to the veracity and substance of the statements, which have been attributed to you, and the circumstances surrounding the termination of the tender process.

The OCG's letter to you is, therefore, issued in furtherance of the provisions of the Contractor General Act. Section 4 (1) (a) of the Act expressly mandates a Contractor General, under oath, and on behalf of the Parliament of Jamaica, 'to ensure that Government contracts are awarded impartially and on merit, and in circumstances that do not involve impropriety or irregularity, and also to ensure that the said contracts are implemented in accordance with their terms'. In particular, and as the OCG will now be updating its files, it is critical that clarification be obtained in regard to, amongst other things, the termination of the process.

Further, and having regard to the national import of the LNG Project to Jamaica, the gravity of the concerns which have been raised by the then Chairman of the LNG Steering Committee and the former LNG Project Manager, and the impact which it portends for Jamaica's credibility in the international arena, viz. competitive tendering, the OCG is of the considered opinion that the matter is one which needs to be publicly clarified and ventilated in an effort to resolve the many questions which have now arisen and which, rightfully, ought not to be left in a shroud of uncertainty.

It is against the foregoing background that the OCG, in the discharge of its mandate and in the interest of public transparency, is raising the following questions with you, as a matter of urgency. We would, therefore, be grateful if you could provide the OCG with a response to the following questions.

1. Having regard to the newspaper article which was published in the Jamaica Observer on Thursday, October 4, 2012, please advise of the veracity of the statements which have been attributed to you. If the statements are in fact an accurate and truthful reflection, please provide responses to the following questions:
 - a. Please advise of what is meant by the term "take over the process" within the context of the disclosures which were made by you in the referenced Jamaica Observer Newspaper article;
 - b. On what date did the Government of Jamaica (GOJ) and/or anyone or entity acting on its behalf become involved in discussions with the Jamaica Public Service Company Limited to "take over the process", as referenced in the Jamaica Observer newspaper article?;
 - c. Please advise of the name(s) and title(s) of the person(s) and/or entity(ies) who/which initiated the discussion(s)/meetings in regard to the Jamaica Public Service Company Limited "taking over the process";
 - d. Please provide the name(s) and title(s) of the GOJ representative(s) who was/were involved in the referenced discussion(s);
 - e. Please provide the name(s) and title(s) of the Officers of the Jamaica Public Service Company Limited and/or the particulars of anyone/entity acting on its behalf, who/which was involved in the referenced discussion(s)/meeting(s);
 - f. Please advise of the date(s) on which such meeting(s) and/or discussion(s) was/were held and the location(s) of any such meetings and/or discussion(s);

- g. *Please provide particulars of any undertakings and/or commitments which were made by the GOJ during the course of the referenced meetings and the projected timelines by which the said undertaking and/or commitments were to be fulfilled; and*
 - h. *Please advise whether the Jamaica Public Service Company Limited provided any assurances and/or guarantees to the GOJ in regard to the sourcing and supply of LNG. If, in any case, promises and/or guarantees were provided to the GOJ, please provide full particulars of same.*
2. *Please advise of the particulars of the instructions, if any, which were given by you, in regard to the conduct of discussion(s) and/or meeting(s) with the Jamaica Public Service Company Limited with the intent of the said company "taking over the process". If any such instruction(s) was/were given, please provide responses to the following questions:*
 - a. *Please advise of the date(s) on which such instructions were given;*
 - b. *Please provide the name(s) and title(s) of the Public Officer(s)/Official(s) to whom such instructions were given; and*
 - c. *Please advise of the rationale for issuing the referenced instruction(s) to the named Public Officer(s)/Official(s).*
 3. *In light of the fact that a formal tender procedure was ongoing, with the selection of a preferred bidder announced in July 2012, please advise of the appropriateness of having 'side' discussions with the Jamaica Public Service Company Limited in regard to a matter which was the subject of the formal tender process.*
 4. *The referenced Observer Newspaper article quoted you as follows, "There can be no legal battle as we're fully protected. Both companies, if they really had wanted to secure a deal, would have offered significantly lower prices. Those prices were too high. We are in touch and they fully understand our situation," he said."*

In light of the aforementioned, please provide responses to the following questions:

- a. *Was any attempt made by the GOJ to negotiate the prices/costs with the selected preferred bidder? If yes, please advise of the particulars of such negotiations and the outcome of same; and*
 - b. *If no attempt was made to negotiate with the preferred bidder, please advise of the rationale for same and the name(s) and title(s) of the person(s) who made the decision not to conduct any such negotiations.*
5. *Are you aware of any additional information which you believe could prove useful to the OCG or is there any further statement in regard to the matter which you are desirous of placing on record? If yes, please provide full particulars of same.*

Given the gravity of the matter which has been brought to the attention of the OCG we are, hereby, by way of copy of this letter, bringing the concerns which have been raised with the OCG, by Mr. Zacca and Mr. Megginson, to, amongst others, the specific attention of the Most Hon. Prime Minister, Mrs. Portia Simpson Miller, O.N., M.P., and to the attention of the Leader of the Opposition, Mr. Andrew Holness, M.P.

Should you have any questions, please do not hesitate to contact me."

The OCG had not received a response to its requisition and, as such, had indicated to the Minister, by way of a letter which was dated November 6, 2012, that one was to be provided by November 12, 2012.

The Minister responded by way of a letter which was dated November 7, 2012, stating, *inter alia*, the following:

“...the Attorney General’s Chambers (“AGC”) has advised that the issue of your office’s jurisdiction to monitor the pre-contractual stages of government contracts is presently the subject of judicial review proceedings in the Supreme Court (The Minister of Transport, Works and Housing v. The Contractor General).

In light of the foregoing, I have been further advised by the AGC to await the outcome of the judicial review proceedings in the Supreme Court before responding to the above-mentioned requisitions...”

The OCG responded to the Minister indicating that its lawful requisition had not being satisfied.

The Minister responded, by way of letter which was dated November 10, 2012, indicating his willingness to respond to the requisition and that further advice was being sought from the Attorney General Chambers (AGC). The Minister also requested an extension for the submission of a response.

By way of a letter which was dated November 20, 2012, the Minister responded, *inter alia*, that *“Before answering the specific questions posed in letter dated October 16, 2012, over signature of your Mr. Craig Beresford, I wish to place the matter in the following context:*

1. *The discussion with JPSCO did not involve Mr. Megginson or Mr. Zacca;*
2. *The JPSCO was never involved in the GOJ-lead procurement processes, as a bidder or otherwise, for the Floating Storage and Regasification Unit (“FSRU”), the Gas Supply or the Placement Agent and therefore the procurement would not have been impugned by a discussion with JPSCO;*
3. *JPSCO was not in any way officially a part of the GOJ-lead LNG Project; and*
4. *I consider it to be the duty of a responsible and prudent Minister to consider the alternatives should the GOJ-lead LNG Project not be successful in yielding the indicative prices that would realise the overall reduction in electricity prices.”*

Of note, in his response to the question of what is meant by the term *“take over the process”* within the context of the disclosures referenced in the Jamaica Observer Newspaper article, the Minister indicated that *“Take over the process” was intended to refer to the possibility of the JPSCO providing its own LNG and infrastructure for electricity generation.’*

In response to the question regarding the appropriateness of having ‘side’ discussions with the JPS despite the ongoing formal tender process, the Minister stated that *“The formal tender process was in no way impugned as the JPSCO was never intended to participate in any of the three (3) Requests for Proposals that were issued in relation to the GOJ-lead LNG Project. The JPSCO was a third party whose only role would be as a potential off-taker/purchased of the LNG. I therefore do not consider my discussion with the JPSCO regarding the possibility of it “taking over the process” as being inappropriate in any way but rather prudent and responsible in all the circumstances.”*

Additionally, the OCG had previously penned a letter to the Ministry’s Permanent Secretary, which was dated September 17, 2012, to ascertain, *inter alia*, whether there was veracity to the media reports which purported that there were talks between the Government and JPS/Marubeni Corporation with reference to the article of September 9, 2012. The response of the Permanent Secretary was due on October 15, 2012; an extension for submission of a response was requested.

By way of a letter which was dated October 17, 2012, the Permanent Secretary advised the OCG that the Ministry had requested the advice of the AGC. Despite the foregoing, a response was provided by the Permanent Secretary, by way of a letter which was dated November 27, 2012.

Further, in response to the question regarding whether there was merit to the referenced article, it was indicated that *"The Gleaner article dated September 9, 2012 entitled "JPS to save the LNG Project", has merit only in respect of the Ministry adhering to the letter of the law in not accepting the bid from Marubeni Corporation, which arrived late and the LNG Steering Committee indicating to the Minister that the prices quoted by the bidders would not realize any appreciable decline in the cost of electricity."*

Department of Local Government – Memorandum of Understanding (MOU) with Green RC Management LLC

Reference is made to pages 147-148 of the OCG's 2011 Annual Report wherein this matter was previously discussed. The Department of Local Government signed an MOU, dated October 7, 2011, which was valid for two (2) years. The OCG had noted Clause 19 from the MOU which states that *"This MOU is not legally binding as it [sic] not intended to be a contract. It is meant to facilitate the execution of the Pilot Programme. It therefore does not commit or confer any obligation on the Department or the Government of Jamaica to enter into any contractual arrangement with GREEN RG following the completion of the Pilot Programme."*The Office indicated that it would continue monitoring the project and, in particular, any related procurement and contract award activities.

Further to same, by way of a letter which was dated April 13, 2012, under the signature of the Permanent Secretary of the Ministry of Local Government and Community Development, the OCG was asked to provide comments regarding the implementation of the project. The letter stated, *inter alia*, that *"The Ministry of Local Government and Community Development is seeking your comments on the implementation of the two-year Memorandum of Understanding between the then Department of Local Government and Green RG Management LLC..."*

The two parties have been working through the operational modalities for the project and are seeking to identify the activities to be undertaken for all phases of the programme. We are now at the implementation stage wherein specific activities to be executed are in train. As we proceed into full implementation mode, we seek your guidance on the initiatives which have been identified to be undertaken."

The letter also indicated the proposed scope of works for the pilot programme.

The OCG responded by way of a letter which was dated April 20, 2012, noting the relevant clauses from the MOU inclusive of: Clause 1 of the MOU document which states, *inter alia*, that this *"("MOU") is meant to set out the role and function of the parties in the execution of a Pilot Programme to demonstrate the bonafides of an energy management system, protocols, products and solutions... and establishes a co-operative relationship between the parties to enable them to pursue their mutual interests in the deployment of the System"*; and Clause 19 from the MOU states *"This MOU is not legally binding as it [sic] not intended to be a contract. It is meant to facilitate the execution of the Pilot Programme. It does not commit or confer any obligation on the Department or the Government of Jamaica to enter into any contractual arrangement with GREEN RG following the completion of the Pilot Programme."*

The OCG's letter continued stating, *inter alia*, that *"...the OCG has noted the projects which you have outlined. In accordance with Clause 3 of the MOU "The Department undertakes to: ... b) Identify and authorise projects from time to time to be included in the Pilot Programme"*.

In the circumstance, the OCG has noted that, in accordance with the Government of Jamaica Handbook of Public Sector Procurement Procedures, October 2010, no procurement has been undertaken, as the Handbook defined procurement as "...the acquisition of goods, services and works by any method, using public funds, and executed by the Procuring Entity or on its behalf." The OCG also makes reference to its letter which was dated May 10, 2011, which states, inter alia, that "Following upon the completion of the proposed research and development, and if the results are positive and presents a viable option for the reduction in energy cost for the GOJ, then the Competitive Bidding process, by means of a price test, should be undertaken, prior to a contract being awarded."

The OCG has noted that the MOU which was executed is non-binding and has a two (2) year duration. Accordingly, and further to its letter dated May 10, 2011, which did not object to the then Department of Local Government entering into a non-binding MOU, the OCG finds that the projects which the Ministry intends to undertake are in keeping with same, and also does not object to the Ministry's proposal. The OCG however, maintains its position that a Competitive Bidding process is to be conducted, prior to the award of any contract.

Please note, the OCG has not, and will not, comment on the technical aspects of the project as same is not within this Office's remit."

The OCG will continue to monitor this project and, in particular, any related procurement and contract award activities.

St. Elizabeth Parish Council – Proposed Sale of Lands, Part of Bellevue called Mannings Home

Reference is made to pages 150-151 of the OCG's Annual Report 2011 wherein pertinent details related to the captioned matter was disclosed. The OCG was invited by the Mayor of Black River in July 2011 to conduct an investigation into the captioned transaction given allegations which were received regarding the propriety of same.

The OCG conducted a review of the matter and concluded that although the St. Elizabeth Parish Council had attempted to undertake a transparent process by publicly advertising the property for sale, there were symptoms of irregularity as the valuation was conducted after the close of tender and that the property which was advertised with regard to size and specific parcel, was not that which was being sold. The OCG had recommended that a new valuation for the specific parcel of land be commissioned and that the property be re-advertised.

During 2012, the OCG requested an update from the St. Elizabeth Parish Council regarding this matter. By way of a letter which was dated November 16, 2012, the OCG was advised that *"...the council is still to finalize the way forward in respect of this matter. Please note also that the prospective buyer has signalled his intention to pursue legal action, should the council take the decision to re-advertise."*

A subsequent update from the Council indicated that no further decision was taken and that guidance from the Permanent Secretary was sought as to how best to deal with the matter.

The OCG will continue to monitor matters attendant to this proposed divestment.

Rural Electrification Programme – Award of Contracts for Pole Line

Reference is made to page 154 – 155 of the OCG's Annual Report 2011 wherein this matter was previously discussed. The OCG indicated that two (2) Quarterly Contract Award (QCA) Reports which were submitted by the Rural Electrification Programme had reported National Contracts Commission (NCC) Contractor Identification Numbers which did not exist. Further, there was no information to suggest that the Contractors who were awarded the contracts were registered with the NCC.

The matter which was initially being reviewed by the Inspectorate Division was later transferred to the Investigation Division. A Special Enquiry Management Report of Investigation was produced and published in July 2012.

Bellevue Hospital – Award of Contracts for Security Services to Ultra Protection Limited

Reference is made to page 155 of the OCG's Annual Report 2011 wherein this matter was previously discussed. The OCG had indicated that a review of the Bellevue Hospital's 1st quarter 2011 QCA Report submission was undertaken wherein it was noted that multiple contracts were awarded via the Direct Contracting Procurement Methodology to Ultra Protection Limited, which at the time was an unregistered Contractor.

In this regard, the OCG requisitioned the Bellevue Hospital, by way of a letter which was dated November 23, 2011, to provide certain information related to the engagement of Ultra Protection Limited. By way of a letter which was dated December 23, 2011, and which was received on January 3, 2012, the Bellevue Hospital informed the OCG that *"... the information that we have been providing on our quarterly reports may have been somewhat misleading. A review of our records revealed that the arrangement between the Bellevue Hospital and Ultra Protection Limited dates as far back as 1990. We located a contract that was prepared (see attached) but noted that it was not signed by both parties. We were also unable to locate the relevant documents regarding the process of selection of that service provider.*

...As can be gleaned from the attached correspondence from the Hospital Administrator, addressed to Ultra Protection Limited and dated 2011 January 21, we made interim arrangements to regularize the service while the tendering was being done.

...Based on advice from team members, numerous requests have been made to Ultra Protection Limited for Tax Compliance Certificate, National Contracts Commission Registration Certificate and Private Security Regulations Authority Registration Certificate but these documents were not forwarded.

We only continue to pay Ultra Protection Limited for services rendered on a monthly basis since the arrangement already existed, albeit not having any evidence of the appropriate procedure being followed.

I wish to further explain that this decision was on the basis that the institution could not operate effectively without a Security Service in place.

We continue this arrangement up to the time of writing this letter and we are trusting that the tendering process being carried out by the South East Regional Health Authority will be completed soon. This will ensure that the breach is corrected."

In response, the OCG, by way of a letter which was dated March 9, 2012, indicated to the Bellevue Hospital that it *"...deems the decision to continue the engagement of Ultra Protection Limited, after the Company's failure to submit a Tax Compliance Certificate (TCC), National Contracts Commission (NCC) Registration Certificate and a Private Security Regulations Authority (PSRA) Registration certificate, to be highly irregular and lends itself to complicity on the part of the public body.*

Please note that the Government of Jamaica Handbook of Public Sector Procurement Procedures requires contractors supplying goods or services, in excess of Two Hundred and Seventy-Five Thousand Jamaican Dollars (J\$275,000.00), to have a valid NCC and TCC certificate. Further, the Contractor General Act, Public Sector Procurement Regulations, 2008, makes it a criminal offence to contravene said regulations and the Handbook.

In the circumstances, the OCG hereby makes the following recommendations which should be considered for urgent and immediate implementation:

1. *The Bellevue Hospital takes immediate steps to discontinue its engagement of Ultra Protection Limited. The OCG has information to suggest that Ultra Protection Limited, is not currently, and has never been, registered with the National Contracts Commission (NCC).*

- 2. The Bellevue Hospital, or any other Entity acting on its behalf, taken urgent steps to undertake a procurement process in order to ensure that a duly registered and certified contractor is procured to provide security services to the Bellevue Hospital. In this regard, feel free to review Section 1 of Volume 2 of the Handbook of Public Sector Procurement Procedures (October 2010) to glean the procurement methodology which may be utilized by a Procuring Entity, the justifications (where applicable) and the requisite authorization limits, in light of this present situation.*

Notwithstanding the aforementioned recommendations, and due to the Hospital's continued engaging Ultra Protection Security Limited after the Company's failure to submit a valid Tax Compliance Certificate (TCC), National Contracts Commission (NCC) Registration Certificate and a Private Security Regulations Authority (PSRA) Registration certificate, there are unanswered questions which require further explanation." Accordingly, the OCG requested further information on the matter.

The OCG also noted that the matter was the subject of concern from an Auditor General's Report and that it was discussed by the Public Accounts Committee of Parliament. By way of letter dated April 19, 2012, the OCG wrote to the Chairman of the Public Accounts Committee, in light of the said discussions, highlighting its preliminary findings which may have been of moment to the Committee's deliberations. The contents of its letter are detailed below:

"The Office of the Contractor General (OCG) has noted recent media reports regarding the captioned subject matter, in particular those surrounding representations which were made by Mr. Michael Maragh, the Chief Financial Officer in the Ministry of Health. The Public Accounts Committee (PAC) was reported to have been examining Findings from the Auditor General's Report, inclusive of the engagement of an unregistered contractor, for the provision of security services, at the Bellevue Hospital, for an extended period of time.

*The 8:00 pm CVM Television newscast on April 17, 2012, aired a voice clip wherein Mr. Maragh categorically stated that; "there is nobody who is willing to take up this location", when questions were raised by the Committee. Further, the Daily Gleaner on April 19, 2012 reported that Michael Maragh, advised the PAC that; "No new contract has been issued since the 1990s. No one is willing to take this contract. At this particular location [i.e. the Bellevue Hospital]...nobody is willing to take up this location. **That is what our records are showing – that no one is interested in this location.**" (OCG's emphasis)*

The OCG has taken note of this statements attributed to Mr. Maragh, particularly, that; "... no one is interested in this location", as same seems to contradict OCG's records which appear to indicate that at least six (6) bids were received by the South East Regional Health Authority, for the provision of security services, at the Bellevue Hospital at a Tender Opening Ceremony which was held on February 9, 2011. The OCG has enclosed herein copies of Bid Opening Records to substantiate same.

Although its Enquiry is ongoing, the OCG wishes to bring to the attention of the PAC, the following recommendation which was communicated to the CEO in the referenced letter, regarding the engagement of an unregistered contractor, that; "...the Bellevue Hospital takes immediate steps to discontinue its engagement of Ultra Protection Limited... The Bellevue Hospital or any other entity, acting on its behalf, take urgent steps to undertake procurement process in order to ensure that a duly registered and certified contractor is procured to provide security services to the Bellevue Hospital. In this regard, please feel free to review Section 1 Volume 2 of the Handbook of Public Sector Procurement Procedures Handbook (October 2010) to glean the procurement methodology which may be utilized by a Procuring Entity, the justifications (where applicable) and the requisite authorization limits in light of this present situation."

A copy of the OCG's letter dated March 9, 2012 is attached for your reference.

The OCG will continue to enquire into the matter, to determine, among other things, (a) the results of all other tenders which were undertaken during the period of deviation and the reasons for their respective abortion and (b) whether there was any impropriety attendant to the continued engagement of the security company.

The OCG, will, thereafter, report its Findings in accordance with the relevant provisions of the Contractor General Act.”

Additionally, and in relation to this matter, the OCG received a letter dated April 24, 2012 under the signature of the Managing Director of Ultra Protection Services Limited, Paul Burke. The letter stated, *inter alia*, that “*We fully accept the rule of law and the N.C.C. procurement regulations, that there must be one level playfield for all would be providers of goods and services... We accept and apologize for the fact, that we are unintentionally in breach of the procurement procedures in not having a N.C.C. Certificate. Although we have to accept a major part of this responsibility, there has been some circumstances beyond our control.*” The letter went on to highlight challenges faced in obtaining a Tax Compliance Certificate, and not being able to apply for a PSRA Certificate until same was received, and subsequently having to apply for NCC Certificate.

The letter ended stating “*... that notwithstanding not being compliant, Ultra Protection Limited provides an excellent professional service in an undermanned situation at the Bellevue Hospital, often under difficult circumstances and which is sometimes compounded by very late payments for our services.*”

Although not N.C.C. Compliant and which cannot be excused, as there must be a level playing field for all providers, let me also state that we are one of the few companies in full compliance with the Jamaican Labour Laws, which employs and not contracts its guards and which pays basic and overtime in full accordance with the Minimum Wage Order for Industrial Security Guards, provides sick and vacation leave, maturity [sic] leave when and where applicable and pays the full insurance coverage for guards without any full or partial deduction for the premium, as some companies are guilty of.”

We, therefore, respectfully request that all the above be taken into consideration as we make all and every effort to be N.C.C. compliant in the shortest possible period.”

The OCG acknowledged receipt of said letter on April 25, 2012.

By way of letters which were dated April 19 and 24, 2012, the South East Regional Health Authority (SERHA) wrote to the NCC firstly requesting permission to invite tenders from seven (7) Security Firms, inclusive of the current provider, and subsequently to directly contract the highest scored Bidder from the previous tender process who was currently registered with the NCC. The NCC responded to the Ministry’s Permanent Secretary, by way of a letter which was dated May 7, 2012, indicating that it “*offered ‘no objection’ to the request from the South East Regional Health Authority to utilize Limited Tender by way of Contracting Under Emergency Circumstances to temporarily engage the services of a duly registered company to provide security services for a period of three (3) months in order to facilitate a tender process.*”

Subsequent to the Limited Tender process, Shalk Electronic Security Limited was recommended and awarded the contract.

In July 2012, the SERHA subsequently tendered for the provision of Security Services at Bellevue Hospital for a three (3) year contract by way of the Local Competitive Bidding Procurement Methodology. As at December 31, 2012, the approval process was ongoing.

The OCG continues to monitor matters attendant to this contract.

Unsolicited Proposal for the Brokerage of Crude Oil from the Nigerian National Petroleum Company

On November 5, 2012, the OCG received an email from Mr. Paul Burke, in his capacity as Chairman of the Social Development Commission (SDC), requesting urgent guidance regarding a business opportunity and proposed transaction which had been presented to the Government. .

The details of the transaction were that "...there are presently five (5) oil tankers off the coast of Bonny, Nigeria loaded with seven (7) million barrels of Nigerian Bonny light crude oil ("BLCO"), hereafter called "the Product". A number of entities in Nigeria had received allocations of BLCO..." The OCG was further advised of certain particulars regarding the genesis of the opportunity and was told that "The Product is still available for purchase and the seller is the NNPC, through a spot contract export license holder."

As it regards the referenced opportunity, the OCG was further advised, as follows:

"We are presented here with a great opportunity, whereby the GOJ could assist its economy by earning millions of United States dollars, risk-free and without having to spend any of its money, by doing what huge brokerage houses, like Morgan Stanley and Merrill Lynch, have been doing for years. These companies have bought and sold crude oil, as well as refined petroleum products, over the years and have made their shareholders lots of money..."

The GOJ / SDC would like to take advantage of this opportunity to buy and resell the Product. Currently the discount offered on the Product is US\$10.00 per barrel. After resale on the open market, Jamaica could net approximately US\$70 million from the proposed transaction. This potential infusion into the local economy could go a long way in addressing a number of Jamaica's economic and social problems, as well as the major damage caused last week by Hurricane Sandy. This damage is estimated to be approximately J\$5 billion.

Although the discount on the Product currently stands at US\$10.00 per barrel, as a sovereign buyer, Jamaica could seek a further discount, which could possibly move to US\$15.00 per barrel. With such an additional discount, the GOJ / SDC stands to make approximately US\$105 million from this single transaction."

It was further indicated that a player in the petroleum field was interested in buying the Product from the GOJ, and that the "GOJ on behalf of the Social Development Commission, wishes to (a) enter into an Agreement for Sale and Purchase (the "Agreement") with the seller, and (b) assign the Agreement to [the interested player], without having to put that re-sale to public tender. If the GOJ has to put that re-sale to public tender, then neither [the interested player], nor any other major oil company, would be interested in this proposed transaction. In addition, the GOJ would have to enter into the Agreement and pay the seller for the Product, before it could put that re-sale to public tender. The GOJ is not in a financial position to do so."

In response to the foregoing, the OCG penned a letter which was dated November 6, 2012 to the Minister of Local Government and Community Development, which was copied to, *inter alios*, the Prime Minister, the Minister of Science, Technology, Energy and Mining and to the Chairman of the SDC. The full contents of the referenced OCG letter is provided below:

"The Office of the Contractor General (OCG) writes with reference to a letter which was dated November 2, 2012, which was received in its Office on November 5, 2012, at the hand of Mr. Paul Burke, who represented to be writing in his capacity as the Chairman, Social Development Commission (SDC).

The OCG notes that the referenced letter was submitted to it on what appears to be Mr. Burke's personal letterhead.

In the referenced letter, Mr. Burke has purported that he is seeking the OCG's "...guidance on a business opportunity and proposed transaction, which has been presented to the Government of Jamaica...through me in my capacity as Chairman of the Social Development Commission, as an unsolicited proposal..."

The OCG has carefully read the contents of the said letter and makes special note of his assertion, inter alia, that he has had dialogue with you, in your official capacity as the Minister of Local Government and Community Development and the Hon. Phillip Paulwell, the Minister of Science, Technology, Energy and Mining, regarding the 'proposed' transaction.

Quite curiously, the OCG has also noted that Mr. Burke has failed to provide to the OCG supporting documents to validate and/or to substantiate the representations which he has made. This is despite the fact that he has represented that the proposed transaction is a multi-billion Jamaican dollar, multi-party, transnational commercial transaction, which involves a major global oil company and two (2) sovereign governments, one of which he is purporting to represent whilst at the same time being the individual who has advanced the referenced Proposal for the OCG's consideration.

The OCG is of the belief that a matter of this nature should rightfully be undertaken by the duly authorised and competent functionaries of the State of Jamaica, namely, the Ministry of Energy and Mining and/or its portfolio agencies, the Petroleum Corporation of Jamaica and/or Petrojam Limited.

In the circumstances, the OCG will not proffer an opinion on the matter, save and except, if, or when, the competent functionary writes to its Office, with appropriate and sufficient supporting documentation, formally requesting same.

Further, given the national import of this matter, the OCG is duty bound and obliged to bring same to the immediate and urgent attention of the relevant functionaries of the State, including the Hon. Prime Minister of Jamaica, the Cabinet of Jamaica and the Minister of Energy and Mining, amongst others.

The OCG stands ready to offer the requisite guidance to the Government of Jamaica (GOJ), should it take a decision to pursue the referenced Proposal advanced by Mr. Burke, in keeping with its statutory mandates which are embodied in the Contractor General Act, to ensure, inter alia, that GOJ Contracts and all attendant transactions are awarded impartially, on merit and in circumstances which do not involve impropriety and/or irregularity.

Therefore, it is anticipated that the GOJ will be writing to the OCG, in short order."

As at the time of this Report, the OCG has not received a response to its letter and does not have any further details regarding this matter.

Petroleum Corporation of Jamaica – Waste-to-Energy Project

By way of a letter which was dated April 5, 2012, the Petroleum Corporation of Jamaica (PCJ) wrote to the OCG seeking an opinion regarding the action taken related to the Waste-to-Energy Project. Pertinent documents related to the matter were enclosed with the letter. The letter stated, *inter alia*, that "...the PCJ is considering the re-tendering of the project under a revised scope/terms of reference. Kindly advise if the OCG would be comfortable with such an action."

By way of a letter which was dated April 27, 2012, the OCG, subsequent to a thorough review of the matter, provided the following response to the PCJ:

1. *"A tender process was undertaken to identify suitably qualified Proposers to Joint Venture in the development of waste energy facilities in Jamaica. Cambridge Project Development Inc. (CPDI) was identified as the preferred bidder;*
2. *CPDI was advised accordingly, and negotiations ensued;*

3. *The Petroleum Corporation of Jamaica (PCJ) by way of a letter which was dated March 30, 2012, under the subject "Opportunity to Joint Venture in the Production of Renewable Energy Using Municipal Solid Waste as the Primary Feedstock", advised CPDI, inter alia, that "Please note after careful review of the circumstances as it relates to Stage Three of the Process, which involves the economic evaluation, your proposals were unsuccessful in meeting this requirements for the projects. We therefore, will not be able to Joint Venture with you in the Production of Renewable Energy using municipal solid waste at this time"; and*
4. *The OCG has not been provided with information to suggest that a formal contract was executed.*

The OCG has also reviewed the document entitled 'PCJ Waste-to-Energy Project, Due Diligence Report', January 16, 2012, which concluded, inter alia, that "After a careful review, the recommendation, reflecting the independent opinion of the author, is for PCJ to discontinue negotiations with the CPDI consortium. The RFP gives the PCJ the right to reject proposals at any time prior to award of a contract, without incurring any liability." (OCG's emphasis) The forgoing provision, in the RFP, was evidenced by the OCG.

The basis upon which the recommendation was arrived at was outlined therein, and the Author had recommended, among other things, that the project should be re-tendered, and that there should be consultation with the in-house legal counsel as to whether there is any possible or perceived ramifications which may be attendant to the discontinuation of negotiations.

The OCG notes that the discussion to proceed with, or terminate, a tender process is within the remit of the Procuring Entity. Therefore, the OCG will offer no opinion regarding the legitimacy of any such course of action which the PCJ intends to take.

However, if the PCJ has concerns regarding any possible legal implications of its decision, the OCG would recommend, if same has not already been done, that the opinion of the Attorney General's Chamber be sought."

The OCG ended the letter by indicating its intention to monitor the re-tender of the opportunity if the PCJ intends to proceed with such action.

Subsequently, by way of a letter which was dated July 23, 2012, which was received by its Office on July 25, 2012, the OCG received a complaint related to the aforementioned matter. Consequently, the matter was reviewed under the OCG's Enquiry Management Portfolio.

Kingston Lifestyle Centre

On October 25, 2012, a meeting was held between representatives of the OCG and the then Director General of the Planning Institute of Jamaica (PIOJ) wherein the OCG was advised of the captioned matter. The OCG was approached by the then Director General in an effort to ensure that the highest degree of scrutiny was placed on the transaction, and for the Office to provide comments on same. The Office was provided with a copy of the Kingston Lifestyle Centre (KLC) Proposal document.

The OCG was informed that the KLC Project was approved by Cabinet on May 14, 2012 and would be pursued under Public Private Partnership (PPP) Guidelines.

By way of a letter which was dated November 2, 2012, the OCG provided its preliminary comments on the document. The letter clearly stated that the review and comments which were given to the PIOJ were not in conjunction with the PPP Policy (draft) as it was the Office's understanding that same had not yet been approved. Further, the OCG requested clarification on some of the items which were being proposed, such as,. 1) The Initial Capital Outlay; 2) The ownership structure of Kingston Lifestyle Limited. (KLL) Development Company; 3) Government of Jamaica obligations; and 4) Second Round Financing.

As it relates to the Initial Capital Outlay, the OCG noted that while the Proposal outlined the aspects of the project which the initial capital outlay intends to cover, it did not indicate the capital which is required of the Initial Sponsors, or provide an indication of how, and the basis upon which, the Initial Sponsors will be selected. The OCG believed that the foregoing raises concerns of probity and transparency in the proposed selection process for the Initial Sponsors.

Further, the OCG noted that the Proposal indicated that "*The development will be undertaken as a purely private sector project. The Government and/ or its Agencies will be approached for long-term lease (say 99 years) over land and other assets required for the development, on commercial terms.*"

The OCG also noted another section of the document which stated that "*Some \$200 million has been provided through the PetroCaribe Fund for the restoration and redevelopment of the area, which will also see the implementation of a number of social intervention programs.*" In this regard, and given that reference was made to the PetroCaribe Fund and that the specific source(s) of the Initial Capital Outlay was not identified, the OCG sought clarification as to whether GOJ funding would be a component of the Capital Outlay.

The Proposal made reference to the KLL Development Company, however, it did not disclose the proposed ownership structure of the Company. Also, as the document indicated that the project would be "purely private sector", the OCG sought clarification regarding whether the GOJ will (1) be a part of the company; (2) if the GOJ has a controlling interest or will be in a position to influence policy and/or the expenditure of public funds; and (3) if related procurement activities will be subject to the GOJ Procurement Guidelines.

With regard to the GOJ's obligations, the OCG noted that the GOJ would be required to provide incentives and that the success of the development, as proposed, would rely upon the leasing of GOJ owned lands. The Office, however, indicated that any other area wherein the GOJ had an obligation should be clearly outlined in the Proposal.

As it relates to the second round financing, this was indicated to be private placement, unit sales and multilateral funding. Given that the initial investors were not known, the OCG indicated that if the GOJ were to be a part of same, then the selection of investors to participate in the private placement should be done in a fair, impartial and transparent manner. Further, and given that the project was being touted as a Public/Private in nature, the OCG further indicated that even if the GOJ did not provide any initial capital outlay, given that the venture is of a Public/Private nature, there should be probity and transparency in the private placement process.

In conclusion, noting its role in the monitoring and/or investigating of the award and implementation of Government contracts and prescribed licences, the OCG maintained its position that the lease of government-owned lands are considered government contracts and, as such, the Office would have an interest in any such transaction. Further, if issuance of prescribed licences would be attendant to the transaction, the OCG would equally have an interest in same. Being that the Office was unclear of the ownership structure of KLL Development Company, it was unclear whether the establishment of same would be classified as a Public Body. The OCG indicated that "*...if the GOJ is to be exposed to any degree of risks under this project, then it would be prudent for the GOJ to have a controlling interest in the KLL.*"

The OCG requested clarification on the issues raised in its letter in order to properly articulate an informed opinion on the Proposal and its conformance to the tenets of the Contractor General Act.

By way of a letter which was dated November 5, 2012, the then Director General of the PIOJ in a letter to the Contractor General stated, *inter alia*, the following:

"The comments are comprehensive, thoughtful and wise.

The Institute has noted the areas you would like to be further clarified in order for your office to provide a concrete position in the project proposal. Please note that while discussions on the Kingston Lifestyle Centre Proposal are in an advanced state, further meetings will be convened to continue the discussions with the stakeholders. Upon conclusion of said discussions on the points raised in your letter, the Institute will provide a formal response.”

The OCG continues to have an interest in this matter.

Urban Development Corporation - Downtown Transport Centre

The OCG noted a media report in the Daily Gleaner which was dated July 4, 2012, and which was captioned “*Private Investors could take over Transport Centre*”. The report stated, *inter alia*, that “*The beleaguered Downtown Kingston Transport Center...could be in the hands of private investors soon. Chairman of the Urban Development Corporation (UDC) K.D. Knight said negotiations were under way in relation to the transport centre...He did not provide details about the nature of the negotiations, whether it was geared towards divestment, lease arrangements or efforts to identify an entity to manage the transport center.*”

In this regard, and in order to ascertain particulars related to the matter, the OCG wrote to the Urban Development Corporation (UDC), by way of a letter which was dated July 5, 2013, requesting an Executive Summary outlining full particulars, inclusive of the names of all entities/individuals involved and the nature of the discussions which have been held, as well as copies of any related documentation, inclusive of all correspondences and meeting minutes pertaining to the negotiations underway. While being mindful that it was not aware of the model which the proposed transaction would follow, the OCG, nonetheless, and in light of the report, reminded the UDC of the general principles to be observed in keeping with Ministry Paper #34, as it pertains to the procedures and policies to be observed in the privatization of government-owned assets.

The UDC responded, by way of a letter which was dated July 16, 2012, advising, *inter alia*, that “*...the UDC is unaware of any negotiations regarding the Transport Centre within the context of privatization/divestment. Additionally, discussions with our Chairman confirm that there was no such statement made by him or indication given that negotiations were in progress with any private investor. In fact, a read of the article shows that the information implied in the headline is not supported by the body of the article.*

The UDC is therefore not in position to provide the information requested by the OCG as there have been no such negotiations based on our activities or records.”

The UDC continued indicating that it was indeed mindful of the general principles as outlined in Ministry Paper No. 34.

The OCG had requested a subsequent update on this matter based upon a media report in February 2013, and was advised, by the UDC, *inter alia*, that “*The UDC has been in discussions with the Transport Authority with the view of establishing a Management Agreement for the Transportation Centre... The aforementioned discussions have been preliminary at best and there is no formal agreement between the UDC and the Transport Authority for the management of the facility. The UDC also has not been in dialogue with any other entity, whether public or private sector, for the management of the Transportation Centre.*”

The OCG will continue to monitor any pertinent developments related to this matter.

National Solid Waste Management Authority – Procurement for Security Guard Services

By way of a letter which was dated February 7, 2012, and which was received on February 14, 2012, under the signature of the Director of Operations, the National Solid Waste Management Authority (NSWMA) advised the OCG as follows:

“The National Solid Waste Management Authority (NSWA) conducted its tender opening exercise in November 2009. However investigations have revealed that an evaluation on the tenders submitted has not been conducted and Knightsman Security Services, the current service provider, has been engaged on a month by month basis utilizing the Direct Contracting Methodology...we are seeking approval from the National Contracts Commission (NCC) to discontinue this current arrangement and utilize the Direct Contracting Methodology to engage E.A.P Security Services, as we are concerned about safety of life and property not only at our head office but at our regional offices and landfills islandwide, as there has been a number of security breaches...”

The OCG conducted an assessment of the matter and responded to the NSWMA by way of a letter which was addressed to the then Executive Director, and which was dated February 16, 2012. Detailed hereunder is an extract of the referenced letter.

“... the OCG’s records indicates that the most recent Tender Opening Ceremony for the captioned procurement occurred in November 2010, and not November 2009 as was stated in the referenced letter. The OCG has also noted your request for “approval from the National Contracts Commission (NCC) to discontinue this current arrangement and utilize the Direct Contracting Methodology to engage E.A.P Security Services...”

In the circumstances, and in accordance with Section 1.1.4, of Vol. 2 of the Government of Jamaica (GOJ) Handbook of Public Sector Procurement Procedures (October 2010) which outlines, inter alia, that “The Head of Entity may approve Direct Contracting up to J\$3M. Contract values above this threshold will require the pre-approval/endorsement of the NCC.” The OCG hereby advises that any such request should be directed to the Chairman of the National Contracts Commission (NCC).

Notwithstanding the foregoing, and while the OCG is cognizant that the approval to utilize the Direct Contracting Procurement Methodology lays squarely within the remit of the NCC, without prejudice to any decision which may be made by said Commission, the OCG wishes to document its preliminary concerns regarding the propriety of the proposed transaction and herein outlines same below.

Preliminary Research - E.A.P. Security Services

Given that the NSWMA is contemplating the engagement of E.A.P Security Services, by way of the Direct Contracting Procurement Methodology, the OCG undertook a preliminary research into said Company and has found the following:

- a) *A search of the Companies Office of Jamaica records reveals that the Company was incorporated in 2009;*
- b) *The said search also reveals that the Directors/ Beneficial Shareholders of the company are: i) Mishka Myrie; and ii) Lloyd Edward Myrie (Jnr);*
- c) *As at February 15, 2012, E.A.P. Security Services was not registered with the NCC as a provider of Safety and Security Services, its last registration expired in June 2011 and was never renewed;*
- d) *A preliminary check of the OCG’s Quarterly Contract Award (QCA) Reports Database which is available from the OCG’s website, does not indicate that any Government contracts have ever been awarded to said Company, by any Public Body; and*
- e) *A preliminary check of the NCC Endorsed Contracts Database, which is available from the OCG’s website does not indicate that any Government contract award recommendations have ever been endorsed by the NCC in respect of the award of any contracts to said Company.*

A further enquiry into one of the principals of the said Company, Lloyd Edward Myrie (Jnr), has unearthed an article which was published on the Jamaica Observer website dated February 8, 2007, entitled "Will the Lloyd Myrie affair damage PNP chances in NW". The referenced article stated, inter alia, that "Last week's sudden resignation of Lloyd Myrie as the People's National Party (PNP) representative for North West St Elizabeth has sent shock waves throughout the region..."

OCG Preliminary Questions – Engagement of E.A.P Security Services

In light of the findings from the OCG's preliminary research into the referenced Company, please provide detailed and comprehensive responses to the following questions as it regards NSWMA's consideration to engage E.A.P Security Services by way of the Direct Contracting Procurement Methodology:

- a) On what basis is the NSWMA considering engaging E.A.P Security Services?
- b) What evidence exists to suggest that E.A.P Security Services has the requisite capacity and experience to perform the service which would be required to protect the "...safety of life and property not only at [the] head office but at [the] regional offices and landfills islandwide..."?
- c) How competitive are the rates which have been proposed by E.A.P Security Services? and has a comparative price analysis been undertaken?
- d) Is one Lloyd Edward Myrie (Jnr), who is on record as being one of the Directors/Beneficial Shareholders of the Company, a former Peoples National Party (PNP) representative or a family relative of said person?
- e) Were there any interference, influence and/or suggestion, by any by any person, to recommend E.A.P Security Services?

OCG Preliminary Requisition

In light of the foregoing, the Office of the Contractor General, pursuant to Sections 4 and 15 of the Contractor General Act, hereby requests the following information:

1. As the Head of the Procuring Entity, please advise whether the request which have been made, by way of letter dated February 7, 2012,[is] reflective of the position of the NSWMA;
2. Consequent upon the NSWMA contemplation to engage E.A.P Security Services, by way of the Direct Contracting Procurement Methodology, please provide the following:
 - a. The genesis of the recommendation to utilize E.A.P Security Services
 - b. The basis upon which, and the rationale for the proposed engagement of E.A.P Security Services; and
 - c. All documentation related to the proposed engagement of E.A.P Security Services, inclusive of all correspondence sent to and/or received from said Company, any Evaluation Reports and correspondence from any other Public Body/Official of the Government of Jamaica, or any other person.
3. An Executive Summary, clearly outlining the chronology of events since the close of tender in November 2010, and a current status regarding said tender process. Please submit all requisite supporting documents, inclusive of, any correspondence sent to, and received from bidders since the close of tender."

The OCG requested that a response be provided to its Office by February 21, 2012, and concluded its letter stating *"While the OCG has noted that security concerns was outlined as the justification for the engagement of E.A.P Security Services by way of the Direct Contracting Procurement Methodology, it [sic] light of the questions which have been raised, the OCG strongly recommends that said company is not considered at this time."*

The NSWMA requested an extension of the deadline for submission, which was granted, and responded by way of a letter which was dated February 24, 2012. In response to the question, *"What evidence exists to suggest that E.A.P. Security Services has the requisite capacity and experience to perform the service..."*, the NSWMA indicated that *"At a meeting with the Company Secretary and a Director of Mica Security Company Limited, EAP was recommended as a company with the requisite skill and personnel to perform the services required. MICA Security Limited is a company in the business of providing security services and previously performed security services at NSWMA; its Regional Offices and landfills and which by virtue of so doing is acquainted with nature and scope of work to be performed, as well as the skills, capacity and personnel required to effect same."*

Based upon the response received, the OCG issued a follow up requisition letter which was dated February 29, 2012. The OCG indicated therein, its concern about the seeming involvement of a third party, particularly given that it does not appear that there was independent verification by NSWMA personnel concerning the requirement for NCC registration.

The OCG will continue its review of this matter.

Further details regarding the procurement for security services can be found in the NCCLP Procurement Monitoring Appendix, Reference No. GCM-5092.

University of Technology, Jamaica – Professional Services: Training in GOJ Procurement Policies, Principles and Practices

The OCG received documentation to suggest that a Commissioner of the NCC was engaged by the University of Technology, Jamaica (UTECH), during September 2011, to provide professional services related to the GOJ Procurement Policy. The cost for the two (2) day training programme was J\$240,000.00. The concern which was raised related to the basis upon which the particular individual was invited to conduct the training session and whether there was a conflict of interest given his relationship with an individual who was employed at the University.

By way of a letter which was dated November 14, 2011, the OCG requested preliminary information from the UTECH, inclusive of an Executive Summary, outlining the Procurement Methodology and procedures attendant to same. In response, the UTECH advised the OCG that *"The contract for training in Government of Jamaica Procurement Policies, Principles and Practices was procured pursuant to the Handbook of Public Sector Procurement Procedures, Volume 2 – Procedures for the Procurement of Works, Goods and Services under General Services Category."*

The University, being cognizant in the first instant, that its internal estimate for the provision of the services it desired to procure was less than \$275,000, was guided by the provisions as set out in Section 1.1.14 – Direct Contracting, and paid particular attention to Sub-Section (f), given the urgency of the matter.

The University had recently undergone some internal management and administrative changes. One critical change was the appointment of a new Procurement Committee... Due to the urgency outlined, the University took the decision to invoke the provision of Section 1.1.5 - Contracting under Emergency and was also guided by Appendix 6, for the initial training and orientation of the individuals holding key positions on the Committee..."

The response, however, did not fully satisfy the information requested and a follow up letter indicating same was dispatched. By way of a letter which was dated December 21, 2011, the University's President responded with reference to the OCG's earlier letter stating that "...this was a "preliminary enquiry" from the Office of the Contractor-General and not an investigation being done by the Contractor-General under the Act. I am advised that there is no mention of preliminary enquiries under the Contractor-General Act, but only investigations which may only be initiated by the Contractor-General if in his opinion such an investigation is warranted. I am advised that the Contractor-General's functions must be discharged by him personally unless he is ill, absent from the island, or otherwise unable to do so and a member of his staff is appointed to perform those functions in his stead.

Has the Contractor-General now considered it necessary or desirable to conduct an investigation into a contract valued less than \$275,000 which was not required to be put to tender? If so, I expect that I will receive correspondence to that effect directly from him in whom the power resides."

In response to same, by way of a letter which was dated December 30, 2011, the OCG stated that it "...is extremely disappointed in your response, to a lawful requisition which was made pursuant to the powers which are vested in a Contractor General by the Contractor General Act, and finds some of your assertions to be surprising, improper and unfortunate.

In the circumstances, and since it seems that you are not fully apprised of certain provisions of the Contractor General Act, kindly direct your attention to the following:

- 1. Section 15 of the Contractor General Act lawfully mandates a Contractor General, at his discretion, inter alia, to conduct an investigation into, subject to subsection 15(2), the award of any Government contract, regardless of its value;*
- 2. Section 25(1) of the said Act, without prejudice to Sections 20, 21, 27(2) and 28 of the Act, explicitly states that. "...the functions of a Contractor-General... may be performed by any member of his staff authorized for that purpose..." Further, and as a matter of Organisation Policy, every correspondence leaving the OCG is firstly vetted by the Contractor General; (OCG's emphasis)*
- 3. Section 17 of the Contractor General Act states that "...A Contractor General may adopt whatever procedure he considers appropriate to the circumstances of a, particular case and, subject to the provisions of this Act, may obtain information from such person and in such manner and make such enquires as he thinks fits"; (OCG's emphasis)*
- 4. Section 5 of the Contractor General Act states that "...In the exercise of the power conferred upon him by this Act, a Contractor-General shall not be subject to the direction or control of any other person or authority; and*
- 5. Section 29 of the Contractor-General Act states, inter alia, that "Every person who – (b) without lawful justification or excuse: (i) obstructs, hinders or resists a Contractor-General or any other person in the execution of his functions under this Act; or (ii) fails to comply with any lawful requirement of a Contractor-General or any other person under this Act, shall be guilty of an offence..."*

On the issue of the value of the contract, the OCG will reserve its comments pending its findings into this matter. However, suffice it to say, the OCG cannot fathom that as the President of the University of Technology, a Public Entity, you seem to be more concerned about the value of the contract, instead of being primarily concerned about the propriety of said transaction and any other good governance issues, which may be attendant to same."

The OCG's letter ended, requesting that the previously demanded information be submitted.

The UTECH responded to the OCG's requisitions by way of a letter which was dated January 9, 2012. In response to the question, *"How the selected contractor became aware of the procurement opportunity?"*, it was stated that *"He was invited based upon our knowledge of expertise, and he has worked with the University in an advisory, but non-compensatory capacity in the past in a number of areas including procurement, engineering education and facilities management."* The OCG was also advised that the selected contractor was the sole individual approached, and it was also provided with the list of individuals who comprise the Procurement Committee.

A subsequent request for additional information was sent to UTECH on January 10, 2012.

Subsequently, the UTECH, by way of a letter which was dated January 13, 2012, stated that *"The OCG has, unfortunately, not yet responded to the question that was asked in our letter of December 21, 2011... in particular, is the award of the contract ... the subject of an investigation by your Office."*

The University has a right to know if a formal investigation has been commenced so that it can take the appropriate steps, including seeking legal advice, if necessary.

The University is more than willing to cooperate, but we expect no less from the Office of the Contractor General."

The OCG was also informed by way of the aforementioned letter that the facilitator and the Chair of the Procurement Committee were husband and wife, and that the 'our' which was stated in an earlier response, referred to the President and the Chief Business and Financial Officer.

The OCG responded by way of a letter which was dated January 19, 2012, pointing to its previous letter of December 30, 2011 and the provisions quoted therein, inclusive of that related to the Contractor General's authority to adopt whatever procedure he considers appropriate based upon the particular case.

By way of a letter which was dated February 10, 2012, the OCG was further advised that *"...this matter was not brought to and discussed or approved at any Procurement Committee Meeting prior to the subsequent award of contract."* The OCG was asked to note that the invoice was approved by the then acting President.

The OCG notes that while the wife of the individual who provided the service was employed to the University and was also the Chairperson of the said Procurement Committee, which was to benefit from the training, the Office has not, to date, received/uncovered information/documents to suggest that she was involved in the selection or approval processes.

Spectrum Management Authority – Determination for Reconsideration of Ministerial Approval of the Assignment of Telecommunications Licences

By way of a letter which was dated May 3, 2012, received on May 4, 2012, from the Chairman of the Spectrum Management Authority, the OCG was requested to comment on matters related to the caption.

The OCG provided a response by way of a letter which was dated May 15, 2012, stating as follows:

"The document entitled "Brief for OCG" which accompanied your letter, outlined the circumstances surrounding a Spectrum Licence which was granted to Index Communications Network Limited on January 2008, and indicated, inter alia, that "In September 2010, an application was made to the then Minister with portfolio responsibility for Telecommunications for approval of the transfer of the License to Oceanic Digital Jamaica Limited ("Claro"). The application was made by Business Recovery Services Limited in their capacity as a Receiver... Approval of the transfer was granted however the original Licence remained in the possession of the Company and no new licence was issued to Claro. Although it is not clear how or when the approval was communicated to the Receiver, before the transfer was completed Index appealed to the Minister for Reconsideration..."

The document further outlined legal issues related to the appointment of a Receiver, and challenges in that regard, which have been levied by Index Communications Network Limited. The letter also indicated that "During the pendency of the court action and the application to the then Minister for reconsideration, Digicel acquired Claro and was requested to return inter alia the self-same spectrum assignments forming the subject-matter of the litigation, to the Government. Among them is the spectrum originally allocated to Index." The documentation continued by outlining other factors for the Minister's consideration, inclusive of "The fact that a previous licence grant to Index became the subject of an investigation by the O.C.G." and ended with the request that "The Minister wishes to be guided on any matter of Procurement which may be adversely affected by his decision to reverse the approval of the Assignment of the Licences to Claro..."

Section 4(1)(b) of the Contractor General Act provides that a function of the Contractor General, on behalf of Parliament, shall be "to monitor the grant, issue, suspension or revocation of any prescribed licence, with a view of ensuring that the circumstances of such grant, issue, suspension or revocation do not involve impropriety or irregularity and, where appropriate, to examine whether such license is used in accordance with the terms and conditions thereof." Section 15(1) (e) and (f) provides that a Contractor General may conduct an investigation into the circumstances, and, the practice and procedures, related to the grant, issue, suspension or revocation of a prescribed licence.

In accordance with the aforementioned provision of the Contractor General Act, and as you have highlighted, the OCG had conducted a Special Investigation into the Issuance of Licences Under the Telecommunication Act to Index Communications Network Limited Trading as 'GOTEL'. The said Investigation was initiated based upon documentation and assertions which were made to the OCG, by way of letter dated April 14, 2008, by the then Prime Minister, Bruce Golding. Mr. Golding had indicated, inter alia, in his letter that "... Security Forces brought to my attention concerns regarding the issue of cellular licences to the above named company ... the matter requires the most thorough investigations by the Contractor-General."

Following upon the completion of a detailed and comprehensive Report of Investigation, the OCG had concluded, at a minimum, that the grant of a Domestic Mobile Spectrum Licence to Index Communications Network Limited on January 31, 2008 exhibited serious symptoms of irregularity and impropriety. The OCG also concluded that, based upon representations which were made to it by Mr. George Neil, the Chairman of Index Communications Network Limited, that a determination was to be made as to potential acts of corruption allegedly involving Public Servants.

Additionally, point 14 of the OCG's "Summary of Primary Findings and Conclusions" stated;

"Finally, the OCG concludes that, in the interest of national security, Section 56 of the Telecommunications Act provides that "The Minister responsible for national security may, where he is satisfied that it is necessary to do so in the interest of national security and after consultation with the Minister, take control of or close down a licensee's operations or any part thereof and where any such action is taken, the licensee shall be eligible for compensation for any loss suffered as a result of that action."

Consequently, in the interest of national security, and pursuant to Section 56 of the Telecommunications Act, a means of recourse is provided to the Minister of National Security and the Minister with portfolio responsibility for Telecommunications to consider the appropriateness of shutting down the operations of a Telecommunications Licensee whose operations may jeopardise national security.

In the instant matter, the applicability of this conclusion is premised upon the presence of the adverse trace regarding Mr. George Neil and the concerns which have been raised in the Intelligence Reports which were submitted to the OCG, under cover of the Prime Minister's letter which was dated 2008 April 14."

Further to same, and with reference to your request, the OCG has not, and will not, provide guidance to the Minister, any Public Body and/or Public Official on this matter, save and except to regurgitate those positions which forms part of its Special Report of Investigation (March 2009), which may be accessed from the OCG's website at www.ocg.gov.jm.

Please also note that copies of the aforementioned Report were referred to the Director of Public Prosecutions, the Commissioner of Police, the Corruption Prevention Commission and the Attorney General, to take such action as any, or all of them, may deem to be appropriate. The Director of Public Prosecutions, by way of letter which was dated June 19, 2009, provided the OCG with her opinion and a recommendation that a formal Police Investigation be undertaken.

Notwithstanding the foregoing, and without prejudice to the positions enunciated above, please be advised that in accordance with the aforementioned provisions of the Contractor General Act, the OCG hereby indicates its intent to monitor and/or investigate all particulars that are related to any award of a prescribed licence to Index Communications Network Limited.”

The OCG's letter was copied to the Minister of Science, Technology, Energy and Mining, The Ministry's Permanent Secretary and the Head of Spectrum Management Authority.

PRESCRIBED LICENCES AND PERMITS

Introduction

The Contractor-General Act defines a Prescribed Licence as: “...any licence, certificate, quota, permit or warrant issued or granted pursuant to any enactment by a public body or an officer thereof”. The Office of the Contractor-General (OCG) is mandated by Section 4(1)(b) of the Act “...to monitor the grant, issue, suspension or revocation do not involve impropriety or irregularity and, where appropriate, to examine whether such licence is used in accordance with the terms and conditions thereof.”

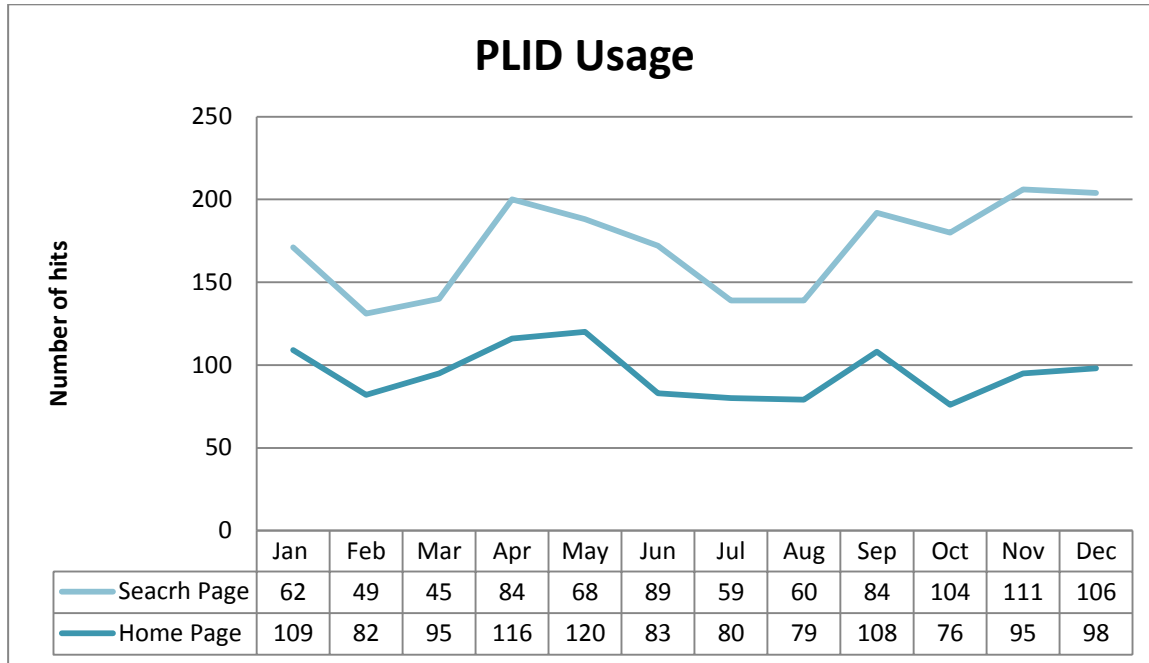
As was reported on page 156 of the OCG's Annual Report 2011, the Office continued to face human resource constraints primarily due to the focus on other strategic priorities during the year. The OCG is still in the process of developing the second phase of its Licences and Permits Monitoring Regime, which is comprised of the analysis of information in order to determine which Prescribed Licences it will monitor.

Usage of Prescribed Licences Information Database (PLID)

The OCG's PLID was launched in November 2009. The PLID currently houses information on more than six hundred (600) prescribed licences issued by seventy-four (74) Public Bodies, and is accessible to the public at large.

Figure 1 below illustrates the number of times per month that a person accessed the pages on the OCG's PLID during 2012.

Figure 1



OCG Monitoring of GOJ Public Body Prescribed Licensing Activities

Although the OCG has not yet launched its formal Licences and Permits Monitoring Regime, the following prescribed licences were monitored during the year:

Petroleum Corporation of Jamaica – Jamaica’s Second Formal Licensing Round for Oil and Gas Exploration

As was reported on page 156 of the OCG’s Twenty-Fifth Annual Report, the Petroleum Corporation of Jamaica (PCJ) was unsuccessful in its second formal licensing round for oil and gas exploration, as no blocks were awarded at the end of the process.

By way of a letter which was dated October 2, 2012, the PCJ informed the OCG that, separate and apart from the second formal round, it had terminated the licences that were granted for Blocks 1, 5, 8, 9, 13, 14 and 17. The PCJ further informed the OCG that it was “...reviewing its strategies pertaining to partnerships for oil and gas exploration, with a view to finding new partners via direct contracting in the future.”

The OCG, by way of a letter which was dated October 11, 2012, requested further particulars surrounding the decisions being proposed by the PCJ. The PCJ in its response indicated that “It is anticipated that pursuing this option will lead to the drilling of wells within the next couple of years.”

While the OCG is cognizant of the fact that the PCJ had initiated a competitive bidding process for some of the Blocks, it recommended that the additional Blocks which were not subject to a current competitive process, should be put to competitive tender.

The OCG further advised that “...in the event the competitive process is unsuccessful... the PCJ could explore a more targeted approach of engaging prospective investors.”

The OCG requested that the PCJ keeps it abreast of any future developments.

Jamaica 50 Licensing and Merchandising Programme

By way of a Media Release which was dated December 21, 2011, the OCG became aware that the Ministry of Youth and Culture (MYC) had proposed to undertake a Licencing and Merchandising Programme in 2012 in relation to the Jamaica 50 celebrations.

By way of a letter which was dated January 11, 2012, the OCG requested information from the MYC in relation to, *inter alia*, the particulars of the Licensing and Merchandising Programme, the types of licences that were available and the entities that have already been issued licences under the Programme.

The requested information, which was received on January 18, 2012, indicated that up to that date no entity had been granted a licence as the Programme had been halted. The MYC further indicated that "*In keeping with the accepted principle whereby Committee/Boards appointed by Ministers of Government resign whenever the Minister vacates the position, members of the NPC [National Planning Committee] and all its sub-committees offered their resignation – effective January 13, 2011 [sic], to give a free hand to the incoming Minister...*"

The MYC provided the OCG with a Status Update, by way of a letter which was dated August 9, 2012, which included the particulars of the entities that were granted licences under the Programme.

The MYC indicated that a total of thirty-five (35) entities responded to the Expression of Interest and subsequent to the receipt of application forms, licences were granted to eighteen (18) entities. The MYC further indicated that it had collected up to 95% of the minimum guaranteed revenue and was in the process of collecting the remaining balance.

The OCG will continue to monitor the programme.

North-South Link Highway 2000 – Concessionaire Agreement

In line with the OCG's mandate to monitor the grant, issue, suspension or revocation of any prescribed licence, the OCG requested that the Ministry of Transport, Works and Housing (MTWH) provide details of the proposed Concession between the Government of Jamaica (GOJ) and China Harbour Engineering and Construction (CHEC).

By way of a letter which was dated June 26, 2012, the MTWH provided the OCG with a copy of the signed Implementation Agreement and the signed Concession Agreement between the GOJ and CHEC.

For further particulars in relation to the North-South Link Highway 2000 project, please refer to the Section "Monitoring of Construction Contracts" located with this edition of the OCG's Annual Report.

PARLIAMENTARY EXEMPTIONS

The Constitution of Jamaica, Section 41, provides, *inter alia*, that save for such circumstances in which an exemption is granted by the House of Parliament to a Member of Parliament, the seat of a Member of either house shall become vacant, if (a) the Member becomes a party to any contract with the Government of Jamaica, (b) the Member is a partner in a firm or a director or manager of a company which becomes a party to such a contract, or (c) the member becomes a partner in a firm or director or manager of a company which is itself a party to such a contract.

The OCG, in its continued effort of securing greater transparency and probity in the award and implementation of all Government contracts to Parliamentarians, requested from the Clerk of the Houses of Parliament information on the Exempted Motions which were moved and approved in respect of Parliamentarians and Senators during the calendar year 2012.

The Clerk of the Houses of Parliament provided seventeen (17) Exemption Motions which were granted during the reporting period, and the corresponding extracts from the Minutes of the relevant sitting of the Senate and the House of Representatives.

The following represents the seventeen (17) Exemption Motions which were granted:

1. Mr. Mikael Phillips, Member of Parliament, Manchester North Western – February 7, 2012

The Exemption Motion which was granted in respect of Mr. Mikael Phillips, Member of Parliament, Manchester North Western, on February 7, 2012, recognized that the Member *“...is the Managing Director of Island Signs Outdoor Advertising Limited which may from time to time enter into contracts with the Government of Jamaica and its Agencies.”*

2. Senator Mark Golding – March 9, 2012

The Exemption Motion which was granted in respect of Senator Mark Golding on March 9, 2012, recognized that the Member:

- *“...is a director of the Mona Rehabilitation Foundation, a charitable organization, which may from time to time enter into contracts for the sale of craft items or the purchase or provision of services from or to the Government of Jamaica for or on account of the public service.”*
- *“...is a partner on leave from the law firm Hart Muirhead Fatta, which may from time to time be engaged to perform legal services for the Government of Jamaica for or on account of the public service.”*

3. Senator Noel Sloley – March 9, 2012

The Exemption Motion which was granted in respect of Senator Noel Sloley on March 9, 2012, recognized that the Member *“...is a director of Jamaica Tours Limited and JTL Tours Limited, full destination management companies providing transportation services; and Lisport Realty Limited a real estate holding company providing property rental, which may from time to time enter into contracts with the Government of Jamaica and its affiliated agencies, to provide services having to do with transportation and real estate.”*

4. Senator Arthur Williams – March 16, 2012

The Exemption Motion which was granted in respect of Senator Arthur Williams on March 16, 2012, recognized that the Member *“...is a partner in the law firm Williams & Young, which may from time to time be engaged to perform legal services for the Government of Jamaica and its Agencies for or on account of the public service.”*

5. Mr. Desmond Mair, Member of Parliament, St. Catherine North Eastern – March 27, 2012

The Exemption Motion which was granted in respect of Mr. Desmond Mair, Member of Parliament, St. Catherine North Eastern, on March 27, 2012, recognized that the Member *“... is a partner in the firm of Desmond Mair Insurance Brokers Limited, which may from time to time enter into contracts with the Government of Jamaica and its affiliated agencies to provide brokerage services for general health and life insurance.”*

6. Mr. Mikael Phillips, Member of Parliament, Manchester North Western – March 27, 2012

The Exemption Motion which was granted in respect of Mr. Mikael Phillips, Member of Parliament, Manchester North Western, on March 27, 2012, recognized that the Member “...is the Managing Director of I Media Limited which may from time to time enter into contracts with the Government of Jamaica and its agencies.”

7. Senator Keith D. Knight – April 5, 2012

The Exemption Motion which was granted in respect of Senator Keith D. Knight on April 5, 2012, recognized that the Member “...is a partner in the law firm Knight, Junor & Samuels, which may from time to time be engaged to perform legal services for the Government of Jamaica and its Agencies, for or on account of the public service.”

8. Senator Floyd Morris – April 27, 2012

The Exemption Motion which was granted in respect of Senator Floyd Morris on April 27, 2012, recognized that the Member “...is Chief Executive Officer of F.E. Morris International Consultancy Services (FEMICS), a service provider with major focus on communication, which may from time to time be engaged to perform consultancy services for the Government of Jamaica and its agencies, for or on account of the public service.”

9. Mr. Andre Hylton, Member of Parliament, St. Andrew Eastern – May 1, 2012

The Exemption Motion which was granted in respect of Mr. Andre Hylton, Member of Parliament, St. Andrew Eastern, on May 1, 2012, recognized that the Member “...has declared his interest as the Chief Executive Officer of Andre’s Auto Limited and Auto Solutions Consulting Limited, which may from time to time be engaged to provide service in vehicle maintenance and repair, and fleet management and automobile consultancy services to the Government of Jamaica and its Agencies.”

10. Mr. Fitz Jackson, Member of Parliament, St. Catherine Southern – May 1, 2012

The Exemption Motion which was granted in respect of Mr. Fitz Jackson, Member of Parliament, St. Catherine Southern, on May 1, 2012, recognized that the Member “...has declared his interest as a Director of Dentyne Limited, which may from time to time, be contracted by the Government of Jamaica and its Agencies to provide stationery, office supplies and printing services.”

11. Dr. Andrew Wheatley, Member of Parliament, St. Catherine South Central – May 1, 2012

The Exemption Motion which was granted in respect of Dr. Andrew Wheatley, Member of Parliament, St. Catherine South Central, on May 1, 2012, recognized that the Member “... has declared his interest as Managing Director of Price Tech Limited, which may from time to time be contracted by the Government of Jamaica and its Agencies to provide computers and related accessories.”

12. Mr. Arnaldo Brown, Member of Parliament, St. Catherine East Central – May 1, 2012

The Exemption Motion which was granted in respect of Mr. Arnaldo Brown, Member of Parliament, St. Catherine East Central, on May 1, 2012, recognized that the Member:

- “... is Principal and Partner in the law firms Arnaldo Brown: Attorney-at-Law and Brown and Coy: Attorneys-at-Law; which may from time to time be engaged to perform legal services for the Government of Jamaica for or on account of the public service.”

- *“... is Principal and Partner of Sandside Farms Limited and Romeo Brown Distributions & Logistic Services, which may from time to time enter into contracts with the Government of Jamaica for or on account of the public service.”*

13. Senator Dr. Christopher Tufton – June 22, 2012

The Exemption Motion which was granted in respect of Senator Dr. Christopher Tufton on June 22, 2012, recognized that the Member *“...is a Director of CNT Global Limited, a business and policy consultancy company which provides services on strategic planning and policy implementation and which may from time to time be contracted to provide services for the Government of Jamaica and its agencies, for or on account of the public service.”*

14. Mr. Colin Fagan, Member of Parliament, St. Catherine South Eastern – July 11, 2012

The Exemption Motion which was granted in respect of Mr. Colin Fagan, Member of Parliament, St. Catherine South Eastern, on July 11, 2012, recognized that the Member *“...is a Director of Docuplus, a document and copy centre that provides services such as photocopying, printing, graphic designing and screen printing, which may from time to time be engaged to provide services for the Government of Jamaica and its Agencies for or on account of the public service.”*

15. Mr. Damion Crawford, Member of Parliament, St. Andrew East Rural – July 11, 2012

The Exemption Motion which was granted in respect of Mr. Damion Crawford, Member of Parliament, St. Andrew East Rural, on July 11, 2012, recognized that the Member *“...is the owner and proprietor of Yard Travel Limited, a hotel booking company which allows visitors from overseas and nationals to make last minute reservations for Jamaican hotels, which may from time to time be engaged to perform travel services for the Government of Jamaica for or on account of the public service.”*

16. Mr. Lester Michael Henry, Member of Parliament, Clarendon Central – September 18, 2012

The Exemption Motion which was granted in respect of Mr. Lester Michael Henry, Member of Parliament, Clarendon Central, on September 18, 2012, recognized that the Member *“...is the Chairman/Director of LMH Publishing Limited, LMH Retail Limited and LMH Retail Mobay Limited, which provides services such as the publishing and distribution of books and may from time to time be engaged to provide services for the Government of Jamaica and its Agencies for or on account of the public service.”*

17. Mr. Lloyd B. Smith, Member of Parliament, St. James, Central – September 18, 2012

The Exemption Motion which was granted in respect of Mr. Lloyd B. Smith, Member of Parliament, St. James Central, on September 18, 2012, recognized that the Member *“...is the Chairman/CEO of Western Publishers Limited, which may from time to time be engaged to provide services such as advertisements or any other business transaction relating to printing, to the Government of Jamaica and its Agencies for or on account of the public service.”*

Reports of Contracts Awarded to Companies which were recipients of Parliamentary Exemptions during 2012

Reference is made to the information presented above, related to Parliamentary Exemptions which were granted during the calendar year 2012. Further to same, the OCG has checked the names of the companies/businesses for which such Exemption Motions had been granted against the Quarterly Contract Award (QCA) Reports which have been submitted by Public Bodies and the NCC Endorsed Contracts, for 2012.

The table below presents information on the contracts which have been awarded during the aforementioned period.

Member of Parliament/ Senator	Constituency	Affiliated Company	Public Body which awarded contract	Contract Description	Procurement Methodology	Contract Value	Contract award date
Fitz Jackson	St. Catherine, Southern	Dentyne Limited	Customs Department	To purchase stamps for the department	Direct Contracting	\$885,445.00	19-Jan-12
		Dentyne Limited	Customs Department	To purchase stamps for the department	Direct Contracting	\$809,410.00	12-Mar-12
		Dentyne Limited	Tax Administration Jamaica (TAJ))	Printing	Limited Tender	\$390,250.00	15-Aug-12
Noel Sloley	Senator	JTL Tours Limited	Jamaica Tourist Board	Provide Transportation Services during the period January 21-31, 2012, RE: Visit of Archbishop of New York	Direct Contracting	\$1,038,367.00	8-Mar-12
Lester Michael Henry	Clarendon, Central	LMH Publishing	Early Childhood Commission	Crayons Count Initiative Books purchased for ECIs: My First Caribbean Counting	Direct Contracting	\$688,500.00	14-Sep-12

EXEMPTED PUBLIC BODIES

The Ministry of Finance and Planning issued Circular No. 17, dated May 14, 2012, captioned “Business Sensitive and Other Related Procurement Provisions”, which provides partial exemption from the procurement procedures for particular categories of procurement. The revised Handbook of Public Sector Procurement Procedures (May 2012), Section 1.2.2 of Appendix 1, incorporated the changes outlined in the aforementioned Circular, as follows:

“Petrojam Limited

Petrojam’s internal procurement regime will apply to the following:

- i. Spot Procurement of Petroleum Products, Crude Oil, LPG, and Freight*
- ii. Procurement of LPG, MTBE and Freight*
- iii. Tank Cleaning and Repairs*
- iv. Use of Pre-Approved Contractor List...*

Port Authority of Jamaica (PAJ) – Use of Direct Contracting Procurement Method

- 1. The Head of PAJ may approve up to J\$5M.*
- 2. NCC’s prior approval is required for values above J\$5M.*

3. *Cabinet's prior approval is required for values above J\$50M."*

The Office of the Contractor General (OCG), in accordance with the Sections 4 and 15 of the Contractor General Act, wrote to the referenced Public Bodies to ascertain information regarding contracts that have been awarded pursuant to the aforementioned exemptions, for the period January 1, 2012 to December 31, 2012. The OCG reviewed the information which was provided and the following findings were made:

Petrojam Limited

Petrojam Limited advised the OCG that "...no contracts were awarded using Pre-approved Contractor List neither was the exemption utilised for procurements pertaining to Tank Cleaning and Repairs."

The OCG noted that Petrojam Limited submits quarterly reports to the NCC regarding the contracts related to Exclusions-Procurement of Items on the International Commodities Market.

The table below provides a summary of the contracts which were awarded by Petrojam Limited, as reported to the NCC:

Name of Contractor	Contract Description	Contract Value	Site of Contract Performance	Procurement Method	Number of Quotes Requested	Number of Quotes Received	Procurement Committee Approval
January 2012 – March 2012							
Star Tankers Inc	Spot Freight DPP (Theo T)	\$345,000.00	Mexico/Kingston	Petrojam Internal Procedure	N/A	3	Approved by Management according to Petrojam's internal procedures
Panamax International	Spot Freight DPP (Cabo Hellas)	\$285,000.00	Venezuela / Kingston	Petrojam Internal Procedure	N/A	5	Approved by Management according to Petrojam's internal procedures
Asphalt Trader	Spot Freight DPP (Asphalt Trader)	\$260,000.00	Trinidad / Kingston	Petrojam Internal Procedure	N/A	3	Approved by Management according to Petrojam's internal procedures
Asphalt Trader	Spot Freight DPP (Asphalt Trader)	\$270,000.00	Trinidad / Kingston	Petrojam Internal Procedure	N/A	3	Approved by Management according to Petrojam's internal procedures
Eitzen Group	Spot Freight DPP (Chemtrans Elbe)	\$200,000.00	Trinidad / Kingston	Petrojam Internal Procedure	N/A	3	Approved by Management according to Petrojam's internal procedures
Trafigura	Spot Freight CPP (Furevik)	\$220,000.00	Trinidad / Kingston	Petrojam Internal Procedure	N/A	6	Approved by Management according to Petrojam's internal procedures
Pritchard-Gordon Tanker Ltd	Spot Freight (DPP) Annie PG	\$200,000.00	Trinidad / Kingston	Petrojam Internal Procedure	N/A	4	Approved by Management according to Petrojam's internal procedures

Name of Contractor	Contract Description	Contract Value	Site of Contract Performance	Procurement Method	Number of Quotes Requested	Number of Quotes Received	Procurement Committee Approval
Eastern Mediterranean Maritime Ltd	Spot Freight (DPP) Nounou	\$377,000.00	Trinidad / Kingston	Petrojam Internal Procedure	N/A	3	Approved by Management according to Petrojam's internal procedures
Sporades Special Maritime Enterprise	Spot Freight DPP (Sporades)	\$455,000.00	Venezuela / Kingston	Petrojam Internal Procedure	N/A	3	Approved by Management according to Petrojam's internal procedures
MISC	Spot Freight CPP (Bunga Banyan)	\$320,000.00	Trinidad / Kingston	Petrojam Internal Procedure	N/A	2	Approved by Management according to Petrojam's internal procedures
Asphalt Trader Ltd	Spot Freight CPP (Asphalt Trader)	\$270,000.00	Trinidad / Kingston	Petrojam Internal Procedure	N/A	1	Approved by Management according to Petrojam's internal procedures
TTMI SARL	Spot Freight DPP (Compass)	\$460,000.00	Venezuela / Kingston	Petrojam Internal Procedure	N/A	3	Approved by Management according to Petrojam's internal procedures
Aegean Marine	Freight DPP (Hope)	\$170,000.00	RIM	Petrojam Internal Procedure	N/A	1	Approved by Management according to Petrojam's internal procedures
Lukoil	Purchase of 84 O/I and 87 O/I gasoline	US\$M 11.82	Petrojam Refinery	Selective Tendering	Fifteen	Three	Approved by Management according to Petrojam's internal procedures
Lukoil	Purchase of 84 O/I and 88 O/I gasoline	US\$M 15.56	Petrojam Refinery	Selective Tendering	Fifteen	Three	Approved by Management according to Petrojam's internal procedures
Lukoil	Purchase of 84 O/I and 87 O/I gasoline	US\$M 26.01	Petrojam Refinery	Selective Tendering	Fifteen	Four	Approved by Management according to Petrojam's internal procedures
April 2012 – July 2012							
Laurin Tankers America	Spot Freight CPP (IOANNIS)	\$325,000.00	Trinidad / Kingston	Petrojam Internal Procedure	N/A	5	Approved by Management according to Petrojam's internal procedures

Name of Contractor	Contract Description	Contract Value	Site of Contract Performance	Procurement Method	Number of Quotes Requested	Number of Quotes Received	Procurement Committee Approval
Deepsea Agency Limited	Spot Freight DPP (CONFIDENCE))	\$425,000.00	Trinidad / Kingston	Petrojam Internal Procedure	N/A	6	Approved by Management according to Petrojam's internal procedures
Norient	Spot Freight DPP (ATLANTIC LOMDARDIA)	\$415,000.00	Trinidad / Kingston	Petrojam Internal Procedure	N/A	5	Approved by Management according to Petrojam's internal procedures
OSG	Spot Freight CPP (OVERSEAS ANDROMAR)	\$240,000.00	Trinidad / Kingston	Petrojam Internal Procedure	N/A	5	Approved by Management according to Petrojam's internal procedures
Norient	Spot Freight DPP (ATLANTIC LOMDARDIA)	\$415,000.00	Trinidad / Kingston	Petrojam Internal Procedure	N/A	2	Approved by Management according to Petrojam's internal procedures
Handytankers	Spot Freight CPP (MAERSK ELLIOTT)	\$230,000.00	Trinidad / Kingston	Petrojam Internal Procedure	N/A	5	Approved by Management according to Petrojam's internal procedures
Norient	Spot Freight DPP (ATLANTIC LOMDARDIA)	\$340,000.00	Trinidad / Kingston	Petrojam Internal Procedure	N/A	6	Approved by Management according to Petrojam's internal procedures
OSG	Spot Freight CPP (OVERSEAS ANDROMAR)	\$230,000.00	Trinidad / Kingston	Petrojam Internal Procedure	N/A	6	Approved by Management according to Petrojam's internal procedures
Aegean Marine	Freight DPP (Hope)	\$170,000.00	RIM	Petrojam Internal Procedure	N/A	1	Approved by Management according to Petrojam's internal procedures

Name of Contractor	Contract Description	Contract Value	Site of Contract Performance	Procurement Method	Number of Quotes Requested	Number of Quotes Received	Procurement Committee Approval
Spitsbergen Inc.	Freight DPP (IERAX)	\$3,266,750.00	RIM	Petrojam Internal Procedure	N/A	8	Approved by Management according to Petrojam's internal procedures
July 2012 – September 2012							
Jacob Panamax Tanker Pool	Spot Freight DPP (Yves Jacob)	US\$370,000.00	Puerto La Cruz/Kingston	Petrojam Internal Procedure	N/A	1	Approved by Management according to Petrojam's internal procedures
Pleiades	Spot Freight DPP (Evrotas)	US\$345,000.00	Pajaritos/Kingston	Petrojam Internal Procedure	N/A	5	Approved by Management according to Petrojam's internal procedures
Norient	Spot Freight DPP (Atlantic Lombardia)	US\$315,000.00	Pointe A Pierre/Kingston	Petrojam Internal Procedure	N/A	3	Approved by Management according to Petrojam's internal procedures
OSG	Spot Freight DPP (Freja Taurus)	US\$225,000.00	Pointe A Pierre/Kingston	Petrojam Internal Procedure	N/A	4	Approved by Management according to Petrojam's internal procedures
Shell Western Supply	Spot Freight DPP (Nord Princess)	US\$300,000.00	Pointe A Pierre/Kingston	Petrojam Internal Procedure	N/A	5	Approved by Management according to Petrojam's internal procedures
Handytankers	Spot Freight DPP (Handytankers Miracle)	US\$270,000.00	Pointe A Pierre/Kingston	Petrojam Internal Procedure	N/A	4	Approved by Management according to Petrojam's internal procedures
Star Tankers Inc.	Spot Freight DPP (London Star)	US\$400,000.00	Puerto La Cruz/Kingston	Petrojam Internal Procedure	N/A	3	Approved by Management according to Petrojam's internal procedures

Name of Contractor	Contract Description	Contract Value	Site of Contract Performance	Procurement Method	Number of Quotes Requested	Number of Quotes Received	Procurement Committee Approval
Star Tankers Inc.	Spot Freight DPP (DS Progress)	US\$385,000	Puerto La Cruz/Kingston	Petrojam Internal Procedure	N/A	1	Approved by Management according to Petrojam's internal procedures
OSG	Spot Freight DPP (Overseas Ambermar)	US\$240,000.00	Pointe A Pierre/Kingston	Petrojam Internal Procedure	N/A	5	Approved by Management according to Petrojam's internal procedures
ST Shipping & Transport Pte Ltd.	Spot Freight DPP (SCF Pearl)	US\$340,000.00	Pajaritos/ Kingston	Petrojam Internal Procedure	N/A	6	Approved by Management according to Petrojam's internal procedures
ST Shipping & Transport Pte Ltd.	Spot Freight DPP (Ocean Schooner)	US\$345,000.00	Pointe A Pierre/Kingston	Petrojam Internal Procedure	N/A	3	Approved by Management according to Petrojam's internal procedures
October 2012 – December 2012							
ST Shipping & Transport Pte Ltd.	Spot Freight DPP (Omega Theodore)	\$325,000.00	Puerto La Cruz/Kingston	Petrojam Internal Procedure	N/A	5	Approved by Management according to Petrojam's internal procedures
ST Shipping & Transport Pte Ltd.	Spot Freight DPP (Ocean Schooner)	\$325,000.00	Puerto La Cruz/Kingston	Petrojam Internal Procedure	N/A	4	Approved by Management according to Petrojam's internal procedures
Fairsea Enterprises S.A.	Spot Freight DPP (Ise Princess)	\$450,000.00	Pajaritos / Kingston	Petrojam Internal Procedure	N/A	6	Approved by Management according to Petrojam's internal procedures
Carib LPG Ltd.	LPG Procurement	\$43,000,000.00	Petrojam Dock	Petrojam Internal Procedure	N/A	1	Approved by Management according to Petrojam's internal procedures

Name of Contractor	Contract Description	Contract Value	Site of Contract Performance	Procurement Method	Number of Quotes Requested	Number of Quotes Received	Procurement Committee Approval
Aegean Bunkering Limited	Bunker Fuel Procurement	US\$58,000.00	Kingston Harbour	Petrojam Internal Procedure	2	2	Approved by Management according to Petrojam's internal procedures
Shell West	Purchase 84 O/I and 87 O/I gasoline	US\$M 13.9	Petrojam Refinery	Selective Tendering	Nineteen	Five	Approved by Management according to Petrojam's internal procedures
Lukoil	Purchase 87 O/I gasoline	US\$M 7.5	Petrojam Refinery	Selective Tendering	Three	Two	Approved by Management according to Petrojam's internal procedures
Vitol	Purchase 84 O/I and 87 O/I gasoline	US\$M 13.7	Petrojam Refinery	Selective Tendering	Eighteen	Three	Approved by Management according to Petrojam's internal procedures
Trafigura	Purchase 84 O/I, 87 O/I and 90 O/I gasoline	US\$M 11.9	Petrojam Refinery	Selective Tendering	Eighteen	Three	Management according to Petrojam's internal procedures

Port Authority of Jamaica

The OCG, in its letter to the Port Authority of Jamaica, requested information in relation to contracts which were entered into in accordance with the partial exemption which had been afforded to the Entity. In response, the Port Authority of Jamaica submitted information regarding eight (8) contracts in respect of procurements which utilised the Direct Contracting Procurement Methodology between JA\$3M to JA\$5M, for the stated period as follows:

Table 2: Contracts Executed by the Port Authority of Jamaica during the year 2012 - Pursuant to Section 1.2.2 of the Handbook

Name of Contractor	Contract Description	Contract Value	Site of Contract Performance	Procurement Method	Number of Quotes Requested	Number of Quotes received	Procurement Committee Approval
Amba Dockside Technology Ltd.	Equipment Spares	\$4,256,174.30	Kingston Container Terminal	Direct Contracting	1	1	Y
Cargotec Solutions LLC	Equipment Spares	\$4,059,855.16	Kingston Container Terminal	Direct Contracting	1	1	Y
Petro Canada Lubricants	Lubricants	\$3,063,757.37	Kingston Container Terminal	Direct Contracting	1	1	Y

Name of Contractor	Contract Description	Contract Value	Site of Contract Performance	Procurement Method	Number of Quotes Requested	Number of Quotes received	Procurement Committee Approval
Michelin	Tyre Sales and Repair	\$4,483,353.07	Kingston Container Terminal	Direct Contracting	1	1	Y
Cargotec Solutions LLC	Equipment Spares	\$4,081,024.27	Kingston Container Terminal	Direct Contracting	1	1	Y
Damen Parts	Equipment Spares for Tugboat "Ocho Rios"	\$3,005,496.05	Harbours	Direct Contracting	1	1	Y
Petro-Canada Lubricants	Lubricants	\$3,195,407.00	Kingston Container Terminal	Direct Contracting	1	1	Y
Ocean Shipping Consultants	Impact of Widening Panama Canal on the Caribbean Region and Jamaica	\$3,598,400.00	Kingston Container Terminal	Direct Contracting	1	1	Y

It is important that all Public Bodies be reminded that, although these previously exempted services are excluded from the ambit of the Handbook of Public Sector Procurement Procedures (May 2012) pursuant to Section 1.2.2, internal established procedures must be adhered to as the award and implementation of all Government contracts must be done in a manner which is deemed fair, transparent, lends itself to probity, ensures competition and achieves value for money.

PROCUREMENT AUDITS

Further to the Audit Programme which was initiated in the year 2011 (please see Page 163 of the OCG Twenty-fifth Annual Report), the Office of the Contractor-General continued its initiative to conduct comprehensive audits into the procurement and contract award practices of all Parish Councils, including the Kingston and St. Andrew Corporation (KSAC) and the Portmore Municipal Council (PMC). However, having reviewed the Audit Process that had commenced in the year 2011, the OCG sought to, *inter alia*, qualify the audit as a strict Procurement Audit which would be assessed against the GOJ Procurement Guidelines. The referenced audit also re-defined the scope and review period, re-aligned the objectives with the changes in scope, revised the tools for the data collection exercises and distinguished general procurement projects from Constituency Development Fund (CDF) projects. Based upon the foregoing, a new Procurement Audit Schedule was drafted and the changes were communicated to the respective entities by way of letters to the Secretary Managers and the Town Clerk. The first such letter which was dated November 20, 2012, was submitted to KSAC, and was accompanied by a detailed Questionnaire regarding, among other things, information on the; filing system organizational structure and approval requirements for particular project types. Letters were dispatched to the other Parish Councils, based upon the Procurement Audit Schedule, in order to ensure timely responses and proper planning for the data collection exercises.

The data collection activities subsequently began at the KSAC on November 28, 2012, and were scheduled to be completed by December 6, 2012. At the end of the scheduled data collection exercise, the OCG's Procurement Audit Team noted that significant information had not been received for their review. Based upon the challenges which were experienced relating to the non-receipt of particular information, the OCG submitted a letter dated December 11, 2012, to the KSAC, which stated, *inter alia*, the following:

"The OCG wishes to extend its appreciation to the KSAC for accommodating the OCG's Procurement Audit Team during the period (November 28, 2012 to December 6, 2012). Notwithstanding, and subsequent to various discussions with, and requests for information/files which were made ..., during the review period of November 28, 2012 to December 6, 2012, the Procurement Audit Team did not receive all requested information. Accordingly, the Team was unable to complete its full review of selected procurement and CDF projects.

*Based upon the foregoing, and in an effort to facilitate a comprehensive review of all relevant documents pertaining to the selected procurement and CDF project files, the OCG hereby requests that all outstanding documents, if available, be provided to its Procurement Audit Team for their review on **Thursday, December 13, 2012.***

The Audit Team returned to the KSAC on December 13, 2012, however, the Team continued to experience challenges as it relates to receiving requested information.

Upon the completion of the Audit of the remaining Parish Councils, the OCG will submit a detail Report to the Houses of Parliament,

As at December 31, 2012, the OCG's Audit Team was preparing to embark on data collection exercises at the Westmoreland and Hanover Parish Councils which are scheduled to be conducted in January 2013.

Follow-up to the Audits which were undertaken in 2012

Reference is made to page 163 of the OCG Twenty-fifth Annual Report, which indicated that two (2) Audit Reports had been completed. One (1) report concerned the procurement and contract award practices at the Jamaica National Heritage Trust (JNHT) and the other was in relation to the licensing practices of the Firearm Licensing Authority (FLA). The details of the referenced reports can be reviewed in the above-mentioned Annual Report.

In the foregoing regard, the OCG has subsequently received responses from the two (2) referenced entities regarding the findings of the audits which were conducted by the OCG. The information which follows represents excerpts of correspondence which had been exchanged between the respective entities and the OCG with regard to said findings.

Firearm Licensing Authority

The OCG received a letter which was dated July 23, 2012, from the FLA, which stated, *inter alia*, that *"The FLA takes very seriously the observations made by your team and the resulting implications and inferences.*

The management of the FLA accepts all corrective measures recommended by the OCG. The following measures are being pursued.

OCG's Recommendations	Actions Taken
<p>The Audit Team recommends that in tandem with the alphabetic re-certification exercise, no new Prescribed Licence be granted unless applicants fully satisfy the documentation-submission requirements, and that the files related to such applications be updated to reflect same.</p>	<p>On a point of policy effectively immediately no new Prescribed Licence will be granted unless All the documentation and requirements prescribed for such licences are fulfilled.</p> <p>In addition an audit will be conducted of the Document Management System within the FLA over the next six (6) months beginning August 2012...</p>
<p>The possibility exists that one (1) Licensee may be the holder of multiple licences, and as such, and in order to ensure proper filing recommends that copies of relevant documents be maintained on each file.</p>	<p>A change in how files are developed and stored is scheduled to begin September 2012...</p>
<p>Given that the FLA has undertaken the re-certification of licence holders a follow-up audit [should] be conducted by the OCG at the end of the exercise to determine the FLA's compliance with the requisite procedures.</p>	<p>The rate of Recertification of licensed firearm holders has increased significantly...This increase in the process started in June 2012 and since then the FLA has been recertifying on average 550 holders per month.</p> <p>At the conclusion of this exercise the OCG will be informed to facilitate a follow-up audit.</p>
<p>Much more work has to be done for the FLA to be in full compliance with the necessary guidelines and in the interest of national security.</p>	<p>The Firearm Licensing Authority recognizes there are areas that require corrective actions and is committed to ensure that all processes carried out by the FLA conform with all applicable laws and regulations..."</p>

In response to the above-mentioned letter, the OCG sent a letter, dated August 15, 2012, to the FLA, which stated, *inter alia*, that "...the OCG has noted that in light of the Findings of the Audit conducted by its Office...the FLA has accepted the recommendations made by the OCG, in [an] effort to comply with the procedures for providing licences to applicants in accordance with the Firearms Act and the Firearms Regulation; and, as such, has committed to implementing measures to improve its licensing practices.

... the OCG has noted, that should the FLA implement the recommendations as were outlined in the referenced letter, all deviations from the stipulations of the Firearms Act and the Firearms Regulation (1967) and any procedural inefficiencies highlighted, would be resolved. It is therefore anticipated that the FLA will implement the respective recommendations at the earliest time possible, and upon completion of its re-certification exercise, inform the OCG of same, as promised."

The OCG subsequently submitted another letter which was dated November 7, 2012, to the FLA, which stated, *inter alia*, that "The OCG, having noted that the FLA was undergoing a re-certification exercise, had indicated that it would undertake a follow-up audit subsequent to the completion of the FLA's re-certification exercise..."

In this regard, the OCG is requesting a Status Update regarding the process of re-certification, as well as, if applicable, an estimated timeframe for completion of same."

In response, the FLA submitted a letter which was dated November 7, 2012, to the OCG which indicated that: "There are about twenty-four thousand firearms that were issued before the establishment of the FLA. Of this number to be recertified, two thousand have been processed. The remaining twenty-two thousand backlog should be cleared in twenty four months."

In its acknowledgement letter of December 12, 2012, the OCG informed the FLA that it is to be "... provided with a progress report every six (6) months leading up to the completion of this exercise. As such, the OCG requires that a progress report be submitted to this Office on or before **June 10, 2013.**"

Jamaica National Heritage Trust

The OCG received a letter which was dated May 31, 2012, from the JNHT, which stated, *inter alia*, that "... the weaknesses are acknowledged, research has been conducted and the relevant measures will be put in place to correct the breaches identified. The internal procurement process will be strengthened to ensure that the Government of Jamaica guidelines are strictly adhered to.

The commendations are also noted and concerted efforts will be made to maintain these.

The findings will be addressed as follows:

1. *The Procurement Committee will be convening a first meeting by 2012 June 08 to address the completion of the Internal Procurement Process document that was initiated in 2011 September to be finalized by 2012 June 29.*
2. *The evaluation of bids process will be effected immediately for all bids and not only for major works as was previously done and evaluation reports prepared, signed and dated...*
7. *The JNHT shall with immediate effect ensure that only eligible contractors are awarded contracts by having a procurement sensitization session to educate staff of the procedures that must be conformed to procure goods/services/works for the organization.*

Presently, the JNHT does have a dedicated Procurement Officer, although this does not relieve us of our responsibility to ensure full compliance with the Government of Jamaica Handbook of Public Sector Procurement Procedures (2010 October) [sic] will seek to eliminate the inconsistencies by training three (3) members of the Procurement Committee over the period 2012 July to December.

We are aware that it is our responsibility to ensure that procedures are adhered to avoid loss of public funds; we have noted your recommendations and will continue to make concerted effort to conform to the guidelines."

By way of a letter which was dated June 11, 2012, the OCG formally acknowledged receipt of the above-mentioned letter.

LAND AND ASSET DIVESTMENT

Land Divestment

The GOJ has for the past few years, been in the process of drafting a *Policy Framework and Procedures Manual for the Divestment of Government-Owned Lands*. As at December 31, 2012, however, there was no approved document which governed the GOJ Land Divestment process. The OCG is aware that approval of the draft document was pending but is concerned that with the protracted process, government agencies continue to divest Government-owned lands by way of processes which are not necessarily in accordance with any set standard. It is hoped that the referenced document will be approved by the relevant parties by mid-year 2013, to facilitate the divestment of Government-owned lands across Government Agencies, using a standardised and unified process.

The Ministry of Water, Land, Environment & Climate Change, has overall responsibility for the drafting of the divestment document and has consulted with the OCG with respect to the amendment of said document since 2010. While there have been several drafts of the referenced document, it is anticipated that completion, approval and distribution of same will be achieved in 2013.

The absence of an approved GOJ Land Divestment process did not impede the OCG in its continued monitoring of the divestment of Government-owned lands. In keeping with its mandate of ensuring that the principles of transparency and fairness are upheld in the Land Divestment processes, the OCG in 2012 monitored a total of thirty-five (35) GOJ Land Divestment transactions. The referenced transactions are detailed hereunder:

SCJ Holdings Limited		Reference Code: LD-492		
Property being Divested	Multiple Properties - Clarendon, St. Catherine, St. Thomas, Trelawny and Westmoreland	Location	All Island	
Size of Property	N/A	Date Advertised	2012-08-22	
Valuation Sum	\$0.00	Sale Price	\$0.00	
Date of Executed Agreement of Sale	0000-00-00	Purchaser	N/A	
Status	Divestment process ongoing			
<p>The divesting entity advertised for the submission of Expressions of Interest in lands located in the parishes of Clarendon, St. Catherine, St. Thomas, Trelawny and Westmoreland. Parties showing interest were required to demonstrate experience or competence in the areas of Housing, Renewable Energy Projects, Agriculture, Agro-Processing and Mining. The specific properties were not identified.</p> <p>By way of a letter which was dated September 28, 2012, the OCG wrote to SCJ Holdings Limited (SCJH) requesting further information pertaining to the properties. The OCG also outlined deficiencies identified in the advertisement and recommended amendments accordingly.</p> <p>In response to the OCG, SCJH, by way of a letter which was dated October 4, 2012, submitted a copy of documents, which were issued to parties expressing interest, along with details of the divestment undertaking, while stressing the unique nature of the subject divestment. A copy of the Information Memorandum was, however, not provided. The referenced letter stated in part that <i>"The Titles on the various estates are many and varied. There are some Titles that cover thousands of acres while others are much smaller. In divesting the estates to the various investors, sections of a particular Title was leased to them while sections were retained by the Government. The retained sections are termed Managed Lands. It is on these Lands that we are seeking Expression of Interest..."</i> The letter further stated, <i>inter alia</i>, that <i>"...Our primary focus is to fulfill our mandate given by the GOJ which is to ensure that all these lands are put into productive use..."</i> The SCJH also requested that a meeting be held between itself and the OCG to further expound on the matter, thus providing clarity to guide the OCG's monitoring of the undertaking.</p> <p>In response to the SCJH's request for a meeting with the OCG, the OCG agreed to same and a meeting was scheduled and held on November 5, 2012 at the OCG. The SCJH Team was led by its Chief Executive Officer, Mr. John Gayle. The meeting covered the areas of Property Titles, property sub-division, occupation of certain lands, matters relating to the zoning of the respective properties and the divestment process which had been undertaken to date. The SCJH also sought to assure the OCG that all steps were being taken to ensure transparency and fairness of the process at all stages and welcomed the OCG's intervention in the matter. It was also disclosed by the SCJH that guidance on the matter was sought and received from the Development Bank of Jamaica (DBJ). The representatives of the SCJH informed the OCG that fifteen (15) Proposals had been received by the stated deadline and would be reviewed and evaluated. A copy of the Information Memorandum was given to the OCG during the meeting.</p> <p>The OCG undertook a review of the Information Memorandum and upon completion of same, submitted its comments to the SCJH, under cover of letter which was dated November 8, 2012. The SCJH responded by way of a letter which was dated November 9, 2012, stating that the concerns/comments were noted and would be addressed.</p> <p>In keeping with its commitment to provide progress reports to the OCG, the SCJH under cover of letter which was dated December 14, 2012, informed the OCG that evaluation of the Proposals submitted was ongoing and that based on the outcome, prospective investors had been invited to meet with the Land Divestment and Monitoring Committee of its Board of Directors, to make presentations on their Proposals. To date, three (3) meetings had been conducted and an additional four (4) were scheduled for later in December 2012. This process was scheduled to continue until meetings were conducted with all prospective investors.</p> <p>As at December 31, 2012, the evaluation of Proposals and presentation by prospective investors was ongoing.</p> <p>The OCG will continue to monitor this divestment process.</p>				

Development Bank of Jamaica			Reference Code: LD-342	
Property being Divested	Lands located at Montpelier, St. James & Shettlewood, Hanover	Location	All Island	
Size of Property	375 Acres: Block A - Residential/ 28 Acres: Block F - Commercial	Date Advertised	2012-01-29	
Valuation Sum	\$0.00	Sale Price	\$0.00	
Date of Executed Agreement of Sale	0000-00-00	Purchaser	N/A	
Status	Awaiting requisite approvals			
<p>The previous attempt at the divestment of the subject property was detailed in Insert LD-171, on page 172 of the Annual Report of 2011. The process proved unsuccessful and the properties were again advertised on January 29, 2012. At the close of tender on February 24, 2012, one (1) Proposal was received for the residential property. No Proposals were received for the commercial property.</p> <p>By way of a letter which was dated October 16, 2012, the DBJ informed the OCG that, upon evaluation of the sole Proposal received, a sale price was agreed to, which was subsequently approved by the Montpelier Citrus Company Limited (MCCL) Enterprise Team and the Board of the DBJ. A Cabinet Submission was prepared and submitted to the Ministry of Finance and Planning (MOFP).</p> <p>The DBJ, in a subsequent update, informed the OCG that the MOFP requested additional information from the Bidder in order to complete the Cabinet Submission. Based on the information received, it was recommended that the terms of the sale be revised. A revised offer was submitted by the Bidder, which was being reviewed by the MCCL Enterprise Team, at the time of this report.</p>				

Factories Corporation of Jamaica			Reference Code: LD-472	
Property being Divested	Corner of Industrial Terrace and Marcus Garvey Drive, Kingston 11	Location	Kingston	
Size of Property	2.02 Hectares (5 Acres)	Date Advertised	0000-00-00	
Valuation Sum	\$0.00	Sale Price	\$0.00	
Date of Executed Agreement of Sale	0000-00-00	Purchaser	N/A	
Status	Completion of sale is awaiting Sub-Division Approval from the KSAC			
<p>The property was advertised for sale in December 2009, and the then occupant of the property submitted an offer. Upon consideration of said offer, sale of the property was approved by the Board of Directors of the divesting entity in January 2010. Cabinet Approval was granted in July 2010 and the Sale Agreement subsequently signed in 2010.</p> <p>By way of a letter which was dated November 30, 2010, the divesting entity informed the OCG, <i>inter alia</i>, that "Please note that the sale is subject to sub-division approval by the Kingston & St. Andrew Corporation, therefore, the stamping of the Agreement for Sale is pending this approval." The application for Sub-division approval was made to the Kingston & St. Andrew Corporation (KSAC) in August 2011.</p> <p>As at December 2012, completion of the sale was still pending, as Sub-division Approval was still being awaited from the KSAC.</p>				

Factories Corporation of Jamaica			Reference Code: LD-462	
Property being Divested	Lot 1 Corletts Road, Spanish Town	Location	St. Catherine	
Size of Property	54.78 Acres	Date Advertised	2011-01-30	
Valuation Sum	\$0.00	Sale Price	\$0.00	
Date of Executed Agreement of Sale	0000-00-00	Purchaser	N/A	
Status	Sale of property awaiting Cabinet Approval			
<p>The initial stages of the divestment process were documented in Insert LD-231 on page 168 of the Annual Report of 2011. As at the end of the last reporting period, Cabinet Approval was being awaited.</p> <p>As at December 31, 2012, Cabinet Approval of the sale was pending.</p>				

Factories Corporation of Jamaica				Reference Code: LD-442
Property being Divested	Lot 11 Hague Industrial Estate	Location	Trelawny	
Size of Property	4,023.89 Sq. metres	Date Advertised	2010-05-09	
Valuation Sum	\$0.00	Sale Price	\$0.00	
Date of Executed Agreement of Sale	0000-00-00	Purchaser	N/A	
Status	Sale of property awaiting Cabinet Approval			
<p>The initial stages of the divestment process were documented in Insert LD-241 on page 169 of the Annual Report of 2011. As at the end of the last reporting period, a Purchaser was identified and Cabinet Approval of the offer was being awaited.</p> <p>As at December 31, 2012, Cabinet Approval was pending.</p>				

Factories Corporation of Jamaica				Reference Code: LD-452
Property being Divested	Lot 138C & E Boundbrook, Port Antonio	Location	Portland	
Size of Property	2.85 Acres	Date Advertised	2010-11-07	
Valuation Sum	\$0.00	Sale Price	\$0.00	
Date of Executed Agreement of Sale	0000-00-00	Purchaser	N/A	
Status	Sale awaiting Cabinet Approval			
<p>The initial stages of the divestment process were documented in Insert LD-221 on page 169 of the Annual Report of 2011. As at the end of the last reporting period, Cabinet Approval was being awaited.</p> <p>As at December 31, 2012, Cabinet Approval of the sale was pending.</p>				

Factories Corporation of Jamaica				Reference Code: LD-432
Property being Divested	Lot 2 Whitfield Pen, Marcus Garvey Drive	Location	Kingston	
Size of Property	5,107.58 Sq. metres	Date Advertised	2009-06-10	
Valuation Sum	\$0.00	Sale Price	\$0.00	
Date of Executed Agreement of Sale	0000-00-00	Purchaser	N/A	
Status	Sale Agreement rescinded			
<p>The initial stages of the divestment process were documented in Insert LD-261 on page 169 of the Annual Report of 2011. As at the end of the last reporting period, a Purchaser was identified and Cabinet Approval of the offer was pending.</p> <p>The divesting entity, by way of a letter which was dated October 10, 2012, informed the OCG, <i>inter alia</i>, that "By letter dated August 12, 2012, our Portfolio Ministry advised that Cabinet by way of Decision dated July 23, 2012, did not approve the captioned sale."</p>				

St. James Parish Council			Reference Code: LD-352	
Property being Divested	Lots 28-30 Bogue Industrial Estate, Montego Bay	Location	St. James	
Size of Property	5,574.18 Sq. metres	Date Advertised	2011-03-20	
Valuation Sum	\$0.00	Sale Price	\$0.00	
Date of Executed Agreement of Sale	0000-00-00	Purchaser	N/A	
Status	Offer being reviewed			
<p>The initial stage of the divestment process was detailed in Insert LD-311 on page 175 of the Annual Report of 2011. The property was advertised for sale in March 2011. Two (2) offers were received and the higher of the two (2) was deemed successful.</p> <p>Subsequently, it was later found that owing to a computation error, the property was incorrectly valued. Valuation Reports were subsequently submitted by the National Land Agency and a private Valuator, and based upon the values therein, the decision was taken to offer the 'right of first refusal' to the previously successful Bidder at the lower of the revised values. Should the Bidder reject the offer, the property would be re-advertised.</p> <p>By way of a letter which was dated December 18, 2012, the offer was made to the Bidder. In response, the Bidder, through their Attorney, accepted the offer in principle but submitted a counter-offer by way of a letter which was dated December 27, 2012.</p> <p>As at December 31, 2012, the counter-offer was being reviewed by the Council.</p>				

Ministry of Transport, Works and Housing			Reference Code: LD-362	
Property being Divested	Lot 304 Cave Island Pen (Vanzie Lands)	Location	Trelawny	
Size of Property	985.55 Sq. metres	Date Advertised	2010-02-14	
Valuation Sum	\$0.00	Sale Price	\$0.00	
Date of Executed Agreement of Sale	0000-00-00	Purchaser	N/A	
Status	Property to be re-advertised			
<p>The initial stages of the divestment process were documented in Insert LD-281 on page 167 of the Annual Report for 2011. The then prospective Purchaser had, up to the time of the report, made a deposit of J\$100,000.00, which was below the required deposit amount. However, owing to boundary issues relating to the subdivision, sale of the property was placed on hold pending re-survey of the property.</p> <p>The prospective Purchaser failed to make any further deposit payment and, as such, the sale was rescinded. The property was re-surveyed and subsequently re-valued in November 2012.</p> <p>As at December 31, 2012, re-advertising of the property was pending.</p>				

Ministry of Transport, Works and Housing			Reference Code: LD-372	
Property being Divested	Lot 308 Cave Island Pen (Vanzie Lands)	Location	Trelawny	
Size of Property	588.85 metres square	Date Advertised	2010-02-14	
Valuation Sum	\$0.00	Sale Price	\$0.00	
Date of Executed Agreement of Sale	0000-00-00	Purchaser	N/A	
Status	Supplemental Agreement being prepared for execution			
<p>The initial stages of the divestment process were documented in Insert LD-291 on page 167 of the Annual Report for 2011.</p> <p>The then potential Purchaser had submitted an offer which was below the required deposit amount. The Ministry advised the applicant of same and also of the minimum acceptable amount. The applicant communicated his willingness to purchase the property at the minimum amount. However, owing to boundary issues relating to the subdivision, sale of the property was placed on hold pending re-survey of the property.</p> <p>Upon the re-survey and subsequent re-valuation of the property, the size of the lot was significantly reduced, thus reducing the initial value. The applicant was informed of same in October 2012.</p> <p>As at December 31, 2013, the drafting of a Supplemental Agreement was pending.</p>				

Ministry of Transport, Works and Housing			Reference Code: LD-382	
Property being Divested	Lot 310A Cave Island Pen (Vanzie Lands)	Location	Trelawny	
Size of Property	510.892 metres square	Date Advertised	2010-02-14	
Valuation Sum	\$0.00	Sale Price	\$0.00	
Date of Executed Agreement of Sale	0000-00-00	Purchaser	N/A	
Status	Agreement for Sale sent to applicant			
<p>The initial stages of the divestment process were documented in Insert LD-301 on page 167 of the Annual Report for 2011.</p> <p>As at the end of the last reporting period, an applicant had submitted an offer, which was accepted by the Ministry and a deposit of J\$100,000.00 made by the applicant. However, owing to boundary issues relating to the subdivision, sale of the property was placed on hold pending re-survey of the property.</p> <p>Upon the re-survey and subsequent re-valuation of the lot, the size of the lot was reduced, thus lowering the initial value. The lot was also re-numbered 310A (was 310 prior to being re-surveyed). The applicant was informed of the foregoing by way of a letter, dated October 22, 2012.</p> <p>As at December 31, 2012, the Agreement was drafted and sent to the applicant for execution.</p>				

National Land Agency			Reference Code: LD-422	
Property being Divested	"Old Boat House", Lucea	Location	Hanover	
Size of Property	623.26 metres square	Date Advertised	2012-10-19	
Valuation Sum	\$0.00	Sale Price	\$0.00	
Date of Executed Agreement of Sale	0000-00-00	Purchaser	N/A	
Status	Property not yet divested			
<p>The property was advertised for Lease in October 2012. The divesting entity reported that one (1) application was subsequently received.</p> <p>As at December 31, 2012, evaluation of the Proposal was pending.</p>				

National Land Agency			Reference Code: LD-402	
Property being Divested	11 Jacks Hill Road, Kingston 6	Location	Saint Andrew	
Size of Property	2,635.94 square metres	Date Advertised	2012-07-01	
Valuation Sum	\$0.00	Sale Price	\$0.00	
Date of Executed Agreement of Sale	0000-00-00	Purchaser	N/A	
Status	Property not divested.			
<p>As detailed in Insert LD-41 on page 173 of the Annual Report of 2011, the property was previously advertised for sale, however, the offers received were below the Reserved Price and were rejected as a result.</p> <p>The property was re-advertised for sale in July 2012. Two (2) offers were received but were below the Reserved Price. Consequently, both offers were rejected.</p> <p>As at December 31, 2012, the property had not been divested and the title remained in the name of the Commissioner of Lands.</p>				

National Land Agency			Reference Code: LD-392	
Property being Divested	Land - Part of Fort George, Annotto Bay (Fort Stewart Farms)	Location	St. Mary	
Size of Property	53.77 Hectares	Date Advertised	2010-05-02	
Valuation Sum	\$0.00	Sale Price	\$0.00	
Date of Executed Agreement of Sale	0000-00-00	Purchaser	N/A	
Status	Property not yet divested			
<p>As indicated in Insert LD-1 on page 174 of the Annual Report of 2011, previous attempts at leasing the subject property were unsuccessful. As such, the property was re-advertised in March 2012.</p> <p>Two (2) applications were received and upon evaluation, one (1) was deemed the preferred applicant based upon the overall Proposal. The submission was subsequently sent to the Land Divestment Advisory Committee (LDAC) for their endorsement and recommendation to the respective Minister. The matter was, however, deferred by the LDAC, pending, <i>inter alia</i>, additional information from the applicant.</p> <p>As at December 31, 2012, the property had not yet been divested.</p>				

National Land Agency			Reference Code: LD-412	
Property being Divested	Part of "Coxheath" Sherwood Content	Location	Trelawny	
Size of Property	35.312 Hectares (87.19 Acres)	Date Advertised	2012-05-13	
Valuation Sum	\$0.00	Sale Price	\$0.00	
Date of Executed Agreement of Sale	0000-00-00	Purchaser	N/A	
Status	Property not yet divested			
<p>The property was advertised for Lease in May 2012. Four (4) applications were received.</p> <p>The divesting entity reported that Business Plans and applications were evaluated and subsequently submitted to the Land Divestment Advisory Committee (LDAC) for its endorsement and recommendation.</p> <p>As at December 31, 2012, the property had not yet been divested.</p>				

Montego Freeport Limited				Reference Code: LD-482
Property being Divested	Lot A50B - Part of Montego Freeport, Montego Bay	Location	St. James	
Size of Property	6,298.064 Sq. Metres (1.56 Acres)	Date Advertised	2012-11-25	
Valuation Sum	\$0.00	Sale Price	\$0.00	
Date of Executed Agreement of Sale	0000-00-00	Purchaser	N/A	
Status	Divestment process ongoing			
<p>The subject property was advertised for sale in February 2011. However, the divestment proved unsuccessful. The property was re-advertised for sale on November 25, 2012. Bids were to be submitted by 2:00 p.m. on December 12, 2012, to be followed by a scheduled Bid Opening Ceremony at 2:10 p.m.</p> <p>Three (3) offers were received, which were subsequently evaluated and a preferred Bidder identified.</p> <p>As at December 31, 2012, Board approval was pending for sale of the property to the preferred Bidder.</p>				

Urban Development Corporation				Reference Code: LD-322
Property being Divested	Cardiff Hall Beachfront Property, Runaway Bay	Location	St. Ann	
Size of Property	11.28 Acres	Date Advertised	2011-04-17	
Valuation Sum	\$0.00	Sale Price	\$0.00	
Date of Executed Agreement of Sale	0000-00-00	Purchaser	N/A	
Status	Property still available for sale.			
<p>The divesting entity reported that only one (1) offer was received and same "...was found to be below the reserve price and was not accepted. Consequently, the property is still up for sale."</p>				

Urban Development Corporation (UDC)				Reference Code: LD-332
Property being Divested	Parts of Lots 3 - 4, Waterfront Property (Fisheries Complex), Downtown	Location	Kingston	
Size of Property	A: Lot 3 (Part of):19,887.11 Sq. metres (4.92 Acres)/ B: Sections 1-3: 656.46 Sq. metres (0.16 Acres)	Date Advertised	2012-02-13	
Valuation Sum	\$0.00	Sale Price	\$0.00	
Date of Executed Agreement of Sale	0000-00-00	Purchaser	N/A	
Status	Injunction in effect. Divesting entity barred from selling the property			
<p>As reported in Insert LD-121 on page 177 of the Annual Report of 2011, the property was advertised in 2011 and only one (1) offer was received. However, the divestment process was aborted, as the actual area for sale was misstated. The area advertised was for all of Lot 3, instead of the intended 'Part of' Lot 3. The OCG was subsequently informed that the current occupants of the property commenced legal action pertaining to the sale of the subject property and, as such, an Injunction was ordered by the Court, thus halting the sale process.</p> <p>By way of a letter which was dated March 28, 2012, the Urban Development Corporation (UDC) reported to the OCG that "<i>The matter is still before the Court of Appeal. An injunction is still in effect restraining the UDC from selling the property. A Consent Order has been made that the Corporation be allowed to apply for two (2) Titles in order that it can deal with Lot 3A as the lease is restricted to the area occupied in Lot 3B by (the named occupant).</i>"</p> <p>A subsequent update stated, <i>inter alia</i>, that the Injunction was still in place but "...the Court has granted permission for us to apply for two titles in regards to lot 3 to effect Lots 3a and 3b. The survey has been done and the sub-division is in progress. No sale can take place of any lots until the matter before the Court is resolved."</p>				

The Land Divestment Advisory Committee (LDAC)

The Land Divestment Advisory Committee (LDAC) plays an advisory role to the Minister of Water, Land, Environment and Climate Change, as it relates to the divestment of Government-owned lands. The LDAC is ably supported by the Land Administration and Management Division within the Ministry of Water, Land, Environment and Climate Change.

The role of the LDAC includes the following:

1. Examining, evaluating and making recommendations on applications forwarded by the Commissioner of Lands to the Minister for divestment.
2. Reviewing recommendations for applicants to receive subsidies, discounts and/or incentives for the lease/sale of lands under exceptional and special circumstances and finalizing recommendations for the Minister's approval.
3. Convening regular monthly meetings in order to ensure timely divestments (special meetings may be convened depending on the volume or urgency of particular matters).

The LDAC is guided by policy directives issued by the Minister and, as such, may consult the Minister on fundamental matters of policy only.

The LDAC is comprised of fifteen (15) members drawn from the Public and Private Sector. Committee members are appointed by the Minister for a period not exceeding three (3) years. A representative from the OCG sits in on the meetings of the LDAC as an observer.

The tenure of the previous LDAC came to an end in December 2011. The appointment of the Chairman and the other members of the LDAC was approved, by way of Cabinet Decision dated March 19, 2012, and came into effect on April 1, 2012. The tenure of the current Committee will end on March 31, 2015. The Chairman of the Committee is Mr. Hensley Williams.

Legislation

The Ministry of Water, Land, Environment & Climate Change, reported that the issuing of Drafting Instructions for proposed amendments to the Crown Property (Vesting) Act was considered by the Legislative Committee in October 2012. The Submission seeking Cabinet Approval for the tabling of the Bill in the House of Parliament is expected to be made in February 2013.

LDAC Activity for 2012

Five (5) meetings were convened by the LDAC in 2012. This was primarily due to delays in the appointment of members to the Committee and the subsequent resumption of meetings in May 2012.

A total of fifty-seven (57) applications were submitted to the Committee for consideration in 2012. Of this amount, fourteen (14) were re-submissions, thirty-six (36) were recommended for divestment, and the remaining seven (7) were deferred, as additional information was requested by the Committee.

Of the thirty-six (36) applications recommended for divestment, thirty-five (35) were submitted to the portfolio Minister for consideration. One (1) application which was recommended in September 2012 was re-submitted to the LDAC in December 2012 for further deliberation. As at November 30, 2012, twenty-seven (27) applications were approved by the Minister at an approximate value of \$49.8M for the sale and lease of Government-owned property. The remaining eight (8) applications were pending approval from the Minister.

Of the twenty-seven (27) applications approved, twenty (20) were for lease and seven (7) were for sale.

The Table below summarizes the deliberations of the Committee during 2012:

Deliberations by the Land Divestment Advisory Committee (LDAC) - 2012

Date of Meeting	No. of Submissions reviewed by LDAC	No. of New Applications	No. of Re-Submission	Submissions for Regularization of Illegal Occupants (Land Settlement Schemes)	Submissions for Regularization of Illegal Occupants (Other)	Submissions Recommended for Approval by the LDAC	Submissions Approved by the Minister
May 22	10	10	-	1	1	8	8
July 12	13	12	1	1	-	10	10
September 13	14	10	4	-	1	7*	6
October 11	10	4	6	-	1	4**	3
December 14	10	7	3	-	1	7	***
Total	57	43	14	2	4	36-1= 35*	27

* Application was re-submitted for further deliberation in December 2012

** Application not recommended for approval by LDAC. Awaiting Minister's approval of Committee's decision

*** Awaiting the Minister's response

The Tables below illustrate the approvals by land use and value:

Lands Approved for Sale - 2012

Land Use	No. of Applications	Value (J\$)
Commercial	6	43,150,000.00
Agricultural	1	1,200,000.00
Residential	-	0
Other	-	0
-	7	44,350,000.00

(Other: Educational, Recreational, Religious and Community Development)

As at December 2012, four (4) applications valued at J\$6,285,000.00 were pending approval from the Minister. In addition, one (1) application not recommended for approval by the LDAC was pending the Minister's approval/endorsement for non-approval.

Lands Approved for Lease - 2012

Land Use	No. of Applications	Value (J\$)
Commercial	6	4,829,000.00
Agricultural	7	417,100.00
Residential	-	0
Other	7	163,000.00
-	20	5,409,100.00

(Other: Educational, Recreational, Religious, Community Development and Easements)

As at December 2012, three (3) applications valued at J\$4,988,000.00 were pending approval from the Minister.

The National Land Agency (NLA) is charged with performing the necessary due diligence prior to presenting cases to the Committee for deliberation and is to be commended for its efforts, as should the Secretariat of the LDAC for the duties performed and the support extended to the Committee. The OCG is of the view that the LDAC diligently carried out its mandate during 2012.

Asset Divestment

The OCG's monitoring of the divestment of state assets was guided by the provisions of Ministry paper #34 of 1991. This document was subsequently revised in 2012 with the aim of providing a more streamlined framework which incorporates regulatory and strategic considerations. In October 2012, the *Government of Jamaica Policy Framework and Procedures Manual for the Privatisation of Government Assets: Privatisation Policy* was released. Section 2.0 of the policy stated that *"All public bodies, agencies and ministries of the GOJ that intend to privatise assets other than land and houses owned by the GOJ are governed by this policy."*

Up to the end of the year 2012, the OCG had sixty six (66) Asset Divestment projects which were being monitored. Of the sixty six (66) projects, information received by the Office suggests that thirty-one (31) were active during the year 2012. These active projects are detailed below.

In addition to the thirty-one (31) active projects monitored, the OCG wishes to highlight two (2) development projects namely the development of the Agro-Park Programme and the Spring Plain/St. Jago Property and the Harmony Cove Development.

Agro-Park on the Spring Plan/St. Jago Property

The development of the Agro Park Programme and the Spring Plain property is one of the sites of the Agro-Park Development Programme which is being implemented by the Ministry of Agriculture and Fisheries (MOAF) through the Agro-Investment Corporation. This is in keeping with the Ministry's Agricultural Development Plan and the Vision 2030 Jamaica – Agriculture Sector Plan. The OCG, by way of a letter which was dated December 19, 2012, sought an update from the MOAF with regard to the development and operation of the Agro Parks in the aforementioned locations. The Ministry responded to the OCG advising, *inter alia*, that *"The implementation of the Agro-Park Programme was delayed due to outstanding issues being dealt with by the Development Bank of Jamaica (DBJ) and the Ministry of Agriculture. Implementation activities for the Spring Plains Agro-Park is stated for the 2013/2014 financial, as such, no lease agreement has been entered into."*

Harmony Cove Development

The OCG noted an article which was published on June 6, 2012, entitled *"Harmony Cove on hold for locals"* which stated the following:

"Local investors still have not been found for Harmony Cove, nine months after China Ex-Im Bank demanded they be brought on-board, adding to the project's long delay..."

The bank asked for the inclusion of local investors in the project shortly after coming on board, resulting in a restructuring exercise that could see the government losing its 49 per cent stake."

In light of the foregoing article, the OCG, in a letter which was dated June 12, 2012, to the Harmonisation Limited requested an Executive Summary outlining the genesis and nature of the development and the involvement of the China Ex-Im Bank.

The Harmonisation Limited, by way of a letter which was dated June 28, 2012, responded to the OCG stating *inter alia*, that:

"The Harmony Cove Project is intended to be developed through a Joint Venture partnership between Harmonisation Limited (a wholly owned Government of Jamaica company, through joint ownership by the National Housing Trust and the Development Bank of Jamaica) and Tavistock Jamaica, a firm with headquarters in Orlando, Florida..."

With the problems evidenced in the western capital markets and the difficulties in accessing capital for the project, it was discussed and decided to approach the China Exim Bank for loan funding..."

... The Government of Jamaica, through Harmonisation Limited will not lose any of its 49% stake in the project..."

At the moment, a draft Cabinet Submission is being analysed by the Office of the Prime Minister to allow for the resetting of the equity basis of the project, and the formation of subsidiary companies to allow for the inclusion of additional equity participants."

Subsequently, by way of a letter which was dated July 11, 2012, the OCG wrote to Harmonisation Limited stating that *“The OCG in an effort to make a determination as to whether this undertaking should be monitored by its Office, under the provisions of Ministry Paper #34, is seeking to better understand certain particulars in relation to said projects. Accordingly, the OCG requests that you provide an Executive Summary, outlining the full particulars on the modality to be utilized for the invitation of equity participants for the project.”*

Harmonisation Limited, by way of a letter which was dated July 30, 2012, advised the OCG, *inter alia*, the following:

“The OCG is reminded that a dominant feature of the original Joint Venture Agreement (Clause 4b(ii)) was limiting Harmonisation’s contribution to the project of the Harmony Cove lands.

Other than the transfer of the Harmony Cove lands at the agreed value of US\$45 million, Harmonisation, and by extension the Government of Jamaica, has no obligation to make any additional capital contributions to the project...

Tavistock, as the managing partner for the Harmony Cove project, with the endorsement of the Board of Harmonisation Limited opted to approach a number of Jamaican entities to make equity infusions into the project. Those institutions approached include the following:

Sagikor, Bank of Nova Scotia National Commercial Bank, Prime Asset Management, Guardian Life, ATL Pension, Proven, National Insurance Fund and Petro Caribe.

As the process does not contemplate any dilution of Harmonisation’s shares in the Harmony Cove Limited (which will remain at 49%,) it is not contemplated that the provisions of Ministry Paper #34 which deals with the privatisation of Government Property would apply to the current process.”

Reference No.	AD-15872	Ministry	Ministry of Agriculture and Fisheries
Asset being Divested	Sale of Land and Building - Lot 1 Bybrook, Bog Walk, St. Catherine	Location	St. Catherine
Divesting Entity	Banana Board	Date Advertised	0000-00-00
Valuation Sum	J\$9,300,000.00 (Reserve Price)	Sale Price	J\$13,000,000.00
Date of Executed Agreement of Sale	2012-06-05	Purchaser	Oscar Chin Loy
Secretariat	Banana Board	Consultant	
Status	Sale Complete		

By way of a letter which was dated December 21, 2011, from the Banana Board to the Ministry of Agriculture and Fisheries which was forwarded to the OCG, the OCG was advised of the sale of land and buildings at Lot 1 Bybrook, Bog Walk, St. Catherine. In a Status Report to the OCG, the Banana Board advised that *“The Board of Directors gave the right of first refusal of sale to the current Lessees who are purchasers to whom the properties were leased for more than 15 years.”*The OCG notes that the Lessee had requested the opportunity to purchase the property prior to the Boards Decision in September 2010.

An Agreement for Sale was signed on June 5, 2012 for a price of J\$13,000,000.00. A copy of a Bank Statement provided by the Banana Board indicates that full payments have been made.

As at December 31, 2012, the sale of the property was complete.

Reference No.	AD-15882	Ministry	Ministry of Agriculture and Fisheries
Asset being Divested	Sale of Land and Derelict Building, Hordley, Golden Grove, St. Thomas	Location	St. Thomas
Divesting Entity	Banana Board	Date Advertised	0000-00-00
Valuation Sum	\$4,000,000.00	Sale Price	J\$3,000,000.00
Date of Executed Agreement of Sale	2011-04-12	Purchaser	Kenneth Roswell
Secretariat	Banana Board	Consultant	
Status	Sale Complete		

By way of a letter which was dated December 21, 2011, from the Banana Board to the Ministry of Agriculture and Fisheries which was forwarded to the OCG, the OCG was advised of the sale of land and buildings at Hordley, Golden Grove, St. Thomas. In a status report to the OCG, the Banana Board advised that "The Board of Directors gave the right of first refusal of sale to the current Lessees who are purchasers to whom the properties were leased for more than 15 years." The OCG notes that the Lessee had requested the opportunity to purchase the property prior to the Boards Decision in September 2010.

An Agreement for Sale was signed on April 12, 2011 with the scheduled completion date on or before April 11, 2013. Copies of receipts drafted by the Banana Board for Kenneth Roswell were noted by the OCG for purchase of the property in Hordley, Golden Grove, St. Thomas. In a Status Report to the OCG, the Banana Board indicated that final payments for purchase was made on May 29, 2012.

As at December 31, 2012, the sale of the property was complete.

Reference No.	AD-15892	Ministry	Ministry of Agriculture and Fisheries
Asset being Divested	Privatisation of Wallenford Coffee Company Limited	Location	St. Andrew
Divesting Entity	Development Bank of Jamaica	Date Advertised	2011-06-12
Valuation Sum		Sale Price	
Date of Executed Agreement of Sale	0000-00-00	Purchaser	
Secretariat	Development Bank of Jamaica	Consultant	PricewaterhouseCoopers
Status	Divestment Process is ongoing		

The Divestment opportunity was advertised in the local print media on June 12, 2011. The deadline for submission was September 2, 2011, however, this was extended to November 11, 2011. At the opening of the proposals, two (2) proposals were received. Subsequently, in May 2012, an evaluation of the proposals was conducted by PricewaterhouseCoopers and a Bidder was recommended for the sale.

In a Status Report to the OCG, the Development Bank of Jamaica advised, *inter alia*, that "As at December 31 2012 A draft Memorandum of Understanding (MOU) has been prepared and is expected to be finalised...negotiations continue to finalize a few remaining commercial terms."

The OCG will continue to monitor the process.

Reference No.	AD-15862	Ministry	Ministry of Agriculture and Fisheries
Asset being Divested	Divestment of the Commercial Assets of the Cocoa Industry Board	Location	
Divesting Entity	Ministry of Agriculture and Fisheries	Date Advertised	0000-00-00
Valuation Sum		Sale Price	
Date of Executed Agreement of Sale	0000-00-00	Purchaser	
Secretariat	Development Bank of Jamaica	Consultant	Deloitte Touche Tohmatsu
Status			

The OCG became aware of the intention of the Ministry of Agriculture and Fisheries' (MOAF) intention to divest the commercial assets of the Cocoa Industry Board, by way of a request for Expressions of Interest for Consultancy Services which was placed in the print media on June 15, 2011. Subsequently, on June 17, 2011, the OCG wrote to the MOAF requesting that the Ministry provide its Office with a list of the assets to be divested, and how said assets will be packaged.

The MOAF, by way of a letter which was dated July 1, 2011, advised the OCG that "...it is envisaged that the Enterprise Team (ET) established to oversee the divestment exercise in collaboration with the Development Bank of Jamaica (DBJ) and the consultant to be selected ...the ET will make a decision on the commercial assets to be divested (from the real and personal property assets)...it should be noted that the ET, DBJ and the selected consultant will collaborate in determining the best course in packaging the commercial assets for divestment."

In May 2012, the MOAF engaged Deloitte Touche Tohmatsu to package the privatisation of the Cocoa Industry Board's commercial assets. An Inception Report which outlined the approach and objectives for the stages of the privatisation of the assets and the timelines was prepared by Deloitte Touche Tohmatsu and presented to the Enterprise Team in October 2012.

In a Status Report to the OCG, the Development Bank of Jamaica advised that "The next steps in the transaction process include: development of the privatisation strategy, packaging and marketing of the privatisation opportunity with a view to identifying a suitable Preferred Bidder, which is to be approved by Cabinet."

As at December 31, 2012, the Information Memorandum is not yet prepared as the process was at a due diligence stage.

Reference No.	AD-15822	Ministry	Ministry of Education
Asset being Divested	Divestment of Nutrition Products Limited	Location	Kingston
Divesting Entity	Ministry of Education	Date Advertised	0000-00-00
Valuation Sum		Sale Price	
Date of Executed Agreement of Sale	0000-00-00	Purchaser	
Secretariat	Development Bank of Jamaica	Consultant	
Status	Aborted		
<p>The Ministry of Education (MOE) in a letter which was dated April 26, 2011, advised the OCG, <i>inter alia</i>, that "Consistent with the drive, within the context of the Government Public Sector Transformation Programme, the Ministry of Education (MoE) has been assessing the current arrangements related to the delivery of goods and services in the education sector...the Ministry supports the recommendation of the Public Sector Transformation Unit that the National School Feeding Programme is one area the government should divest...In this regard, a private sector entity has approached the MoE and made an unsolicited proposal to take over the entity." (see page 183 of the 2011 Annual Report for further details).</p> <p>The Development Bank of Jamaica in a letter which was dated January 31, 2012, advised the OCG that "The land and buildings would be retained by the GOJ, however, the equipment and machinery would be sold. The Concessionaire would provide the services that are now being provided by the NPL."</p> <p>In a letter which was dated February 7, 2012, the MOE advised the OCG that "...there has been a change in leadership of the Ministry. Consequently, discussions must be held with the new Minister before any further action is taken regarding the divestment of assets by the Ministry of Education."</p> <p>Subsequently, in a Status Report to the OCG, the MOE advised that a new Board was constituted at the Ministry, in which same was having discussions regarding improving and diversifying the use of the Nutrition Products Limited. In said report, the Ministry advised the OCG that a decision was made not to proceed with the Divestment of the Nutrition Products Limited.</p> <p>As at December 31, 2012, the Nutrition Products Limited was no longer up for divestment.</p>			

Reference No.	AD-16002	Ministry	Ministry of Education
Asset being Divested	Divestment of Sydney Pagon Agricultural School	Location	St. Elizabeth
Divesting Entity	Ministry of Education	Date Advertised	0000-00-00
Valuation Sum		Sale Price	
Date of Executed Agreement of Sale	0000-00-00	Purchaser	
Secretariat		Consultant	
Status			
<p>The OCG noted an article on February 21, 2011, entitled "Holness to address divestment of Sydney Pagon". The article stated, <i>inter alia</i>, that "Education Minister Andrew Holness is today expected to make a full statement about plans for the University of the West Indies, Mona to take over the Sydney Pagon Agricultural School in St. Elizabeth."</p> <p>By way of a letter which was dated February 25, 2011, the OCG requested a Status Report and details of the divestment of the Sydney Pagon Agricultural School. The Ministry of Education (MOE), by way of a letter which was dated May 7, 2011, advised the OCG, <i>inter alia</i>, of the following</p> <p>"The University of the West Indies in discussions with the Ministry of Agriculture and Fisheries presented a proposal to the Ministry of Education, which is geared toward advancing the development of agricultural education in Jamaica.</p> <p>This is out of recognition of the fact that the existing agricultural education infrastructure at the secondary and tertiary levels was not responding to the needs of the agricultural sector in a meaningful way."</p> <p>By way of a letter which was dated October 25, 2011, the MOE advised the OCG that Cabinet by way of Decision No. 46/10, which was dated December 13, 2010, approved the divestment of the Sydney Pagon Agricultural School.</p> <p>Subsequently, in a Status Report to the OCG, under cover of letter which was dated February 7, 2012, the MOE advised that a valuation of the school was not yet done and that with a change in leadership of the Ministry, discussions will be held with the new Minister before any further action is taken regarding the divestment of the assets of the MOE.</p> <p>In a Status Report to the OCG, the MOE advised, <i>inter alia</i>, that "As a result of discussions held among the relevant parties, a Draft Agreement has been prepared for review and subsequent signing...The process has been delayed because of negative reaction from some of the stakeholders. This has since been resolved."</p> <p>As at December 31, 2012, the process was ongoing.</p>			

Reference No.	AD-15812	Ministry	Ministry of Energy and Mining
Asset being Divested	Divestment of Government of Jamaica's 45% Stake in JAMALCO	Location	Clarendon
Divesting Entity	Ministry of Energy and Mining	Date Advertised	0000-00-00
Valuation Sum		Sale Price	
Date of Executed Agreement of Sale	0000-00-00	Purchaser	
Secretariat		Consultant	
Status	Divestment process is ongoing		

Cabinet, by way of a Decision which was dated October 10, 2011, accepted a revised offer from Glencore for the purchase of the GOJ assets in JAMALCO (See page 184 of the 2011 Annual Report for full details).

As at the end of June 2012, the GOJ submitted a framework for a revised draft Asset Sale Agreement to Glencore reflecting settled positions on issues that were outstanding. In a Status Report to the OCG, the Ministry of Science, Technology, Energy and Mining advised, *inter alia*, that "Glencore has submitted an alternative proposal that is now before the GOJ for consideration...CAP and the GOJ are urgently awaiting Alcoa's valuation of the assets as well as Alcoa's consent to use those assets as security for a line of credit from Glencore. The GOJ is at the same time considering Glencore's new proposal...There is no specific time for the completion of the divestment."

The OCG will continue to monitor the divestment opportunity.

Reference No.	AD-15752	Ministry	Ministry of Finance and Planning
Asset being Divested	Mavis Coffee Factory Limited	Location	St. Andrew
Divesting Entity	Development Bank of Jamaica	Date Advertised	2010-11-07
Valuation Sum		Sale Price	US\$3.8 Million
Date of Executed Agreement of Sale	2011-10-14	Purchaser	Orchard Plantation Coffee Factory Limited
Secretariat	Development Bank of Jamaica	Consultant	Deloitte Touche Tohmatsu
Status	Sale Complete		

The Divestment of the Mavis Coffee Factory was advertised in the print media in November 2010. The deadline for the submission of proposals was scheduled for February 11, 2011, at 12:00 p.m. The deadline was further extended to March 4, 2011. Three (3) proposals were received.

Subsequent to the evaluation of the proposals, the Negotiating Team began negotiating the sale of the factory with the recommended investor Orchard Plantation Coffee Factory Limited (jointly controlled by Jamaica Producers Group Limited and Pan Jamaican Investment Trust Limited).

The negotiations between the Development Bank of Jamaica (DBJ) and Orchard Plantation Coffee Factory Limited were completed, and the Asset Purchase Agreement was signed on October 14, 2011. A deposit of US\$1 million was paid in October 2011 (See page 188 of the 2011 Annual report for full details).

By way of a letter which was dated April 27, 2012, the DBJ advised, *inter alia*, that the "...final recommended adjustments to the Draft Effective Statement (DEDS) resulted in a total transaction value of approximately US\$3.8M, with a potential uplift of US\$230k if the waste water provision is not exercised."

A payment of US\$1,900,000.00 was received by the Development Bank of Jamaica on March 27, 2012 and the Entity has advised that final payment was received.

As at December 31, 2012, the Development Bank of Jamaica advised that the "...DBJ continues to monitor the purchaser in relation to the implementation of their development Plan."

Reference No.	AD-15902	Ministry	Ministry of Finance and Planning
Asset being Divested	Divestment of Caymanas Park Race Track Limited	Location	St. Catherine
Divesting Entity	Ministry of Finance and Planning	Date Advertised	0000-00-00
Valuation Sum		Sale Price	
Date of Executed Agreement of Sale	0000-00-00	Purchaser	
Secretariat	Development Bank of Jamaica	Consultant	
Status	Preliminary stage of divestment		

By way of a letter which was dated February 16, 2010, the Cabinet Secretary advised the OCG that the Caymanas Track Limited (CTL) was slated for divestment. A Status Report was subsequently, requested from the then Ministry of Finance and the Public Service. By way of a letter which was dated September 27, 2010, the Ministry advised the OCG, *inter alia*, that "...plans for the divestment of Caymanas Track Limited (CTL) are currently at a preliminary stage...In the meantime a number of projects are being undertaken at the Track to prepare the Company for divestment."

On April 24, 2011, an Invitation for Submissions was placed in the print media inviting submission from individuals, entities and groups to the Task Force on Horse Racing Options and Pathway for Divestment of Caymanas Park Racetrack. With regard to the Invitation for Submission, the OCG wrote to the Financial Secretary advising that "In the circumstances, the OCG wishes to direct your attention to Ministry Paper #34 - Privatization Policy and Procedures, which enunciates the following general practice and principles, *inter alia*, which should be adhered to, in the conduct of the proposed divestment, (a) "premature applications can only be acknowledged, and it must be stressed that there should be no expectations that privatization will be accomplished with undue or reckless speed considering that it is a fiduciary responsibility of government to find the best optimal mix of transferring risk to the private sector and maximizing the proceeds whilst conducting the process competently and expeditiously." (b) "the selection of items to be privatized will be announced to the public by way of advertisements", (c) "the concept of market-economic valuation will apply in establishing the disposal price and more than one valuation must be obtained", (d) "transactions are to be arms-length and equal opportunity will be given to all except where special foreign exchange requirements are a feature of privatization or where special arrangements are being made by employees", (e) "as far as possible, parties with likely conflicting interest will not be involved to assist the process in any way", (f) "public announcements will be made when an item is privatized."

By way of a letter which was dated October 31, 2011, the Ministry of Finance advised the OCG, *inter alia*, that "...a task force was created in March 2011, consisting of eight members...The team's mandate includes (among other things) examining previous attempts at privatizing CTL, determining the lessons learnt and recommending to the Ministry of Finance (MOF) the most appropriate privatization model."

Subsequently, the OCG noted an article printed in the Daily Gleaner, dated November 30, 2012, entitled "Caymanas Park say yes to Divestment" which stated: "Close to 100 stakeholders at Caymanas yesterday voted unanimously to accept the proposals put forward by the Racing Divestment Committee for the acquisition of the racetrack from Government."

In reference to the November 30, 2012 article, the OCG, under cover of letter which was dated December 6, 2012, wrote to the Financial Secretary advising that it "... has in its possession, a copy of the Policy Framework and Procedures Manual for the Privatisation of Government Assets: The Privatisation Policy. The OCG has noted Section 4.0.2.2, "Treatment of Unsolicited Proposals in Privatisation" of said policy, which states, *inter alia*, that,...All projects that are on the Privatisation List before an unsolicited proposal is received will be bid out competitively, regardless of whether or not an unsolicited proposal is submitted. The competitive bid will be conducted in accordance with the procedures outlined in the Privatisation Manual and no special preference will be given to a firm that has submitted an unsolicited proposal." The OCG notes that the captioned asset is one which was already slated for divestment."

Subsequent to the OCG's letter which was dated December 6, 2012, the Ministry of Finance and Planning advised the OCG that "By way of Decision No. 44/12 dated December 17, 2012, Cabinet approved the establishment of a nine (9) member Caymanas Track Enterprise Team (CTET), comprising representatives from the private sector, MOFP, the Attorney General's Department and DBJ to divest CTL...Cabinet also approved the Development Bank of Jamaica (DBJ) as Transaction Advisors."

The OCG will continue to monitor this process.

Reference No.	AD-15742	Ministry	Ministry of Finance and the Public Service
Asset being Divested	Privatisation of Commercial Property Located at Twickenham Park , St. Catherine	Location	St. Catherine
Divesting Entity	Development Bank of Jamaica	Date Advertised	2012-03-14
Valuation Sum		Sale Price	
Date of Executed Agreement of Sale	0000-00-00	Purchaser	
Secretariat	Development Bank Jamaica	Consultant	
Status	Aborted		

By way of a letter which was dated March 6, 2012, the Development Bank of Jamaica (DBJ) advised the OCG, *inter alia*, that "...the Development Bank of Jamaica(DBJ) is offering for sale by competitive bid, 1.8 acres of land with a single-storey factory building of approximately 34,642 ft² at Twickenham Park, St. Catherine. This commercial property is owned by TPL Limited and the DBJ/GOJ has majority shareholding in this company."

The property was advertised for sale during the months of March and April 2012. Two (2) bids were received on April 13, 2012, the stipulated deadline for submission.

The OCG was advised that in June 2012, an injunction was filed and same was granted prohibiting the sale of the TPL property. The DBJ subsequently, filed an appeal, however the sale of the property was suspended due to the uncertainty of the timeline or outcome of the appeal.

On December 19, 2012, the Directors of TPL Limited agreed to lease the property commencing January 2013.

Reference No.	AD-15832	Ministry	Ministry of Health
Asset being Divested	Divestment of St. Joseph's Hospital	Location	
Divesting Entity	Ministry of Health	Date Advertised	0000-00-00
Valuation Sum		Sale Price	
Date of Executed Agreement of Sale	0000-00-00	Purchaser	
Secretariat		Consultant	
Status			

By way of a letter which was dated October 20, 2011, the Ministry of Health (MOH) advised the OCG of the Government's intent to engage in a Public-Private Partnership for the operations of the St. Joseph's Hospital (See page 185 of the 2011 Annual report for further details).

In a letter to the OCG which was dated December 6, 2011, the MOH advised, *inter alia*, that "*The Ministry intends to outline some options for public private partnership to the Minister of Health for his consideration. With the Minister's approval, the relevant submission will be made to the Cabinet. Please note however, the Ministry is yet to determine, the best use of the facility, including the service(s) to be offered.*"

The OCG, by way of a letter which was dated December 21, 2012, requested an update on the status of the proposed Public-Private Partnership for the operations of the Hospital. The Ministry, in its response advised that "*There has been no new development concerning this issue...However, a Board is now in place to direct the affairs of the Hospital and among other things; develop a set of recommendations to inform the government on feasible strategies for self-sustainability through the preferred model of public/private partnership.*"

The OCG will continue to monitor the process.

Reference No.	AD-15772	Ministry	Ministry of Labour and Social Security
Asset being Divested	Sale of Real Estate Property in Montego Bay, Formerly Operated as Breezes Montego Bay	Location	St. James
Divesting Entity	Ministry of Labour and Social Security	Date Advertised	2011-04-10
Valuation Sum		Sale Price	
Date of Executed Agreement of Sale	0000-00-00	Purchaser	
Secretariat		Consultant	
Status	Project Ongoing		

The sale of the real estate property formerly known as Breezes Montego Bay was advertised in December 2011.

By way of a letter which was dated June 4, 2012, the Ministry of Labour and Social Security (MLSS) advised the OCG, *inter alia*, that "...the NIF's interest in the captioned investment represents forty nine (49) percent and as such, we are the minority Shareholders."

The OCG notes that the property is owned by Resort Beach Development Limited.

By way of a letter which was dated June 27, 2012, the MLSS advised the OCG that "...the process of the sale of the property is being handled by a property manager engaged by the directors of the company."

The National Insurance Fund subsequently advised that the "*National Insurance Fund (NIF) is a minority shareholder in Resort Beach Development Limited, with NCB Superannuation Fund being the majority shareholder and also directs the operations of the entity. It is to be noted that while the company is interested in divesting the property and has advertised its sale, to-date, no firm offers have been received.*"

As at December 31, 2012, the property remains on the market.

Reference No.	AD-15992	Ministry	Ministry of Labour and Social Security
Asset being Divested	Lease of Braco Trelawny, Jamaica, formerly operated under the brands Grand Lido Braco and Breezes Rio Bueno	Location	Trelawny
Divesting Entity	National Insurance Fund	Date Advertised	2012-11-12
Valuation Sum		Sale Price	
Date of Executed Agreement of Sale	0000-00-00	Purchaser	
Secretariat		Consultant	KRONOS Investment Development
Status	<p>A request for interest for the lease of the hotel set on 84 acres, in Braco, Trelawny, was advertised in the print media on November 16, 2012. Potential partners were asked to register their interest by providing a Letter of Interest before November 23, 2012.</p> <p>Fourteen (14) prospective investors expressed an interest in the lease of the Hotel.</p> <p>Upon receipt of letters of interest, the Consultant would pre-qualify prospective investors. Twelve (12) of the fourteen (14) prospective investors were pre-qualified and were invited to submit detailed bids by December 14, 2012, to be evaluated.</p> <p>As at December 31, 2012, the process was ongoing.</p>		

Reference No.	AD-15852	Ministry	Ministry of Science, Technology, Energy and Mining
Asset being Divested	Jamaica Bauxite Mining Limited's 7% Shareholding in West Indies Alumina Company (WINDALCO)	Location	Manchester & St. Catherine
Divesting Entity	Jamaica Bauxite Mining	Date Advertised	0000-00-00
Valuation Sum		Sale Price	
Date of Executed Agreement of Sale	0000-00-00	Purchaser	
Secretariat	Development Bank of Jamaica	Consultant	Deloitte Touche Tohmatsu
Status	<p>Investment process is ongoing</p> <p>The West Indies Alumina Company (WINDALCO) is a joint venture between UC Rusal Jamaica Limited which holds 93% of the shareholdings and the Jamaica Bauxite Mining Limited which holds 7% of the shareholdings of the mining and alumina operations at Kirkvine Works in Manchester and Ewarton Works in St. Catherine.</p> <p>Deloitte Touche Tohmatsu was engaged to undertake the valuation of the Jamaica Bauxite Mining Limited's 7% shareholding in WINDALCO.</p> <p>In a Status Report to the OCG, the Development Bank of Jamaica advised that "...as at 31 December 2012- The GOJ will shortly commence negotiations with UC Rusal, the joint venture partners, for the purchase of GOJ's 7% interest in Windalco."</p> <p>The OCG will continue to monitor the divestment opportunity.</p>		

Reference No.	AD-15962	Ministry	Ministry of Science, Technology, Energy and Mining
Asset being Divested	Sale of Tug and Barge	Location	
Divesting Entity	Petrojam Limited	Date Advertised	2012-09-16
Valuation Sum		Sale Price	
Date of Executed Agreement of Sale	0000-00-00	Purchaser	
Secretariat		Consultant	
Status	<p>An Invitation to Bid for the sale of Tug and Barge was advertised in the print media on September 16, 2012. The deadline for the submission of bids was September 28, 2012. One (1) bid was received.</p> <p>Subsequent to evaluation, approval was sought for Petrojam to enter into negotiations with the sole Bidder for an improved offer.</p> <p>The OCG notes a letter from the Ministry of Science, Technology, Energy and Mining which was dated October 22, 2012, to Petrojam advising that "...approval has been given for the sale of the Marine Vessels Tug Negril and Barge #1."</p> <p>In a Status Report to the OCG, Petrojam advised, <i>inter alia</i>, that "The Barge #1 subsequently sustained minor damage to its hull during the passage of Hurricane Sandy. The sole Bidder was informed of the damage after which they requested that the vessel be re-inspected prior to the completion of the sale. As at December 31, 2012 the bid Validity was extended to January 4, 2013, to facilitate the second inspection."</p>		

Reference No.	AD-15842	Ministry	Ministry of Science, Technology, Energy and Mining
Asset being Divested	Lease of Beach Park and/or Guest House at Font Hill, St. Elizabeth	Location	St. Elizabeth
Divesting Entity	Petroleum Corporation of Jamaica	Date Advertised	2011-09-04
Valuation Sum		Sale Price	J\$680,000 monthly
Date of Executed Agreement of Sale	2011-12-01	Purchaser	Uni-Globe Development & Technology Jamaica Ltd. (Lessee)
Secretariat	Petroleum Corporation of Jamaica	Consultant	
Status	Property Leased		

A Request for Proposal to lease the assets of the Font Hill Beach Park and/or Guest House was advertised in the print media on September 4, 2011. Proposals were to be submitted by September 30, 2011. At the time of the opening of the proposals, four (4) proposals were received.

The proposals were subsequently evaluated on October 14, 2011. From the evaluation criteria established by the Petroleum Corporation of Jamaica (PCJ) particular interest would be placed on a firm or individual with the best price and best business plan/model for the operation and management of the assets. UniGlobe Development and Technology Jamaica Limited was recommended as the Preferred Lessee for the Beach Park and the Guest House.

A Lease Agreement was signed between the PCJ and Uni-Globe Developments and Technology Jamaica Limited, and stated a commencement date of December 1, 2011. The lease has a term of five (5) years and the rent payable is J\$680,000 per month plus GCT.

The OCG was also provided with documentation to indicate that Uni-Globe Development & Technology Jamaica Limited assigned the lease to a Jermaine Butler, by way of agreement dated June 1, 2012.

As at December 31, 2012, the lease was in effect.

The OCG will continue to monitor this process.

Reference No.	AD-15732	Ministry	Ministry of Transport and Works
Asset being Divested	Divestment of Kingston Container Terminal	Location	Kingston
Divesting Entity	Port Authority of Jamaica	Date Advertised	0000-00-00
Valuation Sum		Sale Price	
Date of Executed Agreement of Sale	0000-00-00	Purchaser	
Secretariat	Development Bank of Jamaica	Consultant	PricewaterhouseCoopers
Status	Project Ongoing		

The OCG was advised, by way of a letter which was dated February 16, 2010, from the Cabinet Secretary, that the Kingston Container Terminal (KCT) was slated for divestment. The OCG was subsequently advised, by way of a letter which was dated September 15, 2010, from the Port Authority of Jamaica (PAJ), that PriceWaterhouseCoopers was engaged to advise on the most suitable method of divestment.

The OCG also noted a news article which was published on the RJR website on August 5, 2011, entitled "*MOU between Port Authority and Shipping Company to Create close to 1,000 jobs*" and requested details regarding same. By way of a letter which was dated August 18, 2011, the PAJ advised the OCG that the MOU between the PAJ and the CMA CGM is a non-binding agreement which sets out the basis of future negotiations within a framework. At the onset of the expansion of the Panama Canal, CMA CGM wishes to use Kingston as their permanent hub upon completion of the agreement of lease. CMA CGM had submitted an unsolicited offer to the PAJ to enter into a long term agreement that will involve CMA CGM committing to invest capital in the Port of Kingston.

Cabinet had granted its approval for the PAJ to proceed with the implementation of a non-binding Memorandum of Understanding (MOU) to have formal negotiations for the development of a Transshipment Hub in the Port of Kingston (See page 186 of the 2011 Annual Report for full details).

In June 2012, CMA CGM met with the PAJ and other Government Agencies to discuss the initial outcome of the due diligence undertaken within the framework of the MOU that was dated August 4, 2011. Subsequently, an updated unsolicited proposal dated July 2012, was presented. The MOU was extended to December 31, 2012.

The OCG was also advised that on December 18, 2012, a Consortium consisting of; Kingston Wharves Limited, Sim Integrated Shipping Services Limited and Stevedoring Services of America made a presentation to a group which included the Minister of Transport, Works and Housing (MTWH) and the PAJ expressing an interest in participating in the privatization of the Kingston Container Terminal.

In a status report to the OCG, the MTWH advised that "*Cabinet by way of Decision No: 43/12, approved the appointment of an Enterprise Team (ET), which has been charged with the responsibility to guide the process of the privatization of the Kingston Container Terminal.*"

The Enterprise Team is scheduled to commence its deliberations on January 11, 2013. The transaction is expected to progress in accordance with the Public Private Partnership and Privatization Policy Frameworks.

Reference No.	AD-15762	Ministry	Ministry of Transport, Works and Housing
Asset being Divested	Privatisation of the Norman Manley International Airport and Select Aerodromes	Location	Kingston
Divesting Entity	Airports Authority of Jamaica	Date Advertised	0000-00-00
Valuation Sum		Sale Price	
Date of Executed Agreement of Sale	0000-00-00	Purchaser	
Secretariat	Development Bank of Jamaica	Consultant	International Finance Corporation (Lead Advisor)
Status	Pre-Tender		

An Enterprise Team approved by the Cabinet was appointed in January 2010 to manage the implementation of the divestment of the Norman Manley International Airport and the development and expansion of other aerodromes.

On March 23, 2011, the National Contracts Commission endorsed the recommendation of the Ministry of Transport and Works to utilize the Direct Contracting Procurement Methodology to award a contract to International Finance Corporation, as lead Advisor. The Cabinet, by way of Cabinet Decision No. 20/11, approved the recommendation to engage International Finance Corporation.

A Memorandum of Understanding was signed between the Development Bank of Jamaica (DBJ) and the International Finance Corporation on March 29, 2011. DBJ advised the OCG, *inter alia*, that as at December 31, 2012 "Cabinet approved proceeding to Phase 1, Transaction Structuring and Due Diligence in November 2012. The International Finance Corporation and the team of consultants (legal, technical, audit, and communications) have been undertaking due diligence since November 2012...The Airports Authority of Jamaica (AAJ) have been providing information requested for the consultant's due diligence assessment including arranging meetings where required."

The OCG will continue to monitor the divestment opportunity.

Reference No.	AD-15912	Ministry	Ministry of Transport, Works and Housing
Asset being Divested	Divestment of Jamaica Mortgage Bank	Location	Kingston
Divesting Entity	Jamaica Mortgage Bank	Date Advertised	0000-00-00
Valuation Sum		Sale Price	
Date of Executed Agreement of Sale	0000-00-00	Purchaser	
Secretariat		Consultant	
Status			

By way of a letter from the Cabinet Secretary which was dated February 16, 2010, the OCG was advised that the referenced property was slated for divestment. The OCG subsequently requested a status on the progress of the divestment.

By way of a letter which was dated September 15, 2010, the then Ministry of Water and Housing advised, *inter alia*, that a "Proposal to divest the Jamaica Mortgage Bank was submitted to Cabinet, however to date a decision has not yet been taken."

The OCG subsequently evidenced a News Release which was published by the Jamaica Information Service on November 8, 2010, entitled "Cabinet approves Jamaica Mortgage Bank Divestment Plan". An Enterprise Team was established in November 2010. The Enterprise Team developed a Terms of Reference and a budget for the divestment of the bank.

In September 2011, the then Minister of Housing requested the dissolution of the Enterprise Team.

Subsequently, the OCG requested a Status Report on the divestment of the Jamaica Mortgage Bank, by way of a letter which was dated December 19, 2012. In responding to the OCG, the Jamaica Mortgage Bank advised that the "...current Minister with responsibility for Housing, The Hon. Dr. Morais Guy, has verbally indicated that the New Administration would not be perusing the divestment of the Jamaica Mortgage Bank."

Reference No.	AD-16012	Ministry	Ministry of Transport, Works and Housing
Asset being Divested	Privatisation of the Jamaica Railway Corporation	Location	
Divesting Entity	Ministry of Transport, Works and Housing	Date Advertised	0000-00-00
Valuation Sum		Sale Price	
Date of Executed Agreement of Sale	0000-00-00	Purchaser	
Secretariat	Development Bank of Jamaica	Consultant	
Status			

On September 15, 2010, an advertisement inviting Expressions of Interest to Finance, Build and Operate the railway system was placed in the local print media. The project was subsequently withdrawn. Please see pages 78-80 of the 2010 Annual Report for details regarding same.

Plans were subsequently announced regarding the rehabilitation and the restart of the railway system on specific routes. Further, a limited passenger train service between Linstead and Spanish Town was introduced on July 4, 2011, but was discontinued in 2012.

In response to a requisition which was made by the OCG, the Ministry of Transport, Works and Housing (MTWH), by way of a letter which was dated September 12, 2012, advised, *inter alia*, that "Cabinet Decision No. 27/12 dated July 23, 2012 gave approval for the establishment of an Enterprise Team to oversee the continued pursuit of the privatization of the railway services by the MTWH, supported by the Development Bank of Jamaica."

The OCG made note of a Media Release which was dated November 1, 2012, that was posted on the Jamaica Information Service website and which was entitled "House Approves \$1.8 Billion Withdrawal from Capital Development Fund". In making reference to this article, the OCG, by way of a letter which was dated November 8, 2012, requested an update on the matter.

The MTWH responded to the OCG, by way of a letter which was dated November 23, 2012, advising, *inter alia*, that "Reference is made to the Media Release dated November 1, 2012...which states \$17.5 million has been allocated for a viability study and valuation works ... Kindly note that the above amount does not refer to additional expenditure but to amounts owing for studies previously conducted."

In said letter, the Ministry also advised that the assets to be privatised include; rail lines, central workshop facility; locomotives, passenger cars, freight cars and track maintenance machinery which are old and obsolete.

Subsequently, in a Status Report to the OCG, the Ministry advised, *Inter alia*, that the "... Ministry of Transport, Works and Housing (MTWH) has embarked on a number of initiatives to advance the development of a viable transaction to effect the privatisation of the rail services:

1. *Development of a Squatter Management Strategy*
2. *Identification and titling of all JRC lands*
3. *Identifying and managing labour relations and attendant issues*
4. *Determining the regulatory Framework*
5. *Procurement and Engagement of Strategic Consultant*

As at December 31, 2012, the MTWH was working on implementing its aforementioned initiatives.

Reference No.	AD-16022	Ministry	Ministry of Transport, Works and Housing
Asset being Divested	Proposed Vernamfield Aerodrome Project	Location	Clarendon
Divesting Entity	Ministry of Transport, Works and Housing	Date Advertised	0000-00-00
Valuation Sum		Sale Price	
Date of Executed Agreement of Sale	0000-00-00	Purchaser	
Secretariat		Consultant	
Status			

The OCG commenced monitoring of the proposed development of the Vernamfield Aerodrome in October 2007.

The OCG notes that the proposed Vernamfield Aerodrome Project is a Public/Private Sector initiative between the Government of Jamaica through the Port Authority of Jamaica and a local private developer. The project is aimed at strengthening the aviation industry by providing aviation training, air cargo, warehousing, logistics, maintenance and general aviation services.

The OCG, by way of a letter which was dated December 19, 2012, requested a Status Update from the Ministry of Transport Works and Housing on the developments of the project during the year 2012. The Ministry responded to the OCG advising, *inter alia*, that "There was little progress on the project during 2012...There was an interruption in the progress of the Project, pending an indication as to the GOJ's position on the issue. The Ministry has subsequently contacted the developer with a view to completing the negotiation of a Draft Term Sheet that will govern a joint Venture Company to be established to undertake the development."

The OCG will continue to monitor the process.

Reference No.	AD-15952	Ministry	Office of the Prime Minister
Asset being Divested	Sale of Coastal Interceptor Boats	Location	
Divesting Entity	Jamaica Defence Force	Date Advertised	2012-09-09
Valuation Sum		Sale Price	
Date of Executed Agreement of Sale	0000-00-00	Purchaser	
Secretariat		Consultant	
Status	Aborted		
<p>An Invitation to Bid for the sale of three (3) forty four (44) Foot Coastal Interceptor Boats was advertised in the print media on September 9, 2012. Bids were to be submitted by September 28, 2012, however, the deadline for the submission of bids was extended to October 4, 2012. At the close of the stipulated period, only one (1) offer to purchase was received.</p> <p>The Jamaica Defence Force (JDF) did not accept the offer as the offer price was significantly below the reserve value of the boats.</p> <p>In a Status Report to the OCG, the JDF advised that "...further dialogue will be conducted between the Ministry of Finance and the JDF to determine other disposal options."</p>			

Reference No.	AD-15982	Ministry	Office of the Prime Minister
Asset being Divested	Sale of Apartment G101, Seawind on the Bay, Montego Freeport	Location	St. James
Divesting Entity	Montego Freeport Limited	Date Advertised	2012-11-25
Valuation Sum		Sale Price	
Date of Executed Agreement of Sale	0000-00-00	Purchaser	
Secretariat		Consultant	
Status			
<p>An Invitation for Bid for the sale of Apartment G101 Seawind on the Bay, Montego Freeport, St. James, was advertised in the print media on November 25, 2012. Bids were to be submitted by December 12, 2012. Two (2) bids were received.</p> <p>The bids were evaluated and the Bidder receiving the highest evaluation score was recommended for the sale.</p> <p>As at December 31, 2012, Montego Freeport Limited was to enter into negotiations with the preferred Bidder.</p>			

Reference No.	AD-15972	Ministry	Office of the Prime Minister
Asset being Divested	Sale of Shop 34, Montego Freeport Shopping Centre	Location	St. James
Divesting Entity	Montego Freeport Limited	Date Advertised	2012-11-25
Valuation Sum		Sale Price	
Date of Executed Agreement of Sale	0000-00-00	Purchaser	
Secretariat		Consultant	
Status			
<p>An Invitation for Bids was advertised on November 25, 2012. Bids were to be submitted by December 12, 2012. No bid was received at the time of closing.</p>			

Reference No.	AD-15782	Ministry	Office of the Prime Minister
Asset being Divested	Sale of Shop 42a, Montego Freeport Shopping Centre, Montego Bay	Location	St. James
Divesting Entity	Montego Freeport Limited	Date Advertised	2012-08-12
Valuation Sum		Sale Price	
Date of Executed Agreement of Sale	0000-00-00	Purchaser	
Secretariat	Montego Freeport Limited	Consultant	
Status	Terminated		
<p>The sale of Shop 42a, Montego Freeport Shopping Centre, Montego Bay, St. James was advertised in the print media on August 12, 2012. Bids were to be submitted by August 27, 2012 and opened on the same day. No bids were received.</p> <p>As at December 31, 2012, was not divested.</p>			

Reference No.	AD-15802	Ministry	Office of the Prime Minister
Asset being Divested	50% Shareholding in Bloody Bay Hotel Development	Location	Hanover
Divesting Entity	Urban Development Corporation	Date Advertised	0000-00-00
Valuation Sum		Sale Price	US\$11,253,197.86
Date of Executed Agreement of Sale	0000-00-00	Purchaser	Village Resorts Limited (VRL)
Secretariat	Development Bank of Jamaica	Consultant	
Status	Divestment in Progress		

The Pre-Divestment activities for the sale of the Urban Development Corporation 50% shares in Bloody Bay Hotel Development Limited, began in December 2010 with the execution of a Consultant Contract with Deloitte Touche and Tohmatsu. Bloody Bay Hotel Development Limited operates the Breezes Grand Resort & Spa Hotel in Negril, Hanover. Bloody Bay Hotel Development Limited is owned equally by Village Resorts Limited and the Urban Development Corporation. The Articles of Association of Bloody Bay Hotel Development Limited allows pre-emptive rights to existing shareholders on transfer of shares. In this regard, sale to a third party can only occur after the shares are first offered to Village Resorts Limited.

In a Status Report to the OCG, which was dated July 7, 2011, the Development Bank of Jamaica (DBJ) advised, *inter alia*, that "Based on the valuation report prepared by Deloitte & Touche Tohmatsu (DTT) dated February 17, 2011, the value of the GOJ 50% shareholding in Bloody Bay Hotel Developments Limited is US\$9.37M (without minority discount)." (See page 187 of the 2011 Annual Report for full details).

Further to the recommendation of the OCG that more than one valuation be obtained in keeping with Ministry Paper #34, a second valuation of the property was commissioned and Ernst & Young Services Limited was engaged in November 2012. Valuation Analysis which was dated December 31, 2012, and which was prepared by Ernst & Young indicated, *inter alia*, that the "...adjusted net asset method assumes that the purchaser will be unencumbered by the current lease arrangement. This scenario is from the perspective of the purchaser being VRL or the case of a joint sale (VRL & UDC) to a third party. In this case, the value of UDC's 50% shareholding would be \$1.2b or US\$13.5m."

In a Status Report to the OCG, the DBJ advised that "In December 2012 the UDC Enterprise Team (UDCET) approved the sale of the UDC's 50% shareholding in BBHDL to VRL for gross proceeds of US\$11,253,197.86. On 19 December 2012 the UDC Board approved the disposal of its 50% shareholding in BBHDL to VRL, in exercise of their pre-emptive right, for a consideration (aggregate proceeds) of US\$11,253,197.86, provided that the UDC's special condition regarding re-transfer rights is preserved in any subsequent sale by VRL of the real estate."

As at December 31, 2012, submission to the Cabinet for its approval was pending.

Reference No.	AD-16032	Ministry	Office of the Prime Minister
Asset being Divested	Lease of Government of Jamaica-Owned Beachfront Properties	Location	Multiple Parishes
Divesting Entity	Urban Development Corporation	Date Advertised	2012-11-28
Valuation Sum		Sale Price	
Date of Executed Agreement of Sale	0000-00-00	Purchaser	
Secretariat	Urban Development Corporation	Consultant	
Status	Deadline for submission pending		

A Request for Expressions of Interest was advertised in the print media on November 28, 2012, for the lease of Government of Jamaica owned beachfront properties for four (4) locations:

1. Fort Clarence Beach Pak, St. Catherine;
2. Long Bay Beach Park 1, Westmoreland/Hanover;
3. Bluefields Beach Park, Westmoreland; and
4. Long Bay Beach Park 2, Portland;

Written Expressions of Interest were to be submitted by December 19, 2012.

The date for submission was subsequently extended to January 16, 2013.

The OCG will continue to monitor the process.

Reference No.	AD-15792	Ministry	Office of the Prime Minister
Asset being Divested	Sale of Machado Complex	Location	Kingston
Divesting Entity	Urban Development Corporation	Date Advertised	2012-06-17
Valuation Sum		Sale Price	
Date of Executed Agreement of Sale	0000-00-00	Purchaser	
Secretariat	Urban Development Corporation	Consultant	
Status	Project Ongoing		
<p>The sale of the Machado Complex was advertised in the print media on June 17, 2012. Offers were opened and evaluated on July 9, 2012. Two (2) offers were received. Subsequent to the evaluation of the bids, the higher scored Bidder was recommended for the sale of the property. The Board approved the sale.</p> <p>In a subsequent Status Report to OCG, the Urban Development Corporation (UDC) advised that "...before the Prime Minister's non-objection could be sought the Ministry of Education expressed an interest in acquiring the property."</p> <p>Negotiations have subsequently been taking place with the Ministry of Education (MOE), through the HEART Trust/NTA, which offered to buy the property on behalf of the Ministry.</p> <p>As at December 31, 2012, the UDC was still in dialogue with the MOE.</p>			

Reference No.	AD-16042	Ministry	Office of the Prime Minister
Asset being Divested	Sale of Mahogany Inn	Location	Westmoreland/Hanover
Divesting Entity	Urban Development Corporation	Date Advertised	2012-06-17
Valuation Sum		Sale Price	
Date of Executed Agreement of Sale	0000-00-00	Purchaser	
Secretariat	Urban Development Corporation	Consultant	
Status	Awaiting requisite approvals		
<p>The OCG notes that the Urban Development Corporation (UDC) advertised the sale of the Mahogany Inn property on several occasions. An offer was made in May 2011, however, the party subsequently withdrew its interest, as was reported on page 190 of the OCG's 2011 Annual Report.</p> <p>On June 17, 2012, the sale of the property was re-advertised in the print media. Proposals for the purchase of the property were to be submitted by July 6, 2012. One (1) bid was received, reviewed and forwarded to the UDC's Planning and Development Committee for consideration. Documentation received from the UDC indicates that the Board approved the price for the sale of the property on July 18, 2012, subject to conditions outlined by the Planning & Development Committee, which were:</p> <ol style="list-style-type: none"> 1. Opinion of Valuation from the two previous valuers; 2. Submission of a current development plan from the Bidder; and 3. A letter of commitment for purchase price. <p>In light of the foregoing, the UDC sought and commissioned updated Valuation Reports in August 2012.</p> <p>The OCG notes that a non-objection was sought from the Office of the Prime Minister on September 3, 2012; however, this was withdrawn based on the conditions outlined by the Planning & Development Committee. The revised valuations were received in October 2012.</p> <p>The matter was re-submitted to the Board of Directors. As at December 31, 2012, the approval process was ongoing.</p>			

Reference No.	AD-15942	Ministry	Office of the Prime Minister
Asset being Divested	Sale of the Forum Hotel Complex	Location	St. Catherine
Divesting Entity	Urban Development Corporation	Date Advertised	2012-05-27
Valuation Sum		Sale Price	
Date of Executed Agreement of Sale	0000-00-00	Purchaser	
Secretariat	Urban Development Corporation	Consultant	
Status	Divestment in progress		
<p>The divestment opportunity was originally advertised in 2009, 2010 and 2011. However, no favourable offer was received.</p> <p>The divestment of the Forum Hotel was re-advertised in the print media on May 27, 2012, which stated a deadline date of June 12, 2012, for the submission of proposals. Four (4) offers were received. An evaluation was conducted and the preferred proposal was recommended for the sale of the Forum Hotel.</p> <p>The Board subsequently approved the recommendation for the sale on June 20, 2012.</p> <p>As at December 31, 2012, the Urban Development Corporation was awaiting the non-objection of the Office of the Prime Minister to proceed with the sale.</p>			

Reference No.	AD-15932	Ministry	Office of the Prime Minister
Asset being Divested	Sale of the Oceana Hotel Complex	Location	Kingston
Divesting Entity	Urban Development Corporation	Date Advertised	2012-06-10
Valuation Sum	J\$380 - J\$400 Million	Sale Price	J\$350 Million
Date of Executed Agreement of Sale	0000-00-00	Purchaser	National Health Fund
Secretariat	Urban Development Corporation	Consultant	
Status	Divestment in progress		
<p>The divestment opportunity was advertised in 2010. One (1) offer to purchase was received. However, by way of a letter which was dated October 12, 2010, the Urban Development Corporation (UDC) advised the OCG that the "...company's bid was deemed non-responsive, as the offer did not meet all the requirements as stipulated in the information package provided to potential buyers."</p> <p>A copy of the Information Package and Valuation Reports were submitted to the OCG on June 9, 2011.</p> <p>Subsequently, in a Status Report to the OCG, which was dated October 5, 2011, the UDC advised that an offer was made to purchase the hotel in December 2010, but the price was significantly below the market value. The UDC also advised that the property was advertised on several occasions but no serious offers were made.</p> <p>The divestment opportunity was re-advertised in the print media on June 10, 2012. The OCG, by way of a letter which was dated June 19, 2012, requested a copy of the Information Package and the Valuation Report. An updated Information Package and Valuation Report, was submitted to the OCG on July 10, 2012.</p> <p>The National Health Fund (NHF) expressed an interest. This expression of interest was followed by a letter which was dated November 29, 2012, with an offer price of J\$350 million. The OCG evidenced that the Board of Directors of the UDC approved the sale of the Oceana Hotel Complex to the NHF on December 5, 2012, at a purchase price of J\$350 million.</p> <p>As at December 31, 2012, the Minister's non-objection to the sale was pending.</p> <p>The OCG will continue to monitor the process.</p>			

ENQUIRY MANAGEMENT

An enquiry may be initiated, by the OCG, in relation to, and/or precipitated by, Media Releases and/or news item(s), the receipt of written and/or verbal complaint, or any other intelligence that may be garnered by the OCG in relation to Government contracts, prescribed licences and the divestment of state assets.

Accordingly, the Contractor-General, pursuant to Sections 4 and 15 of the Contractor-General Act, is empowered to conduct a formal enquiry into any matter, if it is deemed necessary.

In this regard, the OCG had established an Enquiry Management Portfolio, which ensures the assignment and effective utilisation of resources to review every complaint and concerns in an efficient manner.

During the 2012 calendar year, a total of one hundred and four (104) allegations were reviewed and/or enquired into under the Enquiry Management Portfolio. The referenced allegations alluded, *inter alia*, to, (a) breaches of the GOJ Procurement Procedures, (b) improper tender processes, (c) irregularities in the award and implementation of contracts, (d) contract payment discrepancies, (e) questionable grants of prescribed licences, (f) improper and irregular divestment of State Assets and (g) improper and irregular divestment of Government-owned lands.

The following is a representation of the status of the allegations which were reviewed under the Enquiry Management Portfolio, during the reporting period:

Enquiry Status	Number
Total Enquiries which were concluded in 2012	29
➤ Enquiries completed and findings communicated	25
➤ Enquires for which the allegations were outside of the OCG's jurisdiction	2
➤ Enquiries which were referred to the OCG's Special Investigations Unit for further investigation	2
Enquiries which are ongoing	58
Aborted/On hold	17

The following is a list of ongoing OCG Enquiries:

1. Complaint regarding Purchase of Equipment by the Accountant General's Department;
2. Complaint regarding Execution of the Colbeck Water Supply Scheme Pipeline Project by the Rural Water Supply Limited;
3. Double payments to Contractor for Flood Damage Project by the National Works Agency;
4. Discrepancy regarding Drain Cleaning in Borobridge by the St. Ann Parish Council;
5. Complaint regarding Issuance of Contract along the Elegant Corridor, St. James by the Tourism Enhancement Fund;
6. Allegation regarding Improper Contract Award to NWD Construction by Fiscal Services Ltd.;
7. Complaint regarding Overspending on St. Mary Fire Station Fence Contract by the Jamaica Fire Brigade;
8. Complaint regarding Contractual Arrangements at the Edith Dalton James High School;
9. Allegation of Contracts Awarded to National Works Agency Parish Manager;
10. Enquiry into the Completion of Road Works by the National Works Agency from Anchovy to Lethe Main Road in St. James;
11. Enquiry into the Award of Consultancy Contract by the Bank of Jamaica for Building Remedial Works;
12. Allegations regarding Caribbean Aerospace College and the Jamaica Civil Aviation Authority;
13. Conflict of Interest regarding the Contractor for Crocodile Swamp Safari and the Chairman of the Board of Tourism Product Development Company (TPDCo.);

14. Complaint of Contract Mismanagement leveled against the University Hospital of the West Indies in the Procurement of a Water Tank;
15. Potential Conflict of Interest - Enterprise Technology International and the Jamaica Constabulary Force;
16. Procedures surrounding Security Services Contract for Factories Corporation of Jamaica;
17. Clean-up Exercise Molynes Gardens Area by the National Solid Waste Management Authority;
18. Road Works on Waugh Hill Road Project - St. Catherine Parish Council;
19. Enquiry into Complaint regarding the Petrojam Dock Building Project;
20. Enquiry into Contract Procedures at the Bellevue Hospital (Client Support Group) and the Ministry of Health;
21. Enquiry into the Memorandum of Understanding (MOU) between the Bureau of Standards Jamaica and the Scientific Research Council;
22. National Works Agency Traffic Lights;
23. Commercial Activities by Novel Direction Company Limited at the Ocho Rios Cruise Ship Terminal;
24. Breaches at Urban Development Corporation related to the Award of Contracts;
25. Award of Contracts for the Removal of Un-Useable Railway Inventories by the Jamaica Railway Corporation;
26. Award of Contract for the Procurement of 3-Ton Crane Trucks to Stewarts Industrial by the National Water Commission;
27. Enquiry into Contracts for the Provision of Identification Cards and/or Photographic Services by the Ministry of Labour and Social Security;
28. Repairs to Courthouse in Lucea, Hanover by the Ministry of Justice;
29. Tender for the Longville Water Supply, Drilling of a Replacement Well at New Bowens-Clarendon by the National Housing Trust;
30. Contract Irregularities at the Petroleum Company of Jamaica;
31. Sale of Little Bloody Bay by the Urban Development Corporation;
32. Enquiry into Security Contracts/Irregularities at the Transport Authority of Jamaica;
33. Arrangement between KES Development Company Limited and the Post and Telecommunications Department;
34. Allegations of persons being offered Concessions for the Purchase of Vehicles that should have been used for Election purposes;
35. JA\$100M Refurbishing of NWA Office with JDIP Funds - National Works Agency;
36. J\$62 Million to Purchase Office Furniture - National Works Agency (NWA);

37. Allegations of possible circumvention of Procurement Procedures in the Purchase of several items by the Jamaica Civil Aviation Authority;
38. Allegation that Preferred Bidder was Non-responsive - HEART Trust/Security Services;
39. Enquiry regarding use of CDF allocations to Community Center at Cross Key Community Centre;
40. Complaint against the Impending Sale of Lot 312, Hague, Falmouth;
41. Enquiry into Contracts Awarded for the North Gully Sewer Project by the National Water Commission;
42. Continuous Awarding of Contract to one Contractor by the Jamaica Foundation for Life Long Learning;
43. Allegations into Award of Contracts to Computer King Limited by the Universal Access Fund;
44. Procedures surrounding Insurance Placement Tender Process at the Port Authority of Jamaica;
45. Allegations regarding Disclosure of Bidder's Information related to Web Based Monitoring System for School Feeding Programme Tender - Ministry of Education;
46. Allegations regarding Tender Process for Solid State Water Meter by the National Water Commission;
47. Use of Private Ambulance by the North East Regional Health Authority;
48. Supply of Uniforms by the National Housing Trust;
49. Award of Contracts to Maritime Towing by the Port Authority of Jamaica;
50. Award of Contracts to Pryce Construction by the Manchester Parish Council;
51. Award of Contracts to Teape Johnston & Associates by the Ministry of Education;
52. Tender procedures surrounding Two Towers - Jamaica Civil Aviation Authority;
53. Allegations regarding Use of CDF Funds by MP for South East St. Andrew;
54. Concession Agreements for In-Bond Duty and Inbound Liquor Store in Arrival Lounge at the Norman Manley International Airport;
55. Irregularities in the Award of Contracts regarding Caymanas Economic Zone by the Factories Corporation of Jamaica;
56. Project Renovation Works at the Buff Bay Tax Office by the Tax Administration Jamaica;
57. Allegations regarding Conflict of Interest in the Award of Contracts to G'of & Company Limited by the Ministry of National Security;
58. National Solid Waste Management Authority – Security Services.

Summary of Enquiries Completed and Findings communicated

Ministry/Agency: Broadcasting Commission

Summary of Complaint

Cornwall Communications Limited was operating contrary to the provisions of its Subscriber Television Licence by not complying with the requirement to provide service to "... 70% of the household it serves within 12 months of the date the licence is renewed." The Zones in question were Savanna-la-Mar and Dunbar's Corner.

Summary Findings & Recommendations

The OCG has concluded its review of the documents which were submitted by the Broadcasting Commission, and posits the following:

1. Cornwall Communications Limited operated in breach of the conditions of its licence, dated March 14, 2006, specifically, the requirement to provide service to a minimum of 70% of households, within 12 months of the renewal of its licence for the Savanna-la-mar Zone. Further, as per the Broadcasting Commission's letter of May 20, 2010, Cornwall Communications Limited was given a deadline of June 2010 to commence service in said zone. The OCG was not provided with documentation to indicate that this deadline was adhered to.
2. The Broadcasting Commission renewed Cornwall Communications Limited's licence to operate in the Dunbar Corner Zone on July 23, 2010. This is against the background that the Broadcasting Commission had documented that Cornwall Communications Limited was not operating in the zone prior to this renewal.

Cornwall Communications Limited was also given a deadline of June 2010 to commence service in the zone. The OCG was not provided with documentation to indicate that this deadline was adhered to prior to the licence being renewed.

3. Reference is made to the Broadcasting Commission's letter dated July 15, 2009, to the Minister without Portfolio, which, *inter alia*, listed Cornwall Communications Limited as one (1) of four (4) licensees who had not breached any technical standards. However, the OCG has in its possession a letter from the Broadcasting Commission dated January 15, 2009, to Cornwall Communications Limited, which was entitled "*Notice of Breach of Licence – Technical Standards*", which indicated various areas of non-compliance with the Television and Sound Broadcasting Regulations, 1996.

In the circumstances, the OCG has found, *prima facie*, that the aforementioned assertion in the referenced letter which was dated July 15, 2009, was contrary to other correspondence reviewed.

4. Among the breaches/alleged breaches/areas of non-compliance committed by Cornwall Communications which were noted based upon documentation reviewed were; leakage of signal, failure to operate in zones, failure to submit information to the Commission within the stipulated time period and failure to pay licence fees within the requisite time period.

The OCG is therefore of the considered opinion that:

- a) Cornwall Communications Limited's licence to operate in the Dunbar Corner Zone should not have been renewed given the Company's failure to supply the requisite service to said zone in the past; and

- b) With regard to Cornwall Communications Limited's licence to operate in the Savanna-la-mar Zone, sanctions should have been taken against the Operator since it failed to adhere to the stipulations of said licence.

Given the time which has elapsed since the commencement of this review, the OCG is uncertain whether the issues which were raised have been fully resolved. While the OCG has evidenced that the Commission had been active in its monitoring of the breaches identified, as it relates to this Licensee, the Office is of the view that a situation where breaches are allowed to persist over an extended period of time creates an environment of real or perceived favouritism and partiality. Furthermore, the Commission, by licensing a provider who has consistently failed to provide the requisite service, does a disservice to the residents living within the assigned zone.

Ministry/Agency: Ministry of Agriculture and Fisheries

Summary of Complaint

A complaint was received by way of a letter which was dated February 18, 2011, which stated, *inter alia*, that "We are instructed by ALQUIP Agricultural Equipment Supply Inc. an American based agricultural equipment supplier, to raise a formal complaint and to request an investigation into the procurement and tendering practices adopted by the Sugar Industry Research Institute (SIRI) and the Sugar Industry Authority (SIA) for the supply of parts for equipments used in the Jamaican sugar industry."

The letter further stated that "Our client has had a contractual relationship with SIRI/SIA for over five years. ALQUIP for the most part would respond to invitations to tender mainly supplying spare parts and equipment for use in the Jamaican sugar industry. Recently, it came to our client's attention that the bidding process has been skewed in favour of one of their main competitors" and went on to levy allegations regarding incidences of collusion, disclosure of confidential information and other breaches of the Government procurement guidelines.

The letter also stated that "...On behalf of our client we therefore request that the Office of the Contractor-General investigates the SIRI/SIA procurement and tendering practices in relation to the supply of spare parts and equipments used in the Jamaican sugar industry during the period 2005 to 2011. "

Summary of Findings, Conclusion & Recommendations

General Procurement Related Findings

The OCG has observed the following regarding the procurement of spare parts and equipment:-

1. Based upon the interviews which were conducted and the documents which were reviewed, it appears that the complaint was in specific reference to the procurement of items related to the maintenance/functioning of the Core Sampler.
2. The procedures which were followed regarding the procurement of spare parts and equipment for the maintenance of Core Samplers, during the stated period, did not adhere to the relevant procurement procedures which were established by the Government of Jamaica. Among the breaches/deficiencies which were observed by the OCG during the referenced period were:
 - a. There was no documentation to indicate that clear instructions, inclusive of the preparation of Tender Documents, were done to guide the tender process. The OCG observed where an email and/or fax of a cover letter, with an attached list of items, would have been sent to the prospective Bidders requesting quotations for certain items.

- b. There were no established deadlines for the return of bids requested by the Institute. Consequently, bids for similar products, and in response to similar requisitions, were not all received at the same time.
3. The OCG found that for the majority of the procurement related activities which occurred during this period, the Limited Tender Procurement Methodology was utilised. It appears, however, that only two (2) companies, Alquip Agricultural Equipment Supply Inc. (Alquip) and Machinery & Parts Export, LLC (Mapex), were requested to provide quotations on a consistent basis.

The procurement guidelines, applicable at the time, required that quotations be requested from a minimum of three (3) Contractors when the Limited Tender Procurement Methodology is utilised.

4. There were no designated, and/or clearly defined roles within the procurement process, with regard to the separation of duties/functions, which would have allowed for a transparent process. The OCG observed that in some instances, the person who requested the quotation, received and evaluated same, and made the recommendation for the award of contract.
5. The OCG has found that there was poor record keeping on the part of the SIRI, as the OCG was unable to locate all the bids/quotes which were received, inclusive of requisite documentation relative to the procurements which were undertaken.
6. With reference to the OCG Quarterly Contract Award (QCA) Reporting regime, the Office did not find that information regarding the award of contracts for the supply of spare parts and equipment for the Core Samplers were reported to the OCG. The requisite threshold for contract reporting were \$250,000 - \$4,000,000, between the period April 2006 – September 2008, and J\$275,000 - J\$10,000,000.00, as at October 2008.

The OCG notes, however, that the SIRI, which has a direct reporting relationship to the Sugar Industry Authority, had not been formally requisitioned to provide QCA Reports to the Office.

Observations in the Ordering of Core Samplers 2005-2010

The OCG, in keeping with the Complaint which was received, sought to ascertain whether employees of SIRI involved in the procurement process had skewed same in the favour of a particular Contractor. In this regard, the OCG conducted a review of the prices which were submitted by Alquip and Mapex and the basis of the award of the contract.

2005

During 2005, it was noted that four (4) Purchase Orders were made out to Alquip for the supply of spare parts. Of this number, Alquip invoiced SIRI for all four (4) of the Purchase Orders. It was also observed that a Proforma Invoice, dated December 20, 2005, was submitted by Mapex. However, it was observed that the prices which were quoted by Mapex were higher than those quoted by Alquip, for similar items, by way of a Proforma Invoice, dated December 2, 2005.

Although Mapex submitted their quotation after ALQUIP's submission, it was noted that in all instances, the prices quoted by Alquip were lower than MAPEX's. The allegations, in this instance, would be unfounded, as based upon the accusation; the quotation of Mapex should have been lower, since it is alleged that the prices of Alquip have been leaked to Mapex.

It was also noted that four (4) purchases were made from Alquip whilst Mapex, though having submitted a Proforma Invoice, had not received any purchase/contract from SIRI for the year in question.

In all instances observed, the items that were invoiced by Alquip corresponded with the items which were requested by SIRI, by way of Purchase Order.

2006

For the items that both companies submitted quotes, it was observed that, in all instances, the unit prices of Mapex were marginally lower than those of Alquip. It was also observed that Mapex had received two (2) purchases in this year (2006), as opposed to the previous year (2005), when they received no purchase.

An observation was made as it relates to the dates of the Proforma Invoices submitted by Alquip and Mapex. Based on previous Invoices submitted by ALQUIP, it was observed that Alquip's Proforma Invoice was dated in June 2006, whilst Mapex's was dated August 2006. There is almost a two (2) month variance in the dates on which these quotations were submitted to SIRI. Given this occurrence, the situation lends itself to possible collusion between employee(s) within SIRI and Mapex as it relates to the pricing of quotes.

A further observation, and concern, is that there was no evidence of email requests, requisition forms and/or Purchase Orders in relation to the purchases of 2006. It therefore cannot be determined; (a) whether these goods were actually ordered, (b) the quantities ordered, (c) whether order(s) was/were sent to both suppliers and/or just one. Accordingly, the OCG was unable to make a determination regarding the price differentials, if any, between the companies for this year.

2007

Alquip submitted a total of three (3) invoices to SIRI during the year 2007. On the other hand, Mapex submitted one (1) invoice to SIRI in the corresponding year. No corresponding quotations were observed being received from either Mapex or Alquip. Accordingly, the OCG was unable to conduct a fulsome review of the price differentials between the companies for this year.

2008

Given that Alquip and Mapex quoted on and received orders for different items, no comparison of pricing could be made.

It was noted that the total payment of US\$16,170.06 to Mapex was less than the invoiced amount of US\$16,657.56, by an amount of US\$487.50. Upon scrutiny of the Invoice, it was observed that US\$487.50 is the unit price for Part #107244- Control Valve. It was noted that SIRI was invoiced for three (3) of these parts. No documentary evidence was observed which would suggest that one (1) of such item was not delivered and/or cancelled. It is therefore unclear as to why there is this difference between the amount invoiced and the amount paid.

2009

No quotation, correspondence or otherwise, was observed from Mapex in 2009. Therefore, a comparison of pricing cannot be made between Alquip and Mapex.

2010

During the year 2010, no Quotations and/or Purchase Orders for either company were evidenced during the OCG's Spot Audit conducted at SIRI,,however, documents submitted by the Complainant included Quotations from Alquip and a Purchase Order made out to Mapex. While the Quotation from Alquip priced each item, the Purchase Order to Mapex was supposedly for two (2) items quoted by Alquip, and did not have any price on same. Accordingly, the OCG was unable to undertake a price comparison based on the documents reviewed.

General Comments based on the Quotations received for the period

It was observed that in some instances the items quoted by Mapex were marginally lower in cost than Alquip. It was also noted that Mapex's quotation was received after that of Alquip's.

In the absence of established procedures for the submission of bids by a stated deadline, no definite conclusion could be made.

Observations of Possible Collusion in the awarding of contracts

Upon review of documentation obtained at SIRI, the OCG noted an undated fax from Alquip, addressed to Mr. A. Lyle, which was captioned 'Re: quotation – Core Sample Spares'. The referenced letter, which was signed 'received 10/15/10', stated, *inter alia*, that:

"As per our prior telephone conversation on April 9th, 2010 on the above matter: ALTHOUGH WE HAVE AN UNDERSTANDING THAT WE WOULD CUT YOU A PERSONAL CHECK FOR THE TEN PERCENT (10%) DISCOUNT WE OFFERED YOU FOR THE INSTITUTUE, YOU REQUESTED, we have not been able to reach you since.

As you are aware we are carrying a large stock for the Institute since your request of September 2008, which is an agreement..."

In a Report dated June 8, 2010, Mr. Lyle, while acknowledging receipt of the phone call and the promise of a 10% cut in a personal Cheque, deniedhaving an understanding with Mr. Martinez in this regard. The Report also stated that he brought the matter to the attention of the Administrative Manager at the SIRI.

Additionally, the OCG has noted a document entitled "*Meeting to Discuss A Letter from Dunn Cox Regarding Procurement of Core Sampler Spare Parts held on Friday May 14, 2010, at the Sugar Industry Authority, 5 Trevennion Park Road, at 10:00 a.m.*" Some pages of the referenced document were watermarked 'draft' and the document was not signed and/or stamped. Notwithstanding, the document seems to indicate that a meeting was held with representatives from SIA and SIRI with the purpose being "*...to review certain correspondence from Dunn Cox and ALQUIP regarding the procurement procedure that was followed by SIRI in placing orders for core sampler parts.*"

Based on this document, it would appear that the Management of SIA and SIRI were aware of and have held discussions regarding the allegations which were made against Mr. Lyle. Among other things, the document indicated that it was recommended that Mr. Lyle retain a lawyer to assist in the preparation of an appropriate response based on the allegations. The document also indicated that the Chairman of SIA questioned the legality of the actions taken by Alquip and stated that "*...he would also be contacting the SIA's lawyer because he needed to have several questions answered among them being whether a company that is offering bribes disqualifies them from dealing with the SIA.*"

The OCG also reviewed documentation which indicates that Mr. Lyle had taken steps to secure legal representation regarding the allegations which were made by Alquip, and has refuted claims that he had agreed to accept a kick back from that company. A letter dated May 17, 2010, which was addressed to Alquip from a Winston H. McFarlane, Attorney-at-Law, stated, *inter alia*, that “I act for Mr. Andrew Lyle an Engineer employed to the Sugar Industry Research Institute. We are in possession of an undated document from the Alquip Agricultural Equipment Supply Inc. suggesting that there was an understanding between Carlos Martinez and our client that “we would cut you a personal cheque for the ten percent (10%) discount”. I wish to categorically state that at no time did my client agree to accept any kick back from Alquip Agricultural Equipment Supply Inc., Carlos Martinez or any other individual or corporation.”

The OCG also reviewed other related documentation, inclusive of a letter which was dated November 12, 2009, from Mr. Lyle to the Director of Research at SIRI, which made reference to a telephone conversation on November 11, 2009, which Mr. Lyle received from Mr. Joshua Jaddoo, wherein Mr. Jaddoo reportedly made threats and alleged that Mr. Lyle was passing information to, and receiving kickbacks from, overseas suppliers of Core Samplers.

During separate interviews conducted with Mr. Lyle and Mr. Jaddoo, each person accused the other of collusion in the award process.

Staff Involvement in the Procurement Process 2005-2011

Information deduced from the interviews conducted with Mr. Joshua Jaddoo and Mr. Andrew Lyle, indicates that both Mr. Jaddoo and Mr. Lyle were involved in the requisition and evaluation processes, either collectively or individually, at different points in time. Prior to 2009, Mr. Lyle was primarily responsible for the requisitioning of documents, while Mr. Jaddoo would undertake the necessary evaluation of items requisitioned. Subsequent to Mr. Jaddoo’s departure from the SIRI, Mr. Lyle advised the OCG that he had become more involved in the procurement process, with his core responsibilities including requisitioning of quotations, monitoring of the receipt of quotations, assisting in the evaluation process, preparing the requisitions for purchase orders and ensuring the receipt of all the items requisitioned. Mr. Lyle, however, declared that he was never involved in the approval process.

The Government of Jamaica Handbook of Public Sector Procurement Procedures

The Handbook of Public Sector Procurement Procedures (May 2001) outlined the applicable procedures which should have been followed for the period up to late 2008 when the Handbook was revised. Accordingly, some of the procurement of spare parts would have fallen under this Handbook.

Accordingly, Section 6 of the Handbook outlines the Tendering Procedures which should be followed. Among the things which are outlined by this Section are:

- 6.1.17 – Tender Submissions – *“The detailed requirements for packaging of tenders should be set out... The precise location of the tender box or other arrangement together with the functional title of the officer responsible for receiving tenders should be stated...”*
- 6.1.18 – Deadline for Submission of Tenders – *“The deadline should be stated with the date and time clearly identifiable...”*
- 6.1.21 – Tender Opening – *“The location and time at which tenders will be opened should be stated. Normally this should be as soon after the time for tender closing as possible...”*

- 6.7.1 – (Receiving Tenders) Tender Box – *“Tenders should be deposited into a tender box. The box should ideally have a lockable posting slot so that no tenderer or other person may post a tender or other document into the box... The box should also have a lockable top so that documents may only be removed by the procurement planner or designated tender officer who holds the key...”*
- 6.7.3 – Tender Closing Time – *“Tenders should only be removed from the box in the presence of the Opening Committee... and at the time stated in the Instructions to Tenderers.”*

The subsequent revision(s) to the Handbook indicated the same or similar procedures.

GOJ Procurement Guidelines regarding Fraud and Corruption

Sub-section S-1050 (*Fraud and Corruption*), III (*General*), of the Handbook of Public Sector Procurement Procedures (November 2008) states that *“GOJ requires that all its employees and individuals engaged in any GOJ procurement process, as well as bidders/suppliers/contractors/consultants under the GOJ financed contracts observe the highest standard of ethics during the procurement and execution of such contracts. In pursuance of this policy, GOJ:*

d. Will declare a firm ineligible, either indefinitely or for a stated period of time, to be awarded a GOJ financed contract if it at any time determines that the firm has engaged in corrupt or fraudulent practices in competing for or in executing a contract.”

Clause (a) of the said section defines Corrupt Practice to mean *“the offering, giving, receiving or soliciting of anything of value to influence the action of a public official in the procurement process or in contract execution”*.

Alquip, it appears, had offered and/or agreed to provide a GOJ employee with a personal cheque equivalent to 10% of the value of items which were being procured, if that company was awarded the contract.

Other Observation – Supply of Core Sampler Spares

The OCG noted a copy of a letter dated February 21, 2011, from Dunn Cox to the Financial Administrator, at the Sugar Industry Authority. The letter stated, *inter alia*, that *“Our client has instructed us to write to you with respect to the supply of Core Sampler spare parts.*

By e-mail of October 8, 2008 SIRI asked ALQUIP to “maintain an adequate inventory of vital parts to expedite shipment when ordered”... As a result of the request ALQUIP agreed to source and hold stocks of Core Sampler spare parts on behalf of SIRI... Currently, ALQUIP holds stock in excess of US\$19,000 of Core Sampler spare parts on behalf of SIRI. These parts were procured specifically for the SIRI and cannot be used or sold elsewhere.

We therefore request that you make immediate arrangements to take delivery of this stock of spare parts and to settle the outstanding account.”

The OCG has noted the foregoing, however, the Office has not conducted a detailed review of this issue, and has not made a determination regarding the veracity of same and, as such, does not proffer an opinion regarding the implied legal obligation of the SIRI.

Conclusion

Based upon the foregoing findings, the OCG has found evidence that there were significant weaknesses in the application of the Government procurement procedures at the SIRI. Whether by design or based upon the general lack of knowledge regarding the proper procurement procedures, such practices had created an environment which is susceptible to corruption.

The OCG's enquiry has not been able to conclusively determine whether there was collusion on the part of any member of the SIRI staff, former or current. Notwithstanding, the OCG has secured sworn statements from Mr. Jaddoo and Mr. Lyle in which they have denied such behaviour.

The OCG has also noted that procurement breaches had occurred, in particular, that the procedures which were undertaken were not in keeping with the Handbook of Public Sector Procurement Procedures (May 2001).

The OCG notes that the SIRI had not been formally requisitioned to provide QCA reports to the OCG. Notwithstanding, and based upon this review, the OCG recognises that the SIRI has been undertaking its own procurement. Accordingly, and under separate cover, the OCG will be formally requisitioning the Ministry of Agriculture in order to ascertain whether the SIRI is authorised to undertake such activities, and accordingly, whether that Entity is to be requisitioned.

Recommendations

Having regard to the aforementioned Findings, the OCG now proffers the following recommendations and corrective actions:

1. **Training** - It is being recommended that all persons involved in the procurement process receive the requisite procurement training from the Ministry of Finance and Planning.
2. **Familiarisation with GOJ Procurement Procedures** - All persons involved in the procurement process should obtain a copy of and become familiar with the relevant provisions and stipulations of the GOJ Procurement Procedures, as reviewed from time to time by the Ministry of Finance and Planning.
3. **Separation of Functions** - It is essential, so as to promote and ensure transparency in the process, that there are clear separation of functions, i.e. persons involved in certain stages of the process should be clearly separated. Accordingly, for example, the person(s) who evaluate(s) a tender should not be involved in the approval process. Accordingly, Section 2, Volume 1 of the GOJ Handbook of Public Sector Procurement (October 2010) provides for, among other things, the separation of functions and the constitution of the Procurement Committee and the Evaluation Committee.
4. **Documentation** - it is imperative that the entire procurement process can be traced from inception to conclusion. Accordingly, proper record keeping and documentation is essential. This requirement is clearly stipulated by Appendix A8.22, Volume 2, GOJ Handbook of Public Sector Procurement.
5. **Internal Procedures** - For items/procurements that will be outside the remit of the GoJ Procurement Procedures, it is recommended that clear and documented internal procedures be established for the handling of same.

6. **Procurement Unit** - The OCG is of the opinion that, as far as is practical, to better control and execute procurement activities, a unit be established that has primary responsibility for the execution of all procurement related activities undertaken. In the absence of such a unit, it is recommended that procurement be undertaken by the parent Ministry. Please note that the Evaluation and Procurement Committees should be external to such a unit.

Ministry/Agency: Jamaica Urban Transit Company (JUTC)

Summary of Complaint

The OCG received a Complaint from a concerned citizen, regarding alleged impropriety in the purchase of spare parts and equipment at the JUTC. The complaint stated, *inter alia*, the following:

"...a lot of purchases for spare parts and other equipment is [sic] being funneled through one company. The owner of this company is the wife of an employee of the JUTC. I think that employee also has some ties with the Transport Authority"

Summary of Findings, Conclusion & Recommendations

1. Mr. Arthur McKenley has declared, in his response to the OCG, that he was appointed as General Manager of the JUTC Operations at the Half Way Tree Transport Centre on July 1, 2008, with the primary responsibility of managing the operations of JUTC buses routed through the Transport Centre. Mr. McKenley has also declared that *"As General Manager of the JUTC, HWT Transport Center, I have no involvement in the company's procurement process nor sit on any committee with any such responsibility."*
2. Mr. McKenley is a Board Member of Balmoral Automotive Manufacturing Limited. In his response to the OCG, Mr. McKenley had declared that he is a principal shareholder of the company which previously traded as Brakesman Limited.
3. A review of the JUTC's Quarterly Contracts Award (QCA) Reports revealed that during the period **May 2006 to December 2009**, the JUTC reported over nine hundred (900) contracts. Of the total contracts reported, and based upon the contract description, it appears that over seven hundred (700) were reported as contracts for spare parts and other equipment.
4. Based upon a narrowed search of the QCA Reports, for items specific to spare parts, it was revealed that contracts totalling \$175,467,566.00 was awarded to various Contractors. Of the total contracts awarded, the majority of contracts were awarded to Volvo *et al*. The total contracts awarded to Balmoral Automotive Manufacturing Limited was \$3,102,999.00, and accounted for 1.77% of the overall total. The total contract award of \$3,102,999.00 is disaggregated as follows:
 - June 15, 2006 in the amount of \$1,400,000.00 for the supply of bus brake lining;
 - November 20, 2006 in the amount of \$478,000.00 for the supply of bus brake lining;
 - May 24, 2007 in the amount of \$749,999.00 for bus brake lining; and
 - May 21, 2008 in the amount of \$475,000.00 (no description stated).

No contract award to Balmoral Automotive Manufacturing Limited, for the period January 1, 2010 to February 28, 2010, was reported by the JUTC.

5. The OCG has evidenced a letter which was dated March 2, 2010, from Arthur McKenley to the then Managing Director of JUTC, Mr. Paul Abrahams, wherein an interest in Balmoral Automotive Manufacturing Limited was declared. The letter stated, *inter alia*, “Please be advised of my status as Chairman of the Board of Directors of Smart Information and Security Systems Limited (SISS)...and Balmoral Automotive Manufacturing Company Limited...This declaration is necessary as these companies seek to do business with the Jamaica Urban Transit Company (JUTC) while I am in your employ as General Manager of the Half-Way-Tree Transport Centre.”

In response, the OCG evidenced a letter from Mr. Paul Abrahams to Arthur McKenley, which was dated June 29, 2010, advising that “Given the social environment within which the Jamaican Public Sector operates, and the potential for accusation of procurement breaches; the Board of Directors was asked to consider whether the JUTC should conduct business with Balmoral Automotive MFG Co. Ltd.

The Board considered the recommendation of the Internal Procurement Committee at its 100th meeting and decided that where the good or service to be procured will be by way of sole source or where there are only two suppliers, Balmoral Automotive should not be considered as a prospective supplier. However, where the goods or services to be procured is by way of open tender, if Balmoral automotive submits a bid/quote the normal procurement procedure should apply.”

Conclusion

Mr. Arthur McKenley was affiliated with the company Balmoral Automotive Manufacturing Company Limited while employed to the JUTC. The OCG has evidenced where Mr. Mckenley had submitted a written declaration disclosing his interest in said company to the Management of the JUTC.

During the period which was reviewed, May 2006 – December 2009, the OCG evidenced where the JUTC had reported on its QCA Reports that four (4) contracts had been awarded to Balmoral Automotive Manufacturing Company Limited. These contracts, however, predated the appointment of Mr. McKenley as the General Manager of JUTC Operations, HWT Transport Centre Operations.

Accordingly, there is no evidence to support the allegation that purchases of spare parts were being funneled through Balmoral Automotive Manufacturing Company Limited.

Ministry/Agency: National Housing Trust (NHT)

Summary of Complaint

The OCG received a Complaint which revealed, *inter alia*, as follows:

“...On May 26, 2011...submitted a proposal in response to the NHT’s Tender for Printing and Data Capture services for the 2011 Housing Demand Surveys. We were not invited to the bid opening...”

We were told on more than one occasion that the evaluation process is in progress and we would be informed of the outcome. On July 18, 2011 we received a letter advising that we were unsuccessful in our bid because we failed to seal and mark the proposal as instructed and in accordance with Section 6.4 which states this clause as sufficient reason for the NHT to disqualify the bid...

We are concerned about the transparency of the process given the reason for disqualification and would have expected to be informed at, or soon after the time of opening, and also to have had the tender package returned to us at that time”

Summary of Findings, Conclusion & Recommendation

1. The bid submitted by DPK Information Systems Limited was not marked and sealed in accordance with Clause 18.1 of the Bidding Document which states, *inter alia*, that:

“The Technical and Financial proposals shall be submitted at the same time in separate, sealed envelopes that indicate the name and address of the Bidder...”

Technical Proposal - 2011 Housing Demand Surveys

Financial Proposal – 2011 Housing Demand Surveys

Both envelopes are to be placed in a single envelope. This envelope should bear no identifying marks and should be addressed as follows:

*National Housing Trust
The Michael Manley Building
(Ground Floor)
Procurement and Stores Unit
4 Park Boulevard, Kingston 5
Attn: Jacqueline Aris, Manager – Procurement and Stores Unit
Ref: RFP# 2011 – 05-02/AL01
Printing and Data Capture Services for the 2011 Housing Demand Surveys
DO NOT OPEN BEFORE 10 a.m. on May 26, 2011...”*

2. The OCG notes, as it relates to the bid submitted by DPK, that a deviation in this regard was indicated by the NHT at the Preliminary Examination of Bids – Technical Proposal, which was undertaken on June 1, 2011.

The OCG had requested, and has received, four (4) sworn statements from the NHT representatives who were present at the Tender Opening Ceremony, who have attested that the bid package of DPK Information Systems Limited was not submitted in accordance with Section 18.1 of the Bidding Document, as the name and address of the Bidder was displayed on the outside of the outer envelope.

In light of the foregoing clause, the Bid submitted by DPK Information Systems was disqualified in accordance with Section 6.4 of the Bidding Document, which states, *inter alia* that:

“6.4 Sufficient reasons for the NHT to disqualify the bid...”

- i. A bid that is not sealed and marked as instructed;”*

Consequently, the disqualification of DPK Information Systems Limited’s Technical Proposal would result in them not being invited to the opening of the financial proposals.

3. DPK Information Systems Limited was duly informed of its disqualification, by way of a letter which was dated July 14, 2011, and which stated, *inter alia*, that *“Upon evaluation of your Proposal it was noted that your company failed to seal and mark the Proposal as instructed and in accordance with Section 6.4...”* of the tender document.

The disqualification letter was issued in keeping with Section 31.4 of the Bidding Document which states that *“Upon fulfillment of ITB Sub-Clause 31.3, the NHT will promptly notify unsuccessful Bidders that their bids were unsuccessful”*. Clause 31.3 states that *“The Contract, in the form a Purchase Order, will incorporate all agreements between the NHT and the successful Bidder”*.

4. The OCG notes that the related Purchase Order was dated June 20, 2011.

Conclusion

Based upon the foregoing, there is no evidence to suggest that there was a breach of the Government of Jamaica Handbook of Public Sector Procurement Procedures, or that DPK Information Systems Limited was unfairly disqualified by the NHT in its procurement process for the Provision of Printing and Data Capture Services for the 2011 Housing Demand Surveys. The OCG has noted, however, that there was an approximate three and a half (3½) week interval between the date of the Purchase Order and the letter to the unsuccessful Bidder.

Ministry/Agency: Wallenford Coffee Company Limited

Summary of Complaint

There are irregularities surrounding the lease of the property of the Tarentum Factory and Finishing Works allegedly to Jason Sharpe of Coffee Traders Limited.

Summary of Findings, Conclusion & Recommendations

1. The Property is leased to Agro-Investment Corporation. The OCG has ascertained, based upon a search of the Corporation's website, that the Agro-Investment Corporation is an agricultural investment facilitation, advisory and management company which functions as the business facilitation department within the Ministry of Agriculture and Fisheries (MOAF), with a focus on agricultural investment promotion and facilitation, project development and market development.
2. The opportunity to lease was not advertised. The lease was offered under the instructions/request of the MOAF. The CEO of the Wallenford Coffee Company Limited indicated to the OCG, by way of an Executive Summary, *inter alia*, that "At a meeting convened by the Ministry of Agriculture and Fisheries (MoA&F) by its Permanent Secretary Mr. Donovan Stanberry, at the Ministry, ...it was disclosed to Wallenford's management of the intention of the Ministry to engage the private sector in the development of a sustainable rice sector, with the agency charged with its execution being Agro...As such, the Ministry was requesting WCC leases 'one dry floor' at the Tarentum facility to AGRO at a concessionary rate". The OCG has also noted a letter which was dated September 28, 2010, from the Permanent Secretary in the MOAF to Mr. John Desnoes, Chairman, Wallenford Coffee Company Limited,, in this regard.
3. The Lease Agreement was signed on June 1, 2011, for a term of ten (10) years. Pursuant to Clause 2 of the Lease Agreement, the Lessee covenants with the Lessor as follows:
4. "Not to assign underlet sublet or part with procession of the Leased Premises or any part thereof without the prior written consent of the Lessor".

The OCG has not been provided with documentation from the Wallenford Coffee Company Limited to suggest that Agro-Investment Limited has subletted, assigned or underlet any section of the property to Jason Sharp and/or any other person or company.

5. Furthermore, Chief Executive Director of the Agro-Investment Corporation, advised the OCG under Sworn Declaration which was dated June 11, 2012, that "The Agro-Investment Corporation has not leased any portion of the Tarentum factory and Finishing Works to a Jason Sharpe and/or any other person or company."

Conclusion

The OCG has concluded that the referenced property has been leased to Agro-Investment Corporation, an Agency under the Ministry of Agriculture and Fisheries. The OCG has also noted that the lease was done in a bid to resuscitate the rice sector.

The OCG has not found evidence to substantiate the veracity of the Complaint as the property, based upon the declarations which were made to this Office, has not been leased to a Jason Sharpe of Coffee Traders Limited or any other party, other than the Agro-Investment Corporation.

Notwithstanding, it should be noted that the Wallenford Coffee Company Limited is currently in the process of being divested. Tarentum Factory and Finishing Works is identified as Package A in the Information Memorandum document which was dated 8 June 2011. As it related to Tarentum Factory and Finishing Works, it was explicitly stated in the Information Memorandum that: "*One of the four processing lines has also recently been leased to Agro-Investment Corporation for a period of 10 years for rice milling. The Property is being sold subject to this lease.*"

Having regard to the foregoing, it is the opinion of the OCG that the divestment of Tarentum Factory and Finishing Works as a part and parcel of Wallenford Coffee Company Limited, is being done in a transparent manner, as it is stated unequivocally that there is a lease on the property. Further, the Information Memorandum indicated that the property is being sold subject to this lease.

The OCG therefore posits that it is to be the decision of the potential Bidder, having being aware of this encumbrance on the Property, to decide whether they would be comfortable in purchasing the property.

Ministry/Agency: Housing Agency of Jamaica

Summary of Complaint

By way of a letter which was dated June 6, 2012, a Complaint was received from Progressive Insurance Brokers Limited, regarding the Tender for Insurance Placement at the Housing Agency of Jamaica Limited (HAJL). In the referenced letter, Progressive Insurance Brokers Limited stated, *inter alia*, that "*There seems to be some ambiguity and inconsistency with respect to the actual prerequisites on the issue of facultative Insurance placement, and the guidelines of the FSC and all other bodies associated with the Tender rules and process. The absence of such clear facts and guidelines have led to our disqualification, and unjustly so.*" The letter further stated, *inter alia*, that the "... evaluation ...is very flawed and needs to be revisited..."

Summary of Findings, Conclusions & Recommendations

Background

1. Progressive Insurance Brokers Limited submitted a tender on August 30, 2011, at 2:49 p.m., in response to a Tender Notice for Insurance Placement, published in the Sunday Gleaner, dated June 12, 2011, by the HAJL. Tenders were to be submitted by 3:00 p.m. on August 30, 2011.
2. Four (4) other companies submitted tenders, namely; Marathon Insurance Brokers Limited, CGM Gallagher Insurance Brokers Jamaica Limited, Fraser Fontaine and Kong Insurance Brokers Limited and Allied Insurance Brokers Limited.
3. All five (5) tenders were opened at a Tender Opening Ceremony shortly after the close of tender, which was observed by a representative of GFRAM Consulting and the Actuarial Firm which had been appointed by the HAJL. The GOJ Procurement Procedures requires that Government Entities procure the services of one of the Ministry of Finance approved Actuaries for the assessment of tenders.

Disqualification

4. Subsequent to the Tender Opening Ceremony, an Evaluation was undertaken by GFRAM Consulting, which indicated that three (3) of the five (5) Brokers' submissions were disqualified including that of Progressive Insurance Brokers Limited. Section 4.6 of the Evaluation Report stated, *inter alia*, that "*Our*

perusal of Progressive Insurance Brokers Limited's submission ("Like-for-Like" and Alternative) revealed that the Broker proposed a Facultative Placement of the Director's Liability risk in the Lloyd's of London market. The Handbook (section 3.1) clearly states that **'Brokers seeking to place facultative insurance business overseas must be registered with the Financial Services Commission as Facultative Brokers'**. Further checks confirmed that Progressive Insurance Brokers Limited is not registered with the FSC as a Facultative Broker, authorising it to act in this regard on behalf of the **HAJL**. Therefore this Broker's two proposals had to be disqualified."

5. The OCG observed a letter which was dated May 30, 2012, from the HAJL, advising Progressive Insurance Brokers Limited of its disqualification, as outlined in the Evaluation Report submitted by GFRAM Consulting.
6. The OCG has also noted the Ministry of Finance and Planning's (MOFP) letter, which was dated June 8, 2012, and addressed to Progressive Insurance Brokers Limited, which stated, *inter alia*, the following:

"Please be advised that the GOJ Handbook of Public Sector Procurement Procedures, Volume 4, Section 3.1 (b) states;

"Brokers seeking to place facultative reinsurance business overseas must be registered with the Financial Services Commission as Facultative Brokers."

The type of arrangement cited in your letter, in which CGM facilitates brokers not registered for facultative placement, was never envisaged. The tender system is predicated on the Insurance Act and Regulations which require facultative registration for brokers doing facultative business.

On this basis, the particular arrangement between Progressive Insurance Brokers Limited and CGM is not permissible for GOJ Insurance Tenders, since it appears that the legal requirement is being circumvented"

The letter further stated that *"We have referred the matter to the Financial Services Commission"*.

Response from the Financial Services Commission

7. The OCG, by way of its letter which was dated August 14, 2012, requested particular information from the FSC, inclusive of a copy of related correspondence to the MOFP. The FSC responded, by way of a letter which was dated August 22, 2012, attaching a copy of its letter to the MOFP which was dated August 3, 2012, and which was captioned "Registration of facultative Placement Brokers":

The FSC's letter which was dated August 3, 2012, advised, *inter alia*, the following:

"...Lloyd's is an insurance market which is made up of members comprising insurance companies called syndicates. Lloyd's is registered to write all six classes of general insurance business as well as ordinary long-term insurance business in Jamaica....Pursuant to Section 20 of the Act [the Insurance Act, 2001] and regulations 143-156 of the Insurance Regulations, 2001, locally registered insurers or intermediaries may place insurance business with unregistered foreign insurance companies under certain specified conditions. Accordingly, in those instances where the local registered broker intends to place insurance business with unregistered foreign insurers the broker must be registered as a FPB [Facultative Placement Broker]. However, as Lloyd's is registered in Jamaica, all locally registered brokers can place business directly with Lloyd's, without being registered as a FPB....The registration of a local insurance broker as a FPB is only required if that broker intends to place insurance business with unregistered foreign insurance companies . "

Conclusion

The OCG has noted the advice and position of GFRAM and the MOFP as it pertains to the responsiveness of the proposals of Progressive Insurance Brokers Limited. Further note is taken of the written position submitted by the Financial Services Commission regarding the counterclaims of Progressive Insurance Brokers Limited and the assertion of the Ministry of Finance that *'The tender system is predicated on the Insurance Act and Regulations...'*

Having reviewed all documents concerned and, in particular, that of the FSC, the OCG is of the opinion that the grounds on which the disqualification was made was erroneous. The OCG is also of the opinion that due care should have been taken to review and consult the Insurance Act and Regulations, as well as the FSC, prior to such determination as to the responsiveness of the submission by Progressive Insurance Brokers Limited. It is the OCG's view that the Consultancy Actuary should have guided the Public Body accordingly.

Notwithstanding the foregoing, the OCG, having reviewed the information, as presented in Volume 4 of the GOJ Handbook of Public Sector Procurement, questions whether those applicable provisions could have led to the interpretation, and hence, the position postulated by GFRAM and the MOF.

In the circumstances, the OCG is of the considered opinion that a review of the referenced section of the Handbook, to ensure full synergy between what is stated in the Insurance Act and Regulations and that of the GOJ Handbook of Public Sector Procurement, should be undertaken as a matter of urgency, in an effort to protect the interest of the Government of Jamaica.

Ministry/Agency: Petroleum Corporation of Jamaica

Summary of Complaint

By way of a letter, the OCG received a Complaint regarding the actions of the Petroleum Corporation of Jamaica (PCJ) as it relates to the procurement of a provider for Waste-to-Energy project to be implemented by the PCJ. The Complainant stated, *inter alia*, that *"...by way of letter dated 30th March 2012, PCJ purported to terminate the Project during Stage 3 of the tender process, which PCJ indicates involves an economic evaluation. This purported termination opens the way for new proponents to develop the Project who have not had to work through the International Tender process. The Consortium considers this purported termination to be a unilateral unwarranted and arbitrary breach of the tender process..."* The Complainant requested that *"...the Commission of the Contractor General investigate...and compel PCJ to resume negotiations..."*

Summary of Findings, Conclusion & Recommendations

The OCG sequestered documents from the PCJ regarding the actions which have been taken, and which are to be taken regarding the Waste-to-Energy Project. In responding to the OCG, the PCJ advised of the following:

1. *"PCJ has no intention to implement the project. A new way forward is being determined by the Ministries of Science, Technology, Energy and Mining; Local Government and Community Development; and Industry, Investment and Commerce."*
2. *"...At this time...PCJ would not be leading a new tender process."*

Further, and in addition to the aforementioned, the OCG had also reviewed the documents which were entitled PCJ Waste-to-Energy Project, Due Diligence Report, January 16, 2012, which concluded, *inter alia*, the following:

“After a careful review, the recommendation, reflecting the independent opinion of the author, is for PCJ to discontinue negotiations with CPDI consortium. The RFP gives the PCJ the right to reject proposals at any time prior to the award of a contract...” The foregoing provision was evidenced in the RFP, by the OCG.

Accordingly, the OCG has found that the decision to proceed with, or to terminate, a tender process, is within the remit of the Procuring Entity. Further, the OCG does not have the lawful authority to compel any Procuring Entity to proceed with a tender process.

Ministry/Agency: National Land Agency

Summary of Complaint

The OCG, by way of a letter which was dated December 15, 2010, received a Complaint regarding the two (2) properties namely, Spring Garden, Portland and Gray's Inn, St. Mary. With regard to Spring Garden property, the Complainant alleged that *"...the matter of approval by the Land Divestment Commission has been affirmed by the intervention of the Public Defender. However, the matter of the Lot is unsettled ... I have reason to be suspicious of the way the entire matter has been handled."*

Documentation which was provided by the Complainant alleged that the land was assigned to a person who was illegally occupying same and not individuals who had made a formal application for lease.

With regard to the Gray's Inn property, the Complainant questioned the length of time it was taking for an agreement to be consummated.

Summary of Findings, Conclusions & Recommendations

Lot 28 Spring Gardens, Portland

Findings:

Application and Approvals re: Lot 128, Spring Gardens

1. A Report of Lot 28, Spring Gardens Portland dated April 11, 2007, was prepared by the National Land Agency (NLA) and submitted to the Permanent Secretary in the Ministry of Agriculture and Lands. The report indicated that the Property had been subject to a number of applications for various agricultural projects, and stated, *inter alia*, that *"given the property's arability and the demand for it, the recommendation was made that the property be submitted in three sections, allowing more persons to benefit from the use of the property."* The Report further indicated that a total of eight (8) applications were received regarding divestment, of which six (6) were subjected to interviews, with three (3) being recommended for divestment of a part of the property. The Report also indicated that two (2) of the recommended applicants were being presented, as the third was being withheld pending further investigations, to determine the environmental sustainability of the proposed use for the site, which was a water bottling plant.

The OCG reviewed further documentation which confirmed that six (6) applicants were interviewed, assessed and scored. The three (3) highest scored applicants were:

- a) Donald West- 72 points
- b) Anthony Marshall - 67 points
- c) Victor Hall - 68 points.

With regard to the application from Martin Afflick, the Report of April 11, 2007, stated the following:

"Another applicant, Mr. Martin Afflick had initially requested the exchange of the entire subject property for a parcel of land owned by him. His proposal was rejected due to the marginal utility, size and value of the property owned by him. Mr. Afflick subsequently made an application to lease the entire property for agricultural purposes. The property was subsequently subdivided into four (4) parcels comprising 12 acres each in order to facilitate Mr. Afflick's request." The OCG has not evidenced, based upon the documentation reviewed, an assessment or scoring being undertaken for Mr. Afflick.

The OCG also evidenced documentation related to various proposals/applications which had been submitted for lease of the referenced Lot, inclusive of one from a Victor Hall, who by way of a letter which was dated October 20, 2006, to the Commissioner of Lands, stated, *inter alia*, that "I wish to lease the area comprising the springs to bottle spring water presently going to waste..."

Documentation related to Martin Afflick's application was also evidenced, inclusive of a letter which was dated May 15, 2002, addressed to the then Minister of Land and Environment, the Honourable Horace Daley, which proposed a land exchange and indicated that the Spring Gardens property would be used for the *"...expanding [of] a spring water plant...as well as introducing additional lines for Juices for sale on the domestic and export market and start-up of a travel tour enterprise focusing on the Eastern section of the Island."*

2. A Report of April 11, 2007, outlined the following schedule for divestment of the property in question:

Recommended	Proposed Use	Area	Annual Rental	Proposed Terms of Lease
Donald West	Agricultural	5.86 Hectares (12 Acres)	\$55,000.00 - \$60,000.00 per annum	25 years at \$60,000.00 per annum with 5- yearly rent reviews
Anthony Marshall	Agricultural	4.86 Hectares (12 Acres)	\$55,000 - \$60,000.00 per annum	25 years at \$60,000.00 per annum with 5- yearly review
Martin Afflick	Agricultural	4.87 Hectares (12 Acres)	\$55,000.00 - \$60,000.00 per annum	25 years at \$60,000.00 per annum with 5- yearly rent reviews

The proposed schedule of divestment was tabled at the Land Divestment Advisory Committee (LDAC) meeting on May 18, 2007. All three (3) were recommended for approval at \$60,000 per annum with the following remarks:

"These are arable lands being leased to farmers for agricultural development;- The applicants were selected based on individual ratings and from interview conducted by officer at the National Land Agency; and - The Commissioner of Lands offers no objection to the lease of the lot to the recommended applicants."

3. The recommendations of the LDAC received Ministerial Approval on June 18, 2007, from the Honourable Roger Clarke - the then Minister of Agriculture and Lands.
4. The NLA, by way of a letter which was dated March 18, 2011, advised the OCG that *"The lease for the property however; was never effected as: (a) The land had to be re-surveyed to re-establish the boundaries thereby facilitating the subdivision into the required lots (b) Two persons had to be evicted from the lot..."*

5. The OCG was further advised that *"All of Lot 28 Spring Garden has been divested by way of lease..."*

Rescinding of the Previous Approvals

6. Documentation reviewed by the OCG included a copy of a letter which was dated November 4, 2009, addressed to Minister Daryl Vaz from an Ocean Brent-Harris (Director), Evergreen Mountain Limited, and stated, *inter alia*, that *"...we have been in intense negotiations with a United States based company, River of Dreams, to supply them with bottled water. The approved source if this water is situated at lot 28, Pol. 445, Vol. 1292, Spring Garden, Portland. River of Dreams had repeatedly gotten tests done on water from this source by Yale University in the United States which has deemed it to be one of the best quality in the world. As such, they are desirous of participating in a joint venture to export bottled water to the United States, Europe, China, and Japan...River of Dreams will only invest in this project if a long term lease is obtained for this property. The estimated total investment is approximately US\$2,500,000.00 ...we are formally making an application to lease the above mentioned property for a substantial period with an option to purchase..."*
7. By way of a letter which was dated December 11, 2009, the Commissioner of Lands, Mrs. Elizabeth Stair, wrote the Honourable Bruce Golding, then Prime Minister, stating, *inter alia*, the following:
 8. *"An application for the entire property [Lot 28 Spring Garden, Portland] has been received from Evergreen Mountain Ltd for them to establish a water bottling facility. This matter was referred to me by the Hon. D. Vaz, who has requested that the approvals for the three (3) above-mentioned person (West/Marshall/Afflick) be rescinded and that the entire 49-acres be leased to Evergreen Mountain Ltd.*

I should be grateful if you would advise if you are prepared to rescind the above-mentioned approvals West/ Marshall/ Afflick. I wish to also advise that this may necessitate the eviction of Messers Marshall and West from the property."

9. In response, by way of a letter which was dated December 31, 2009, the Hon. Bruce Golding directed Mrs. Stair to *"...proceed to rescind the approvals previously granted in respect of this property in order to facilitate the lease to Evergreen Mountain Ltd. and its establishment of a spring water bottling facility which will create much needed employment in the area.*

Minister Daryl Vaz will pursue arrangements for Messers West, Marshall and Afflick to be offered lands elsewhere."

Environmental Suitability of Water Bottling Facility

10. Among the documentation which was reviewed by the OCG was a copy of a Memorandum which was dated May 30, 2007, and which was addressed to the Hon. Roger Clarke, then Minister of Agriculture and Lands, regarding Application for the Lease of Lot 28 Spring Garden, Portland, which stated, *inter alia*, that *"Information on the fourth applicant is being withheld by the Agency as further investigations are being undertaken to determine the environmental suitability of the proposed use."*
11. Having regard to the foregoing, the OCG sought details regarding the application that was withheld. The following were noted:

- a. By way of a letter which was dated June 6, 2011, the NLA advised the OCG that *"The application withheld for further investigations to determine the environmental suitability of a water bottling plant was that of Mr. Victor Hall.*

The matter of the environmental suitability of the site for a water bottling plant was submitted to NEPA for their advice. NEPA advised that they were not in support of the use of the site for bottled water operation but would support its use for agricultural purposes."

- b. NEPA, under the cover of letter dated April 13, 2012, outlined to the OCG, the major variables which informed its decision in July 2007, as to the proposed use of the lot in question. These were outlined as: the suitability of the land for agricultural purposes, increase in truck traffic which could have implications for traffic safety along the main road, abstraction of water for bottling could impact the availability of same for agricultural purposes, water bottling at sources was not included as one of the categories in the Natural Resources Conservation Permit and Licence Regulations 1996 and the fragmentation of agricultural lands. This position was communicated to the NLA under the cover of letter dated July 30, 2007.
- c. The OCG, thereafter, requisitioned the Water Resources Authority (WRA) to provide certain particulars related to this matter. The WRA responded by way of a letter which was dated March 28, 2012. Enclosed with the submission was a copy of a letter which was dated February 11, 2008, wherein the then Prime Minister, the Honourable Bruce Golding, wrote to the WRA enclosing correspondence regarding the application from Victor Hall to lease the property to establish a water bottling plant. The letter stated, *inter alia*, that **"I do not find the objections presented by NEPA to be persuasive except for its insistence that water extraction from the existing springs would require the approval of the Authority"** and requested the Authority's comments on the matter.
- d. The WRA, by way of a letter which was dated February 26, 2008, responded to the Prime Minister stating, *inter alia*, that *"...The removal of water for agricultural and bottling purposes will not significantly impact on the water resources.*

The other bottler in the area 'Mek Yah Jamaica Company Limited' utilizes only 3.8 cubic meters per day (836 gallons per day) from a small spring. The bottling operation is small and contrary to NEPA's letter...has not increased truck traffic in the area. It is not expected that another bottling plant will increase truck traffic in the area..." The letter further stated that **"[Basil Fernandez-Managing Director WRA] am not in agreement with the NEPA's reasoning for the recommendation to the Commissioner of Lands for refusing the lease to Mr. Hall. NEPA at present does not list water bottling operations as an activity that has to be permitted ... In addition no evidence has been produced by NEPA that the water bottling operations will have a negative impact on the environment."**

- e. Based upon the chronology of events, prior to the request which was made of the WRA, the Prime Minister had received a letter which was dated January 2, 2008, from the then Minister of Agriculture, Mr. Christopher Tufton, regarding the application of Mr. Victor Hall. The letter stated, *inter alia*, that *"Reference is made to the attached letter dated 28 September 2007 from Mr. Victor Hall, Mr. Hall alleges impropriety on the part of the National Land Agency in respect of divestment of the subject property for agricultural/ light industrial activities..."*

The National Environment and Planning Agency does not support the use of the area for a water bottling facility and Mr. Hall was advised that his application was unsuccessful by way of letter from the Commissioner of Lands dated September 17, 2007."

- f. Other documentation reviewed by the OCG included a copy of a letter which was dated March 10, 2008, from the Ministry of Agriculture to the NEPA, advising of and enclosing the WRA's opinion on the matter which disagreed with NEPA's position. NEPA was requested to review the situation.

By way of a letter which was dated March 14, 2012, NEPA advised the OCG that it altered its position regarding the establishment of a bottling facility in a letter dated May 13, 2008. When asked about the reasons which caused the Agency to change its initial position, which was communicated in a letter which was dated July 30, 2007, the OCG was advised as follows:

- i. *"The Agency was made aware in 2008 subsequent to its response to the NLA regarding Lot 28 Spring Garden in 2007 that a 25 years lease had already been granted by the National Land Agency for lands at Spring Gardens in close proximity to the site to be used for agricultural activities and also for spring water bottling operations. Hence precedence has already been set for the introduction of water bottling in the area."*
- ii. *"...the Water Resources Authority (WRA) indicated the existence of ample water resources in the area. Thus adequate water would be available for agricultural use. In this regards it was considered that the available natural resources of the area namely its spring water could be utilized in a sustainable manner to provide jobs. However NEPA still felt that the predominant use of the land should still be agricultural..."*
- iii. *"The priority outlined by the newly elected government after the election of September 2007 regarding the creation of employment opportunities and the need for the provision of jobs through out the island and especially in rural areas for residents. The introducing of water bottling at Spring Gardens it was felt would have aided in the diversification of the economic base and in job creation..."*

The OCG has also been advised by NEPA that a copy of the signed letter which was dated May 13, 2008, was not located. Requests were made to the other pertinent Ministries, which have not located a copy of this letter.

Assignment of Lot to an Informal Occupant

12. Documentation submitted by the Complainant to the OCG alleged that the property was divested to a "squatter". The OCG, by way of its letter which was dated January 25, 2011, asked the NLA to indicate, *inter alia*, whether *"the property was divested to a previous informal occupant..."* The NLA, in its response which was dated March 18, 2011, stated: *"All of Lot 28 Spring Garden has been divested by way of lease, but not to a previous informal occupant'.*

Approval of Application from Energreen

13. By way of a letter which was dated February 29, 2012, to the NLA, the OCG asked if "...the NLA [had] conduct[ed] any form of evaluation and/ or assessment of the application submitted by Energreen Mountain Ltd? In response, and by way of letter dated March 6, 2012, the NLA advised; *"The application from Energreen Mountain Limited was submitted to the Land Divestment Advisory Committee on the 15th March, 2010 and NEPA sits on that committee. The Committee recommended the divestment to Energreen Mountain Limited and Ministerial Approval was obtained on the 10th May, 2010."*
14. Documentation which was submitted to the Honourable Minister for approval indicated that: *"The National Land Agency (NLA) reported that the approved applicants were not plated into formal occupation of the property, as a survey was not conducted and the boundaries were not identified."*
15. Energreen Mountain Limited received a 25 year lease for Lot 28 Spring Gardens commencing on July 1, 2010, and expiring on June 30, 2035, with a rent of Two Hundred and Twenty Two Thousand, Two Hundred and Thirty Dollars (\$222,230.00) per annum for the establishment of a Spring Water Bottling Facility.

Alternate location for previously Approved Applicants

16. The NLA, in its letter which was dated March 18, 2011, indicated that *"The three persons for whom the land was previously approved are to be offered land elsewhere."*

An alternate site has been identified, however, legal action is now being pursued to recover possession of that parcel."

Conclusion

The OCG has found that there is veracity to the Complaint which had been received by its Office, as the Complainant is one of three (3) applicants who were initially recommended by the LDAC for the lease of property, and which had initially received Ministerial Approval. The NLA has, however, indicated that these applicants were not given formal occupation of the property.

The application from a fourth applicant, who had proposed to use the property as a water bottling plant, was withheld pending investigations to determine the environmental suitability of the proposed use. The NEPA was initially of the opinion that this proposal should be rejected. However, the WRA, acting upon a request from the then Prime Minister to review the matter, had indicated that it was not in agreement with NEPA's opinion. NEPA subsequently amended its opinion following a further review of the matter.

It has not been ascertained whether the NLA, subsequent to NEPA's change in its previous position, had made further contact with Mr. Victor Hall regarding his application, which had been withheld. Notwithstanding, Energreen Mountains Limited, in November 2009, submitted a letter to Minister Daryl Vaz, making an application to lease property located at Lot 28 Spring Gardens *"...for a substantial period of time with an option to purchase..."*

The prior Ministerial Approvals were rescinded upon the instruction of the then Prime Minister.

Consequently, Energreen Mountain Limited received a 25 year lease for Lot 28 Spring Gardens commencing on July 1, 2010, and expiring on June 30, 2035 at a cost of \$222,230.00 per annum for the establishment of a Spring Water Bottling Facility.

Whilst it is the prerogative of the Government to decide on the best use of a particular Government of Jamaica asset, and to consider the best presented investment opportunity, the manner in which this entire process was undertaken is, on the face of it, seemingly irregular and raises certain questions which are attendant to the circumstances surrounding the consummation of the lease between the Government of Jamaica and Energreen Mountain Limited, particularly having regard to the fact that Mr. Victor Hall had made a similar proposal for the land use.

Notwithstanding, the previous approval which had been given regarding the lease of the land to the Complainant, who was one of the three (3) initially approved, the OCG has not seen any evidence to suggest that the Commissioner of Lands, or any other Agency of the Government of Jamaica, had entered into an Agreement with the Complainant regarding his lease of same.

Additionally, the OCG has noted that the NLA had penned a letter to the Complainant during August 2010, which referred to a meeting held during said month, stating that *"It was clearly stated and agreed at our meeting that no agreement was entered into between the Commissioner of lands and yourself regarding the subject property or any other property. Therefore no property could have been assigned to you by the Commissioner of lands."*

Notwithstanding the foregoing, and while the process did not follow the normal course, given the rescinding of the previous approvals, the requisite approvals/endorsement of the LDAC and the Minister for the lease to Energreen were received.

The OCG has also evidenced where steps have been taken to identify an alternate location for the applicants.

Lot 16 Grays Inn

Findings

By way of a letter from the NLA which was dated March 18, 2011, the OCG was advised that *"The property is part of a Land Settlement Scheme and was allocated on June 15, 1987, as per their Acceptance Certificate.*

The purchase price is fully paid up. The allottees are now awaiting the Certificate of Title in respect of the lot..

An application was made to the St. Mary Parish Council on March 2, 2010 for subdivision approval of the section of the land Settlement Scheme on which Lot 16 falls."

The OCG was further advised, by way of a letter which was dated April 26, 2011, from the NLA that *"The issue of the Certificate of Title for the lot is dependent on subdivision approval being received."*

Conclusion

Having reviewed the information submitted, it was noted that the NLA had not yet received Subdivision Approval from the St. Mary Parish Council. Consequently, the titles were not ready for issue.

OCG General Comment

The OCG monitors/enquires to the divestment of Government-owned Assets in accordance with the provisions of Ministry Paper # 34. Notwithstanding, the OCG is aware that there is a Draft Policy Framework and Procedures Manual for the Divestment of Government-owned Lands, and that such divestment of Crown lands are subject to the independent scrutiny of the LDAC.

In the circumstances, the OCG would urge the relevant authorities to take the required steps to ensure that this Policy Framework is approved in an expeditious manner, if said approvals have not yet been received,

Ministry/Agency: Ministry of Local Government and Community Development

Summary of Complaint

The OCG received a Complaint, by way of a letter which was dated January 17, 2011, wherein it was stated, *inter alia*, the following

"...We were contacted by a representative of the Ministry and was told that as a result of telephone enquiries from prospective Consultants there is an "anomaly and ambiguity" in the tender process...we can see no anomaly or ambiguity in the tender process as the Instructions to Consultants were quite clear in respect to:

1. *The submission of tender, and*
2. *The date for opening of tenders*

and we would consider the revision of the submission date after the receipt of a tender to be accommodating late tenderers who did not follow the Instructions to Consultants."

Summary of Findings, Conclusion and Recommendations

The OCG conducted a review of the documents, which were submitted by the Ministry of Local Government, under cover of letter dated June 8, 2011, and posits that there was an anomaly in the Instructions to Consultants regarding the return of tender and the tender opening date. This was evident, having reviewed and noted the clauses highlighted below;

The Request for Proposal - Quantity Surveying Services, Section 2 - Instruction to Consultants - Data Sheet Clause 4.5 states, *inter alia*, that *"...Proposals must be submitted no later than the following date and time: January 6, 2011 at 12:00 noon"*, however, Section 2 - Instruction to Consultants- Submission, Receipt and Opening of Proposals Clause 4.4 states, *inter alia*, ***"...Do Not Open, Except In Presence Of The Official Appointed, Before 12:00 noon on January 13, 2011..."***

It was also noted that Section 2 - Instructions to Consultants, Clause 4.6 states, *inter alia*, that *"The Procuring Entity shall open the Technical Proposal immediately after the deadline for their submission..."*

Having juxtaposed these three (3) Clauses from the Request for Proposal, it is clear that there was an anomaly and ambiguity as it pertains to the date and time of the tender opening proceeding.

In the circumstances, the OCG has concluded that there existed an anomaly, as well as ambiguity in the information regarding the tender opening proceedings. Consequently, there is no veracity to the complainant's allegation that there was *"...no anomaly or ambiguity regarding the tender process..."* Further, and as such, there is insufficient evidence to support the assertion that the revision of the tender date was to facilitate the submissions of late Tenders.

Ministry/Agency: University Hospital of the West Indies

Summary of Complaint

The Sunday Gleaner on May 22, 2011, featured an article which was entitled "UHWI goes Quiet". The referenced article alleged that a patient needing to have breast biopsy undertaken at the University Hospital of the West Indies (UHWI) was told to purchase needles from West Indies Radiology Outsourcing Limited (WIROL), and not anywhere else. The article also seemed to question whether the Head of the Radiology Department, UHWI, was a shareholder and director of WIROL.

Summary of Findings, Conclusion & Recommendations

1. The UHWI does not have an arrangement or agreement with the WIROL. Patients were required to purchase needles required for radiological biopsies from outside source.

By way of a letter which was dated June 13, 2011, the OCG was informed, *inter alia*, that "...patients who needed needle biopsies under radiological screening were advised to procure needles from the local suppliers of these needles who also provided them for the Private Sector. This information was provided by the clerical staff as a means of assisting persons in procuring the correct needles and avoid significant waste of funds if the needles obtained were inappropriate for use..."

Patients enquire from the staff where needles are available and they provide them with a listing of the local agents and the patients themselves purchase the needle after due diligence."

2. This situation had reportedly arisen as a result of payment related issues with the previous supplier, Cook Medical.

Under cover of letter which was dated June 13, 2011, the OCG was advised, *inter alia*, that "The Department of Radiology had been procuring biopsy needles for radiological biopsies from Cook Medical ... This company won an award many years ago for the supply of these needles, however, because of payment challenges they were no longer prepared to offer credit or COD facilities and insisted on pre-payment..."

3. Dr. Peter Johnson, who is the Head of the Radiology Department at UHWI, is also a Director of WIROL, which raises concerns regarding a potential conflict of interest.

Under cover of letter which was dated June 13, 2011, the OCG was informed, *inter alia*, that "There is a potential conflict of interest with regard to the WIROL as a member of the Radiology Department is a Director of WIROL. However, it must be noted that WIROL is a private company stocking radiological equipment, which is made available to and used by all radiological departments in both the private and public sectors."

4. By way of a letter which was dated August 17, 2011, the OCG had requested a "Copy of [the] Advisory given to clerical staff notifying them of the lack of biopsy needles, and the listing of local agents where patients can obtain biopsy needles". The UHWI's response indicated that "No knowledge of anyone in the Radiology Department advising Clerical Staff to refer patients to local agents."

Further to same, and by way of its letter dated September 26, 2011, the OCG asked "Did you speak with the Head of the Radiology Department, or any other personnel(s) from that Department, in order to ascertain if a directive was given to clerical staff to advise patients on the purchase of biopsy needles?" In response, by way of a letter which was dated October 7, 2011, the UHWI advised the OCG that the "... then Head of Department of Radiology indicated that he DID NOT give a directive to clerical staff to advise patients on the purchase of biopsy needles."

5. Under the cover of letter which was dated October 7, 2011, the OCG was also advised, *inter alia*, that “I [Dr. Trevor McCartney] have spoken with the doctors in the Department of Radiology and they have ALL (including the Head, Dr. Peter Johnson) made it quite clear that they have not instructed patients where to purchase Biopsy Needles...”

The Director of Contracts and Services Mr. David Walker is the person responsible for maintaining the inventory of ALL supplies to the Radiology Department and he denies giving any advice to Clerical Staff.”

Conclusion

The UHWI does not have a contractual arrangement with the WIROL for the provision of related biopsy needles. Based upon payment issues with the previous supplier, patients were advised to purchase needles required for biopsies from the private sector. In this regard, and while it has been ascertained that Dr. Peter Johnson, a Director of WIROL, was the Head of the Radiology Unit at the UHWI, given that the UHWI does not have any arrangement with WIROL, the OCG does not find that there was a conflict of interest or undue influence brought into the procurement activities of a GOJ Public Body.

Additionally, and based upon the disclosures which have been made to its Office, the OCG has not found any evidence to suggest that Dr. Johnson used his position to, directly or indirectly, influence patients purchasing behaviour.

Having regard to the circumstances, as articulated above, the OCG recommends that the UHWI management ensures that the information given by relevant staff members to potential patients, as it regards local suppliers of biopsy needles, is unbiased.

Ministry/Agency: Jamaica 4-H Clubs

Summary of Complaint

A Complaint lodged at the OCG alleging possible impropriety in the award of training by Jamaica 4-H Clubs. The Complaint further stated that the Chairman of the Board of the 4-H Clubs owned the Company which was the beneficiary of most of the Jamaica 4-H Clubs' training related contracts. On March 28, 2012, the OCG launched an enquiry into the allegations.

Summary of Findings & Recommendations

1. The Jamaica 4-H Clubs participated in nine (9) training sessions which were attended by the staff, clubites and volunteers of the Jamaica 4-H Clubs between January 1, 2009 and December 31, 2011.
2. The training sessions which were attended by the Jamaica 4-H Clubs were conducted by the following institutions:
 - a. Jamaica Society for Agricultural Sciences (Oct 19, 2011) valued at \$5,000.00;
 - b. GovStrat Limited on three (3) occasions (May 29, 2010, June 13, 2011 & Nov 17, 2011) cumulatively valued at \$981,612.50;
 - c. The Training Brokers (June 13, 2011 & Oct 14, 2011) cumulatively valued at \$159,590.00;
 - d. Management Institute for National Development (MIND) (July 13, 2011 & Oct 3, 2011) cumulatively valued at \$50,313.00; and
 - e. University of the West Indies - Open Campus (September 26, 2011) valued at \$12,000.00.

3. In response to a request to provide details related to the procurement methodology which was used in the award of contracts, the OCG was advised under cover of letter which was dated April 19, 2012, that *"...the training provided to staff, clubites and volunteers are not customized training programmes for which we would have invited tenders from various training providers. It is rather from training advertisements produced from time to time by various providers. We send our clubites, staff and volunteers based on the appropriateness of the training offered."*

The OCG has evidenced copies of advertisements for training sessions which were being conducted by GovStrat Limited.

4. In response to a request to outline the role and/or involvement of the Board in the procurement and contract award processes, the OCG was advised by way of a letter which was dated April 19, 2011, *inter alia*, that *"The Board plays no role in procurement and contract awards process..."*

In response to the question related to whether any Board Member owns, has interest in and/or is affiliated with any company which has received a training contract during the period under review, the OCG was advised that *"Yes, one Board Member is affiliated with a company which undertook training courses and workshops to which the Jamaica 4-H sent staff, clubites and volunteers as per advertisement in the Press..."* A further response given indicates this member to be Dr. Vindel Kerr with the Company being GovStrat Limited, and indicated *"Please bear in mind....the fact that the Jamaica 4-H Clubs have been subscribing to courses offered by GovStrat over five (5) years predating Dr. Kerr's tenure as Chairman."*

5. The OCG was informed by way of a letter which was dated December 3, 2012 that Dr. Vindel Kerr was appointed Chairman of the Board of the 4-H Clubs from December 1, 2007 to January 2012.

Conclusion

The Jamaica 4-H Clubs did not procure for training sessions for staff but instead participated in advertised sessions which were being offered by various entities. As a result, the Jamaica 4-H Clubs did not engage in a formal procurement or contract award process as it relates to GovStrat Limited, which is affiliated to the then Chairman of the Board, but instead, participated in three (3) training session which were delivered by GovStrat Limited between 2009 and 2011.

While there is merit to the complaint that the 4-H Clubs participated in training sessions held by a Company which was owned by its Board Chairman, the OCG did not find that the Government of Jamaica Procurement Guidelines were breached, or that the Chairman was involved in the process related to the selection of training programmes. Nonetheless, and given the relationship between the Chairman and GovStrat Limited, there was a perception of conflict of interest which was further heightened given that majority of the training budget for that period was expended with that Company.

Ministry/Agency: Petroleum Corporation of Jamaica

Summary of Complaint

The OCG received a Complaint from a concerned citizen, who made allegations regarding the divestment of the property at Font Hill, St. Elizabeth by the Petroleum Corporation of Jamaica. The Complainant stated, *inter alia*, the following:

1. *"The GOJ is seeking (or has sought) to divest the Font Hill Property to a... Spanish investor..."*
2. *A recent TV news...showed said Spanish Investor visiting the Font Hill site..."*
3. *It appears that the sale of the property was never advertised, yet it is being "shown" to a select few investors."*

Summary of Findings, Conclusion & Recommendation

The OCG conducted a review of the documents, which were submitted to its Office in response to the aforementioned letter and concluded that the referenced property at Font Hill, St. Elizabeth, is not slated for divestment and, as such, the concerns raised by the Complainant are no longer relevant.

Ministry/Agency: National Solid Waste Management Authority (NSWMA)

Summary of Complaint

The OCG received a letter from the Ministry of Finance advising of a report from the Jamaica Constabulary Force Integrity Line regarding an allegation of impropriety in the award of Government contracts during the period 2009-2010. The complaint stated, *inter alia*, that there is "...*Impropriety in the awarding of contracts to All Purpose Distributors Limited... Many Items are out to tender but for those that are not put to tender, the majority are being passed to 'All Purpose Distributors of Kingston...' An in depth examination of the relevant documentation and the work given to this company will show that there are corrupt member(s) of staff taking bribes to give work to this company.*"

Summary of Findings, Conclusion & Recommendation

The OCG, after conducting an in-depth analysis of the Quarterly Contracts Award (QCA) Report, ascertained that the NSWMA was one of the public bodies which had a procuring relationship with All Purpose Distributors Limited. The following findings were made:

1. The NSWMA's response indicated that there were no formal contracts in place, as the transactions were done by way of Purchase Orders. The NSWMA also stated, *inter alia*, that "*Of the twenty one (21) purchases made by the National Solid Waste Management Authority and its regional bodies from All Purpose Distributors Limited only one (1) was for an amount exceeding the two hundred and seventy five thousand (\$275,000.00) threshold and thus subject to the procurement guidelines. The single transaction that exceeded the threshold was done by way of sole source as a result of urgency...*" It was further indicated that "*These transactions were done... during 2009 starting in February. Thirteen purchases were made by NSWMA; seven by MPM Waste Management Ltd. and one by WPM Waste Management Ltd.*"

A breakdown of the transactions was provided which indicated value (of cheques) ranging from \$9,500.00 to \$386,000.00. The NSWMA's response continued stating that "*As evidenced by the information in the purchase orders all except one of the forgoing transactions were below the two hundred and seventy five thousand threshold and comparative quotations were sought and received as required Sub-Section S2040 of the Revised Government of Jamaica Handbook of Public Sector Procurement Procedures.*"

2. Sub-Section S-2040 of the Handbook of Public Sector Procurement Procedures (November 2008), which was the applicable guidelines during the period under review, indicated Direct Contracting as the applicable procurement methodology for contracts up to \$100,000. For contracts between the value range of \$100,000 to \$275,000, the Limited Tender Procurement Methodology, with three (3) Contractors being invited to quote was applicable. The use of Limited Tender was also applicable to the value range \$275,000 - \$1,000,000, with the along with three (3) **registered** Contractors being invited to quote.

Sub-Section S-2040 (F); 'Contracting under Emergency Circumstances', of the aforementioned Handbook indicates, *inter alia*, that "Where an emergency situation exists... the Procuring Entity shall utilize the Direct Contracting provisions. The Head of the Procuring Entity must give approval for the issuing of emergency contracts." Further, Sub-Section S-2040(E), 'Direct Contracting', indicates that the Head of the Procuring Entity may approve Sole Source/Direct Contracting up to J\$3M. It further states that "**Procurement by sole source or direct contracting methods must be justified... The justification must form part of the record of the procurement.**"

3. Having reviewed the procurement related documents which were submitted, the OCG notes, as it relates to the procurement in excess of \$100,000.00, the following:
 - i. \$210,000.00 – Purchase Order (PO) dated 19/05/2009 and signed by the Head of Entity (HOE) – Procurement Methodology indicated as Selective, with responses received from All Purpose Distributors and Autocraft. All Purpose Distributors submitted the lower priced tender. Goods procured were garbage bags. The NSWMA Receival Note appears to indicate that the items were received on May 20, 2009;
 - ii. \$166,000.00 – PO dated 01/06/2009 and signed by the HOE – Procurement Methodology indicated as Sole Source with the reason indicated as "**compelling urgency**". Goods procured were rain cloaks, work gloves and water boots which were received on May 29, 2009;
 - iii. \$220,000.00 – PO dated 11/06/2009; signature was not of the former Executive Director – Procurement Methodology indicated as Sole Source with the reason being "**Direct Contracting**". No justification was evidenced. Goods procured were garbage bags which were received on June 15, 2009;
 - iv. \$224,900.00 – PO dated 21/04/2009 and signed by the HOE – Procurement Methodology indicated as Limited Tender with two (2) responses received from All Purpose Distributors and Autocraft. All Purpose Distributors submitted the lower priced tender. Goods procured were garbage bags and gloves which were received on April 23, 2009;
 - v. \$165,600.00 – PO dated 11/09/2009 and signed by the HOE – Procurement Methodology indicated as Selective Tender with responses received from All Purpose Distributors and National Supply Company Limited. The reason indicated for selection of All Purpose Distributors was "*price is more competitive*". Goods procured were push brooms, gloves and rain coats which were received on September 14, 2009;
 - vi. \$312,800.00 – PO dated 11/06/2009 and signed by the HOE – Procurement Methodology indicated was Limited Tender with supporting documents that included two (2) quotations from All Purpose Distributors and National Supply Company Limited. *[It does not appear as if National Supply provided quotations on two of the items.]* Goods procured were garbage bags, raincoats and push brooms which were received on June 16, 2009;
 - vii. \$253,000.00 – PO dated 06/05/2009 and signed by the HOE – Procurement Methodology was Limited Tender. As it relates to the selection of All Purpose Distributors, a notation indicated that "*They have most of the items in stock and the prices are more competitive.*" Goods procured were gloves, rain coats and push brooms which were received on May 8, 2009.
 - viii. \$220,000.00 – PO dated 23/04/2009 and signed by the HOE – Procurement Methodology indicated was Selective Tender with two (2) responses from Autocraft and All Purpose Distributors. All Purpose Distributors was the lower priced tender. Goods procured were garbage bags which were received on April 24, 2009.

An analysis of the aforementioned findings shows that two (2) responses were received in six (6) instances in which the Limited Tender/Selective Tender Procurement Methodology was reportedly utilised. It is unclear, however, whether the required three (3) quotations were requested as supporting documentation was not provided to this Office. Nonetheless, All Purpose Distributors appears to have been the lower priced tender in cases where a competitive process was utilised. Further, proper justification as it relates to the use of the Direct Contracting Procurement Methodology was not communicated to the OCG or evidenced amongst the documents which were reviewed.

Conclusion

Having regard to the foregoing, the OCG was unable to verify whether, in all occasions relating to NSWMA's engagement of All Purpose Distributors Limited, the correct Procurement Methodology, or procedures attendant to same, was utilised. Based upon the evidence gathered, however, and unless the Office is provided with additional information, the OCG has not found a substantial basis upon which to probe further into the allegation that NSWMA staff members were taking bribes to direct contracts to All Purpose Distributors Limited.

As such, the OCG recommends that the NWSMA keeps a record of all Requests for Quotation when the Limited Tender Procurement Methodology is utilised. The OCG further recommends that the NSWMA, from hereon, strictly adheres to the Government of Jamaica Procurement Procedures by using the appropriate procurement methodology when engaging a Contractor as failure to do same, without appropriate justification, is a breach of the Contractor-General Act Public Sector Procurement Regulations 2008.

Ministry/Agency: National Water Commission

Summary of Complaint

The OCG received a letter from the Ministry of Finance advising of a report from the Jamaica Constabulary Force Integrity Line regarding an allegation of impropriety in the award of government contracts. The complaint stated *inter alia*; that "...*Impropriety in the awarding of contracts to All Purpose Distributors Limited... Many Items are out to tender but for those that are not put to tender, the majority are being passed to 'All Purpose Distributors of Kingston...'* An in depth examination of the relevant documentation and the work given to this company will show that there are corrupt member(s) of staff taking bribes to give work to this company."

Summary of Findings, Conclusion and Recommendations

The OCG, after conducting an in-depth analysis of the Quarterly Contracts Award (QCA) Report, ascertained that the National Water Commission (NWC) was one of the public bodies which had a procuring relationship with All Purpose Distributors Limited. The findings are as follows:

1. All Purpose Distributors Limited was engaged on seven (7) occasions during the period January 2009 and January 2010. In each instance, the contract description provided was Medical Supplies for Wellness Centre.
2. The value of the awards ranged from \$9,087.00 to \$842,663.00, with the cumulative total of \$1,247,361.20. The Direct Contracting Procurement Methodology was reportedly utilised on four (4) occasions, with the awards ranging from \$9,087.00 to \$51,551.25 in value. In the other three (3) occasions, with values of \$112,399.20, 175,682.00 and \$842,663.00, the Limited Tender Procurement Methodology was utilised with three (3) Contractors being requested to provide quotations.

The OCG notes that the Handbook of Public Sector Procurement Procedures (November 2008), which was the applicable Handbook for the period under review, allowed for the use of the Direct Contracting Procurement Methodology for contracts up to \$100,000, and the use of Limited Tender Procurement Methodology within the value range of \$100,000 to \$1,000,000, along with three (3) registered Contractors being invited to provide a quotation.

Please note that the OCG's analysis, based upon the complaint received, was limited to whether the requisite procurement methodology was utilised.

Having regard to the foregoing, the OCG has found that the NWC, during the period under review, had utilised the correct procurement methodology as it relates to its engagement of All Purpose Distributors Limited. The OCG, therefore, unless the Office is provided with further information, has not found any basis upon which to further probe the allegation that NWC staff members were taking bribes to direct contracts to All Purpose Distributors Limited.

Ministry/Agency: National Irrigation Commission

Summary of Complaint

By way of a correspondence dated June 23, 2009, the OCG received a complaint from a concerned citizen regarding the then Chief Executive Officer of the National Irrigation Commission (NIC), Mr. Stanley Rampair. The complaint stated, *inter alia*, that:

"Owner [sic] the company name 'Caribbean Land and Water Development'

Mr. Rampair was the main force behind the black tank project in N.E. St. Catherine recently, although programmes like these does [sic] not fall under the mandate of the NIC. He also spear-headed another such on-farm project in a constituency in St. Elizabeth (Pedro Plains)."

The complainant continued by asking the following questions:

1. *"Can the following be classified as CONFLICT OF INTEREST? Mr. Rampair being the CEO of the Government agency while at the same time is the owner of a company with irrigation as part of its portfolio.*
2. *What is his arrangement with the USA Company Lovett Irrigation a trader of irrigation equipment?"*

Summary of Findings, Conclusion and Recommendation

1. With regard to the first question asked by the Complainant, reference is made to Clause 4.2.8 and 4.2.9 of the Staff Orders for the Public Service (2004), which provides guidelines relating to engagement of private work and conflict of interest. Clause 4.2.8 of the Staff Orders states that *"Officers may engage in private work, only under specified conditions and with prior permission from the appropriate authority/Services Commissions, based upon an assessment if potential conflict of interest."*

Clause 4.2.9 states, *inter alia*, that *"A Conflict of interest may be deemed to exist under any of the following circumstances:*

- a. *Engagement in private activity similar to official functions;*
- b. *Using information and/or any material gained from official position for private gain;"*

With regard to the foregoing, the OCG noted that Mr. Stanley Rampair was a Director/Owner in the company Caribbean Land and Water Development. Mr. Rampair, by way of a letter to the OCG, which

was dated July 28, 2009, stated, *inter alia*, that "*Caribbean Land and Water development was registered over years ago... This company stopped trading approximately five years ago and three years before I came to the National Irrigation Commission Limited.*"

A letter from the Companies Office of Jamaica which was dated July 20, 2009, indicated, *inter alia*, that "*It appears that it [Caribbean Land & Water Development] is not in operation and/ or trading as it has filed no documents with the COJ since 1985.*"

Having regard to the foregoing, and based upon the representations which have been made to this Office, the OCG has not evidenced a situation involving conflict of interest as the Company appears to have been inoperative.

With reference to the second question asked by the Complainant, the OCG was provided with information indicating that two (2) contracts were awarded to Lovett Irrigation Inc. during 2008. Based upon a review of the documentation, a competitive process was utilised whereby quotations were requested from various entities. In both instances, it was noted that Lovett Irrigation Inc. had the lowest prices, had available products, and had been recommended for the award of contract.

The OCG also noted another contract award which was made to Lovett Irrigation Inc. in 2009. This procurement, however, was by way of the Sole Source/Direct Contracting Procurement Methodology, upon the recommendation of the then CEO, Mr. Stanley Rampair. Given the value of the referenced contract, the applicable procurement methodology would have been Limited Tender. Whilst the Head of Entity, in accordance with Section S-2040 of the Handbook of Public Sector Procurement Procedures (2008), has the authority to approve the use of the Sole Source/Direct Contracting Procurement Methodology for contracts up to J\$3M in accordance with the scenarios indicated therein, the documentation reviewed had not indicated a justification for the use of said procurement methodology.

The OCG has also noted that the aforementioned contract had not been reported by the NIC on its 2nd quarter 2009 Quarterly Contract Award (QCA) Report. In this regard, the OCG acknowledges the statements made by the Chairman of the Board of the NIC, by way of a letter dated July 5, 2011, which outlined, *inter alia*, that "*An internal investigation has since been conducted to determine why this procurement was not reported on the QCA...*" The letter continued, stating, *inter alia*, that he NIC has implemented "...*various internal controls to ensure that this situation never recur, including widening the scope of the Internal Audit to reconcile contracts to the QCA reporting.*"

In response to the OCG, Mr. Stanley Rampair by way of a letter dated July 28, 2009, declared, "*I am no way an owner or part owner of Lovett Irrigation. I do not have shares in Lovett or have I ever benefitted from any commission from Lovett Irrigation.*" Mr. Rampair further indicated that "*Lovett Irrigation has in the pass [sic] supplied Caribbean Land and Water with Irrigation materials...*"

The OCG has not uncovered any evidence which suggests that there was an '*arrangement*' between Lovett Irrigation Inc. and Mr. Stanley Rampair.

2. With regards to the Complainant's statement that "*Mr. Rampair was the main force behind the black tank project in N.E. St. Catherine...*", the OCG has noted that Mr. Rampair's involvement with the Black Tank Project in North East St. Catherine and the On-Farm Project in Pedro Plains, St. Elizabeth, appeared to have been in keeping with his responsibilities as the then CEO of the NIC.

In the circumstances, the OCG has not found any documentary evidence to substantiate the allegations which were made by the Complainant as it relates to Mr. Rampair. The OCG also notes that Mr. Rampair is no longer employed to the NIC.

Nonetheless, the OCG cautions the National Irrigation Commission to ensure that all contracts which are awarded within the applicable thresholds are reported to its Office by way of the QCA Report as failure to do so constitutes a breach of Section 29 of the Contractor-General Act.

Ministry/Agency: Ministry of Education

Summary of Complaint

The Contractor-General received a complaint dated April 28, 2010, which stated, *inter alia*, that:

"...Staff are disgruntled over the administration of a new contractual arrangement between a private company namely, DPK Limited and the Ministry of Education.

...staff is devoid of their usual tasks and is instead being asked to relocate to the private property of DPK Limited, and assist that entity in carrying out the duties for which the company is now contracted."

...there are reasonable grounds for an investigation with regards to the adherence of the Procurement guidelines policy... the SAU are still being compensated to carry out their usual duties, even though DPK is contracted to do so."

Summary of Findings, Conclusion & Recommendations

The OCG has conducted a review into the abovementioned allegations and has arrived at the conclusion that there is merit to the allegation made by the Complainant regarding the Student Assessment Unit (SAU) staff providing assistance to DPK Limited in the conduct of its contractual obligation. However, the OCG has noted that SAU's staff involvement was subject to the provisions of the Contractual Agreement between the Ministry of Education and DPK Limited, which indicated that DPK Limited, in the conduct of their contractual obligations, would be provided with assistance from the staff of the SAU. .

With regard to the relevant contract, the OCG noted that DPK Limited's facilities were utilised to carry out the packaging and distribution of examination material. This arrangement occurred as a result of the SAU's inability to carry out particular aspects of the functions required to execute the distribution of the material.

Further, the OCG noted that the Ministry utilised the Emergency Contracting Procurement Methodology to enter into a new agreement with DPK Limited for the packaging of examination material, in the amount of \$897,363.41, and that approval was obtained from the Permanent Secretary. This agreement involved DPK Limited and the SAU staff supervising temporary workers in the packaging of said material at DPK Limited's facility.

Having regard to the foregoing, there is no evidence to suggest that the Ministry of Education subverted the procurement guidelines, or that the SAU was unjustly utilised to carry out the contractual duties of DPK Limited.

Ministry/Agency: Norman Manley International Airport

Summary of Complaint

The OCG was copied on a letter to the President of the Norman Manley International Airport (NMIA), which was dated August 3, 2012. The letter, under captioned subject '**Decision to Award an Exclusive Sales Outlet for Case Liquor in the Ticketing Area without a Competitive Tender**', stated, *inter alia*, that "*I am notifying the Contractor General of my protest to the recent decision by the NMIA's Management and Board of Directors to award an exclusive retail outlet to sell liquor by the case in the ticketing area of Norman Manley Airport, without competitive tender.*"

Summary of Findings, Conclusion and Recommendations

1. The NMIA did not award a new concession to TM Traders Limited to sell case liquor in the ticketing area.
2. The establishment of a kiosk in the ticketing area of the NMIA was reportedly aimed at correcting a procedural problem which had been of concern to the Immigration and Customs Department and the NMIA, as it relates to completing case liquor transactions purchased in the Departure Lounge. This operational challenge included the '*backtracking*' of passengers from the Departure Lounge to the ticketing hall where the cases would have to be checked in at the airline counter.
3. TM Traders operates under a Concession Agreement which was entered into with the NMIA in 2007, to sell liquor, cosmetics, fragrances and other specified products in their 'Port of Call' outlet. The new kiosk in the ticketing hall is being operated under the said Concession Agreement so as to eliminate operational challenges which currently exist for passengers purchasing case liquor in the Departure Lounge.

Conclusion

The NMIA did not enter into a new Concession Agreement with TM Traders Limited for the sale of case liquor in the Ticketing Area. The OCG finds that the establishment of the kiosk in the ticketing area is a procedural change to correct problems which were encountered under the provision of the 2007 Concession Agreement between the NMIA and TM Traders Limited.

Ministry/Agency: Ministry of Local Government and Community Development

Summary of Complaint

The OCG received an anonymous complaint alleging that payments were made "*...to free foam [sic] factory for hanover infirmary before signing a contract*".

Summary of Findings, Conclusion & Recommendations

The OCG conducted a review of the documents which were submitted to its Office, with the view of ascertaining, *inter alia*, whether the Hanover Parish Council and/or the Hanover Infirmary, had been making payments without first entering into formal contractual arrangements with the Free Form Factory Limited.

Further to same, the OCG posits the following:

1. There is no contractual arrangement between Free Form Factory Limited, the Hanover Parish Council and/or Hanover Infirmary. There is, however, a contractual agreement between the then Department of Local Government (DLG) and Free Form Factory Limited for the Construction of a New Residential Ward at the Hanover Infirmary. The DLG was acting on behalf of the Hanover Parish Council.
2. By way of a letter which was dated June 14, 2010, the DLG sought permission from the National Contracts Commission (NCC), to utilise the Direct Contracting Procurement Methodology to engage the services of Free Form Factory Limited to construct the new residential ward in the amount of J\$20,160,800.77. The justifications for the request to utilise the referenced procurement methodology were outlined accordingly. The NCC, at its meeting of August 18, 2010, offered no objection to the request and advised that cost should not exceed J\$27,160,356.79 or J\$3,520.46 per sq. ft.

3. A contract was signed on September 20, 2010, in the amount of J\$27,160,356.79, or such other sum as may become payable under the provisions of the contract. The Contract Document states, *inter alia*, that “The Works consist in [sic] but not limited to the construction of a new residential ward comprising of reinforced block wall foundation, internal walls- drywall partitioning, external walls-concrete panel walling system, trowel on finish and corrugate alu-steel roof cover. The Start date shall be October 4, 2010. The Intended Completion Date for the whole Works shall be six (6) months... the Contractor [will be paid] no later than 30 Days after the issuing of Engineer’s Payment Certificate”.
4. A revised Bill of Quantities (BQ) amounting to J\$32,767,220.67 was submitted by the Contractor, which included a variation in the amount of J\$5,606,299.88. Same was approved by the Head of Entity (HOE). Payment Certificates 1-3, totalling J\$4,390,156.00, were evidenced. All payments were made subsequent to a contract being signed.

Conclusion

Based upon the foregoing, the OCG has concluded that there is no veracity to the allegation.

Ministry/Agency: South East Regional Health Authority

Summary of Complaint

The OCG received a complaint which stated that “*Lamasa Janitorial Limited has this contract... with responsibility for both Kingston Public Hospital (KPH) and Bustamante Hospital for Children (BHC) from 1997 to present... it was brought to light by the company that from June 2005, the company does not have a fixed contract. They claimed that they are on extension from June 2005 to this present day in June 2010... We the staff of Lamasa Janitorial Ltd. (KPH & BHC)... are asking for assistance to shed some light on the present state of the contract and why one company can be on extension for over five (5) years.*”

Summary of Findings, Conclusion & Recommendation

1. The Ministry of Health (MOH), in September 1997, awarded a three (3) year contract to Lamasa Limited for the provision of Cleaning and Portering Services at the Kingston Public Hospital (KPH) and the Victoria Jubilee Hospital.

Various Regional Health Authorities, inclusive of the South East Regional Health Authority (SERHA), were established in 1999. Subsequently, in June 2002, Lamasa Limited was awarded a three (3) year contract by SERHA for the provision of Cleaning, Porter, Ground Maintenance and Pest Control Services at the Kingston Public, Victoria Jubilee Hospital, and Bustamante Hospital for Children.

The OCG has observed various letters to Lamasa Limited requesting an extension to the provision of the contracted services, commencing with a letter which was dated January 9, 2006 which requested an extension from January 9 to April 9, 2006.

2. Documentation suggests that the SERHA attempted to tender for Cleaning and Portering services for Hospitals under its jurisdiction, but was subsequently advised to cancel all tenders and send all contracts to the MOH. The OCG noted a letter which was dated June 24, 2008, from the Director, Project Planning and Implementation in the MOH to the Regional Directors, , which advised that “*...It has been agreed that tendering Contractual Services (Cleaning & Portering & Security, etc.) will now be done centrally...*”

By way of a letter which was dated July 11, 2008, the Permanent Secretary in the MOH advised the Regional Director of the SERHA, *inter alia*, that “*An invitation to tender for cleaning and porter services for the hospitals in the South East Regional Health Authority has been advertised by the Ministry of Health and Environment, all other bids should be cancelled.*”

3. Review of documentation related to the tender process undertaken by the MOH indicates that the Ministry had decided to discontinue the tender process for the cleaning and portering services at KPH, Spanish Town Hospital and Bustamante Hospital for Children, as deficiencies were identified during the review process of the documentation submitted to the Sector Committee.

The NCC, at its meeting of July 21, 2010, considered a letter dated July 13, 2010, from the Permanent Secretary in the MOH, requesting permission to utilise the Limited Tender Procurement Methodology to invite the four companies which had previously submitted bids to re-tender using current specifications. The companies identified were: Milestone Environmental Limited, Mulzia Services Limited, Jac-Den Enterprises Limited and Manpower Maintenance Services Limited. The NCC endorsed the request from the MOH and advised the Entity to invite, at least, five (5) companies to tender for the required services.

4. Documentation submitted to this Office indicates that as at July 16, 2012, services were still being provided by Lamasa Limited.
5. Though previously registered, Lamasa Limited is not currently registered with the NCC, and has not been since August 2009.

Conclusion

Having regard to the foregoing information, the OCG notes that the three (3) year contract between SERHA and Lamasa Limited, which was signed in June 2002, would have expired in June 2005. Documentation submitted to its Office suggests that the first request for an extension of service was in January 2006. This would have effectively been six (6) months after the expiration of the contract.

The extension of the contract with Lamasa Limited appears to have been necessitated because of various re-tendering exercises, which seems to have been affected by, *inter alia*, the transfer of the responsibility for procurement of Cleaning & Portering & Security etc. to the MOH. The OCG has been and will continue to monitor this procurement opportunity.

Ministry/Agency: National Land Agency

Summary of Complaint

Breach of the terms of a Lease Agreement by Mr. Vincent Edwards with regard to lands at Grange Lane which were leased from the National Land Agency (NLA).

Summary of Findings, Conclusion & Recommendation

1. By way of a letter which was dated April 5, 1989, Mr. Vincent Edwards, wrote to the Honourable Desmond Leaky, the then Minister of State in the Ministry of Agriculture (MOA), outlining the following "*I wish to lease (approximately 52 acres of land known as Lawrence Field, Saint Catherine)... on a long term basis for the purpose of establishing a stud farm for thoroughbred horses... I am advised that it is unsuitable for agriculture and is well suited for the purpose to which it will be put by me...*"

2. The NLA conducted a site inspection on June 9, 1989, and the Valuation Report indicated that the land was valued at \$417,000.00. Annual Rental was calculated at 5% of the value, totalling J\$20,850.00.

3. A Commitment Letter dated August 11, 1989, which was signed by Mr. Edwards for the lease of 52 acres part of Lawrencefield - St. Catherine, indicated land use being primarily for Stud Farming. The letter further stated that, *inter alia*, the lessee, "**...will not be allowed to assign, Underlet, part with or share the possession and occupation of the land without the written consent of the Commissioner of Lands.**" (OCG's Emphasis)

4. The approval for the lease of Land parts of Lawrencefield - St. Catherine to Vincent Edwards was granted on July 19, 1989, by the MOA. This approval was inscribed into a letter dated June 23, 1989, from the Actg. Commissioner of Lands, J.A. Munroe of the MOA, Lands Department, and addressed to the Honourable Horace Clarke, Minister of Agriculture. The lease was for *"...fifty-two (52) acres approximately... to be used for Stud Farming for thoroughbred horses... for 25 years with the option to renew at Twenty Thousand, Eight Hundred and Fifty Dollars (\$20,850.00) per annum."*

5. By way of a letter which was dated June 20, 2003, National Road Operating & Constructing Company (NROCC) wrote to Mr. Vincent Edwards confirming a telephone conversation wherein it was granted *"immediate access to... [Vincent Edward's] land for the construction of Highway 2000."* The letter further stated that *"...NROCC acknowledges that a compensation for the lands used by Highway 2000 will be paid thereafter."*

6. Dr. Wayne Reid of NROCC, on behalf of Highway 2000, requested a valuation for Lots 1-3 and 10-19, Block C, Bernard Lodge, St. Catherine, part of the land in question. The April 2003 Valuation Report determined that Vincent Edwards was the *"person-in-possession"* of the aforementioned lots, and that the leasehold was valued at \$10,000,000.00 and the freehold was valued at \$6,000,000.00.

7. Summary Claim for the amount of J\$141,459,814.90 was submitted by Vinos Farms Limited through its Attorney, Mrs. Valrie Neita-Robinson.

8. In response to the Summary Claim submitted by Vinos Farms Limited, NROCC, by way of a letter which was dated August 5, 2004, advised Mrs. Neita-Robinson that *"Further to your letter dated March 16, 2004, we have reviewed your documentation in conjunction with joint site visits with your client."*

Based on the above considerations and our own valuation of the lands by a Chartered Valuation Surveyor, our monetary compensation is Ten Million Dollars (J\$10,000,000.00)..."

9. Following upon negotiations, by way of a letter which was dated October 29, 2004, NROCC made a final offer of J\$15,000,000.00 to Mr. Vincent Edwards. Subsequently, by way of a letter which was dated November 1, 2004, addressed to Vinos Farms Limited and copied to the NLA, NROCC indicated that they agreed to pay Vinos Farms Limited compensation in the amount of J\$15,000,000.00 for the termination of his unexpired leasehold interest, buildings and infrastructure at Lot Nos. 1-2 and 8-12, Block C, under the following terms:

- a. A deposit of J\$5,000,000.00 on receiving approval of the terms;
- b. A second payment of J\$5,000,000.00 three (3) months after the first payment;
- c. The balance of J\$5,000,000 three (3) months after the second payment.

10. The final payment to Mr. Vincent Edwards was made on July 14, 2005 in the amount of \$2,500,000.00 *"...in settlement for the termination of your Lease of lands at Vinos Farms Limited..."* The OCG has observed documentation evidencing that, at a minimum, a total of J\$10,000,000 was paid to Mr. Edwards for the property.

11. Further, Mr. Edwards had sublet sections of the land to small farmers. The OCG, by way of a letter from the NLA, which was dated August 19, 2009, was advised, *inter alia*, that *"No application was made to the Commissioner of Lands (COL) for approval to sublet parts of the land nor was any approval given to Mr. Edwards to sublet the land."*

Conclusion

By virtue of Mr. Edwards leasing portions of the leased property to NROCC, and by extension, the subletting of sections of the property to small farmers, Mr. Vincent Edwards breached the terms of his Lease Agreement which states that the lessee "...will not be allowed to assign, underlet, part with or share the possession and occupation of the land without the written consent of the Commissioner of Lands." Documentation which was submitted to the OCG indicated that "No application was made to the Commissioner of Lands (COL) for approval to sublet parts of the land nor was any approval given to Mr. Edwards to sublet the land." Further, there is no documented evidence of permission granted by the NLA, to Mr. Vincent Edwards, in this regard.

During its review, the OCG had not observed any correspondence from the NLA commenting on and/or stating a position as it pertains to a copy of a letter which was dated November 1, 2004, wherein they were made aware of the arrangements between NROCC and Mr. Vincent Edwards. This is of concern to the OCG, given the terms of the lease in question. The OCG posits that the NLA, by failing to comment on and/or stating a position on the referenced letter, would have failed in the administration, monitoring and oversight of the Lease Agreement which was in place. Accordingly, the OCG is concerned that the referenced lessee was able to sell a portion of a leased property which belonged to the Government of Jamaica, without the requisite prior approval of the NLA, and be solely compensated for same.

Having regard to the foregoing, it is the opinion of the OCG that, at a minimum, certain administrative action is required to be taken, as same amounts to a dereliction of duty, on the part of the NLA, which has the oversight responsibility for the administration and monitoring of the Lease Agreement concerned.

Accordingly, the OCG would therefore urge that the Ministry, which has Portfolio responsibility for the National Land Agency (NLA), insists and ensures that the NLA put in place necessary safeguards, to ensure that such a breakdown does not recur.

Ministry/Agency: Ministry of Finance/ Caymanas Track Limited

Summary of Complaint

The complainant alleged that "...millions of cubic yards of sand were sold from land leased by Vinos Farms to Caymanas Track Ltd..."

Summary of Findings, Conclusion & Recommendation

1. Based upon the recollection of the then Acting CEO/Marketing Director of Caymanas Track Limited (CTL), Mr. Christopher Armond, the purchase of sand from Vinos Farms took place in the early 1990s. However, CTL was unable to locate related documentation, inclusive of Audited Financial Statements, for such period.
2. The OCG wrote to the Ministry of Finance and the Public Service on June 25, 2010, requesting information regarding the Audited Financial Statements of CTL for the period 1990 to 2000, in order to determine the sums which were allotted to the purchase of sand, particularly from Vinos Farm. The following was noted:
 - a. The statements for 1996 have not been found; and
 - b. The Audited Financial Statements for the years 1990 to 1995 and 1997 to 2000 did not reflect narratives which spoke to the purchase of sand. Further, the breakdown of expenses versus assets did not specifically make reference to the purchase of sand.

Conclusion

Based upon documentation submitted to the Office, Mr. Vincent Edwards had sold sand to Caymanas Track Limited, however, based upon the age of the alleged purchase, information pertaining to same, is limited to the recollection of the then Acting CEO/Marketing Director of CTL.

Based upon the foregoing, it can be concluded that there is merit to the allegations which were submitted by the Complainant. However, the OCG was unable to conclude its enquiry into the allegations pertaining to the sale of sand to CTL, based on limited documentation being available regarding same.

Ministry/Agency: Petroleum Company of Jamaica Limited

Summary of Complaint

The award of contracts by the Petroleum Company of Jamaica Limited (PETCOM), for the delivery of Liquefied Petroleum Gas (LPG), without inviting tenders for the referenced service, related to the period January 1, 2007 - July 31, 2010.

Summary of Findings, Conclusion & Recommendation

1. There is an internal process by which PETCOM procures LPG. PETCOM has reported that the Company owned LPG Bobtail Trucks are used to transport said gas from the Petrojam Loading Rack to both bulk commercial customers and the Company's Filling Plants. Depending on the need, through a non-exclusive Haulage Agreement, the services of an established Contractor is employed to enhance delivery responsiveness to customers.
2. Any person or entity that wishes to provide services for the importation of a Haulage Unit, for the purpose of transporting LPG, must apply to the Ministry of Energy and Mining (MEM) through a marketing company. This process, the OCG has been advised, has been strictly adhered to by the Company's Haulage Contractors.
3. PETCOM has reported to the OCG that neither Western LPG Limited, nor any of the Company's other existing Haulage Contractors, were selected via the procurement/tender process as they are part of an authorized list of Contractors licensed by the MEM to undertake such service, as may be required.
4. During the said period, one (1) non-exclusive Haulage Agreement was entered into with Western LPG Limited. The Haulage Agreement was dated June 18, 2010, with an expiry date of May 18, 2013. The Contract Document neither stated a total contract value, nor was there any minimum haulage requirement stated. However, the contract stated, *inter alia*, that:

"The Contractor shall be reimbursed for the cost of product delivered based on the cost per litre of product sold by the Company to the Contractor. A proposed haulage fee at a rate per litre for quantity of product delivered to customers as indicated below:

Haulage Zone	Haulage Rate\$/Litre
Corporate	1.30/Litre
Central	1.50/Litre
Western	1.70/Litre

5. Two (2) sets of Disbursement Vouchers to Western LPG were submitted to the OCG for the months of June and July 2010, showing total payments of J\$501,776.74 and J\$587,911.60, respectively. Both payments were approved by Mr. Alphonso Chambers, the Sales and Marketing Manager, having been marked and signed '*checked*' and '*attested*' by other persons.

6. The OCG has no documentation to indicate that any Agreement(s) between the PETCOM and Western LPG Limited was/were reported on PETCOM's Quarterly Contracts Award (QCA) Report, submitted to this Office.
7. There is no evidence of Western LPG Limited being registered with the National Contracts Commission (NCC) at the time of the signing of the Agreement, or the period prior to.

Conclusion

The OCG has noted that Haulage Contractors for LPG are licensed and authorised by the MEM and that, as reported by PETCOM, said Contractors and, in particular, Western LPG, were not selected via the procurement/tender process. Notwithstanding, the OCG has found that PETCOM has been engaging the services of Haulage Contractors and the Western LPG Limited was selected for the St. James area.

The OCG has also noted that the monthly payments which were made by PETCOM to Western LPG, for the months of June and July 2010, have exceeded J\$500,000.00 in each instance.

Having regard to the foregoing, and notwithstanding PETCOM's assertions that the MEM licenced these Haulage Contractors, the OCG has found, with reference to Western LPG, that an Agreement for the provision of services was entered into.

Accordingly, the OCG has concluded that PETCOM had procured the services of Western LPG in violation of the then applicable Procurement Guidelines, which required that Public Bodies engage the services of Contractors which are duly registered in the appropriate category with the NCC, when procuring general services in excess of J\$275,000. Western LPG was not a duly registered NCC Contractor.

It is also the opinion of the OCG that in the absence of a competitive tender process, there is no guarantee to assure value for money, as well as a fair and transparent process.

Ministry/Agency: National Water Commission

Summary of Complaint

The Complainant made reference to an advertisement which was published in the Jamaica Gleaner on June 28, 2010, entitled "NWC to install 70,000 New Water Meters". With regard to same, the Complainant alleged, *inter alia*, the following:

"Under the heading "Understanding Your New Water Meter" the publication makes reference to "The new Sensus 820 brand meters" which we understand to be a single jet meter.

We contacted the NWC Purchasing Department on Monday June 28th 2010 inquiring about these new meters but we were told that they had very little knowledge of these meters and how they were acquired by the NWC.

*...We were not aware of any recent tenders or request for proposals for new water meters and thus we are interested to find out the conditions under how **these new meters were acquired, when and how they were purchased**, and where these meters are manufactured." (OCG Emphasis)*

Summary of Findings, Conclusion & Recommendation

1. The installation of 70,000 new water meters appear to be one aspect of the Jamaica Water Supply Improvement Project (JWSIP). The JWSIP, which is formerly the Kingston & St. Andrew Water Supply Improvement Project, was renamed as it, reportedly, includes a number of Rural Water Supply projects in several parishes and not just Kingston and St. Andrew.

Based upon the nature of the JWSIP, the National Water Commission (NWC) deemed it to be a “traditional” Engineer, Procure and Construct (EPC) initiative, and Vinci Construction Grands Projects (Vinci) of France was selected as the Engineering, Procurement and Construction Contractor, by way of the Sole Source Procurement Methodology. The NWC had outlined that it had a prior working relationship with the Company, which through its subsidiary, had undertaken major projects for the Company and that Vinci was willing to provide financing.

It has been noted that the project was proposed to be financed through loans from the Bank of Nova Scotia, BNP Paribas of France and Vinci, and that same had received the non-objection from the Ministry of Finance.

2. The OCG has noted two (2) components of the proposed Project, namely, Commercial Improvements in KSA and Commercial Improvements in Ocho Rios and other selected areas. This component of the project required the installation of 70,000 customer meters and the replacement of existing defective, old or inaccurate meters, and on currently un-metered service connections.
3. The National Contracts Commission (NCC) endorsed the contract to Vinci Construction Grands on June 3, 2009, in the sum of J\$2,306,045,382.16, US\$24,724,467.06 and Euro€84,410,481.57.

Conclusion

Accordingly, the OCG has concluded that the supply and/or installation of the 70,000 water meters was not put to competitive tender, as same appears to have been a component of the Agreement with Vinci Construction Grands Projects regarding the JWISP.

Notwithstanding, and without prejudice to the foregoing, given the limitations of the OCG’s review and the facts that the Office had not, and has not been actively monitoring the genesis and/or implementation of the Water Supply Improvement Project, the OCG may, at a future date, either commence monitoring of and/or an enquiry into the entire JWSIP project.

Ministry/Agency: Edna Manley School of the Visual and Performing Arts

Summary of Complaint

The Complainant alleged that there was interference by some senior members of staff at the Edna Manley College for the Visual and Performing Arts into the formal procurement process. Specific mention was made of the Principal, Vice Principal, Facilities Manager, the Assistant Accountant, Human Resource Manager and the Internal Auditor by the Complainant.

Please note, the OCG found the Complaint to be vague and ambiguous with respect to some aspects of the allegations which were being made against the College. In this regard, the OCG sought to garner clarification on the issues prior to the commencement of an Enquiry. Given that the Complainant was anonymous, the OCG was unable to do same. In this regard, the OCG undertook an Enquiry into the allegations, to ascertain, general information related to procurement administration within the College.

Summary of Findings, Conclusion & Recommendation

6. There is a centralized and staffed Procurement Unit at the Edna Manley College of the Visual and Performing Arts. The Procurement and Inventory Department is staffed as follows; Procurement and Inventory Manager, a Secretary and an Inventory/Stores Officer.

As it pertains to the functions of the Procurement and Inventory Department, the OCG was advised as follows:

- i. The role and functions of the Procurement and Inventory Manager, includes, *inter alia*, the preparation of the Standard Bidding Documents, sourcing and purchasing of goods and services, ensuring that the tender opening is conducted in accordance with prescribed guidelines and that the procurement process is fair and transparent;
 - ii. The role and functions of the Secretary, includes, *inter alia*, assisting in soliciting quotations, at times, on the advice of the Procurement and Inventory Manager, faxing Purchase Orders, filling pre-approved requests, coping, packaging and all Purchase Orders to the Inland Revenue Department to be stamped "Zero-rated"; and
 - iii. The role and functions of the Inventory/Stores Officer, includes, *inter alia*, maintaining the College's Fixed Assets Register, verifying items disposed of and being present at inspection sessions carried out by the Ministry of Finance to physically identify obsolete items along with Ministry of Finance personnel.
7. As it pertains to the possible interference of the persons occupying the named positions, as indicated above, in the formal procurement process, the OCG has noted, during its review, the following:
- a. The Role of the Principal in the procurement process:
 - i. Final approval and signatory to the requests for purchases;
 - ii. Sign Requisition Books authorizing purchases;
 - iii. The Principal, as the Accounting Officer, is responsible for the overall procurement of goods and services and for ensuring that the procedural policy for procurement requests is strictly adhered to; and
 - iv. Signatory to the Quarterly Contracts Award (QCA) Report.
 - b. The Role of the Vice Principal in the Procurement Process:
 - i. Oversees operations of the processes of the Procurement Committee;
 - ii. Ensures dissemination of the Government's Procurement Policy;
 - iii. Ensures training in the Government's Procurement Policy;
 - iv. Member of the Procurement Committee;
 - v. Ensures development of internal Procurement Policy guidelines;
 - vi. Liaises with other Government bodies for clarification of the Government's Procurement Policy; and
 - vii. Presides over Procurement Committee Meeting (in the absence of the Chair). It was noted that the Procurement Committee deliberated on matters in excess of the value of J\$275,000.00.
 - c. The Role of the Facilities Manager in the Procurement Process
 - i. During the period 2007-2010, the Facilities Manager sat on the Procurement Committee, providing assistance to the then Budget Officer, with the preparation of tender documents for the provision of security services.

During the period 2010 – Present, the following obtains:

- ii. Prepares documents for tender in accordance with the Government of Jamaica (GOJ) Handbook of the Public Sector Procurement Procedures;
 - iii. Attends tender openings and perform duties of Tender Officer;
 - iv. Prepares RFP/RFQ for Security Services, Works of maintenance nature, etc;
 - v. Is the Custodian for the Tender Box;
 - vi. Signs the Tender Opening Register; and
 - vii. Prepares Evaluation Report.
- d. The Role of the Assistant Accountant in the Procurement Process
- i. There is no evidence of an Assistant Accountant being involved in the Procurement Process as no information was provided in this regard.
- e. The Role of the Accountant in the Procurement Process
- i. Sits on the Procurement Committee;
 - ii. Signs Requisition Books granting financial approval for purchases;
 - iii. Effects payment when procurement approval has been granted; and
 - iv. Verifies and signs along with the Principal the Quarterly Contract Awards (QCA) Report prepared for the Office of the Contractor-General.
- f. The Role of the Human Resource Manager in the Procurement Process:
- i. Based on the documentation submitted to the Office, the Human Resource Manager is not involved in the procurement process.

Conclusion

The OCG, based on the documentation submitted to, and the declarations which were made to it; and given the vagueness of the allegations, is unable to conclude whether there is any merit to the allegations. The OCG has, however, noted the following:

1. There is a Centralized Procurement Unit at the College.
2. Some aspect of the role and functions of the Facilities Manager appear similar to those of the Procurement and Inventory Manager. It has also been noted, based on the documentation reviewed, that the Facilities Manager is not named as a staff of the Centralized Procurement Unit.
3. The documented involvement of the referenced personnel is seemingly within the remit of their role and function. For example, by virtue of his position and responsibilities within the organization, the Principal would be required to authorize and approve the issuance of all contracts.

Notwithstanding the foregoing observations, and without prejudice, the OCG may undertake further Enquiry into the matter and/or other matters related to procurement and/or contract administration within the College.

Ministry/Agency: Jamaica Urban Transit Company Limited

Summary of Complaint

The OCG received the following complaint:

"I purchased a Sunday Gleaner dated February 20, 2012 where my attention was drawn to the above named RFP [Internal Electronic Bus Advertisement 2011-2016]. I went to the JUTC on the 22nd of February where...I obtained the RFP...On March 31, 2011, I took my proposal with all the other requirements and dropped it in the designated tender box...my bid was the only one tendered...They then proceeded to open my bid and record all the RFP documents that I submitted...I was invited to a meeting at the JUTC Executive Office on Tuesday July 19th at 2:00 p.m....The discussion continued when Mr. Scott indicated that my Company did not submit a guarantee but another company submitted a quotation...I enquired of him to explain when that other quotation came in as I was right there when the box was opened and there were no other tenders but mine. He promptly said that it was returned...On August 9, 2011, I received a letter dated August 3, 2011, informing me that the process was aborted...I am humbly requesting the assistance of your agency in conducting an investigation in this matter"

Summary of Findings, Conclusion & Recommendation

1. An Advertisement Notice was placed in Sunday Gleaner, dated February 20, 2011.
2. Deadline for submission of bid was March 31, 2011 at 3:00 p.m.
3. One (1) bid was received from Guantlett Marketing Innovations Limited, opened and verified on even date at 3:15 p.m.
4. A second bid was received from Generositas (Jamaica) Limited after the deadline. By way of a letter which was dated August 3, 2011, the JUTC advised Generositas (Jamaica) Limited of the late receipt of bid and, as such, same was not *"opened or evaluated"*.
5. Subsequent to the Tender Opening, an evaluation of the sole bid was conducted. The Evaluation Committee recommended that the tender be aborted and re-tendered.

The Evaluation Report stated that *"This was as a result of the receipt of one bid submission from Guantlett Marketing Innovation Limited, which did not speak to the Request for proposal of the JUTC. As such aspects of vital importance to the JUTC were unanswered within the submitted tender."* The recommendation was fully endorsed by the JUTC Internal Procurement Committee.

6. The JUTC, by way of a letter which was dated August 3, 2011, advised Guantlett Marketing Innovation Limited that the process has been aborted and will be re-tendered.
7. The procurement opportunity has been re-tendered.

Based upon the foregoing, the OCG has noted the receipt of a second bid and that same was returned to the Bidder as it was received after the deadline for tender submission. This is in keeping with the instructions of Volume 2, A8.6.1 of the GOJ Handbook of Public Sector Procurement (October 2010), which states, *inter alia*, that *"...all late submissions shall be returned unopened to the respective Bidders."*

As it pertains to the cancellation of the tender process, the OCG is guided by Section A8.7 of the GOJ Handbook of Public Sector Procurement (October 2010) which states, *inter alia*, that *"Procuring entities reserve the right to cancel a tender process at any stage prior to the notification of the contract award....when a tender is cancelled, all bids received by the Procuring Entity shall be return to the Bidders."*

The OCG, based upon documentation reviewed, is satisfied that the JUTC acted in accordance with the procurement guidelines and that the complainant was not fairly treated.

QUARTERLY CONTRACT AWARD (QCA) REPORTS

The Office of the Contractor General (OCG) has requisitioned all Procuring Public Bodies to prepare and submit, Quarterly Contracts Award (QCA) Report indicating the particulars of contracts which have been awarded within stipulated contract value threshold. QCA Reports are to be submitted to the OCG, in the manner stipulated, in arrears, within one (1) calendar month following the ending of the Quarter too which they relate.

The OCG has achieved a significant milestone related to one of its strategic objectives of increasing the level of productivity and efficiency in the assessment of the OCG's QCA reports by successfully launching the Quarterly Contract Awards (QCA) On-line Web Portal. By way of requisition letter dated June 25, 2012, all Procuring Public Bodies were informed that QCA reports must be prepared and submitted using the newly created OCG QCA Web Portal.

Commencing with contracts that were awarded as at July 1, 2012, the revised QCA report captures all contracts which were awarded above J\$500,000 to infinity in value. The report further captures additional information such as the tender opening date and approvals received. The newly developed system now allows Public Bodies the ability to provide justifications for the use of Direct Contracting or Limited Tender over a certain value. Additionally, Public Bodies are able to insert comments for each contract reported, as needed.

QCA Submission Compliance Rate

Since 1st Quarter, 2009, the OCG has seen an unprecedented 100% compliance rate for three consecutive calendar years from 2009 to 2012, or twelve (12) consecutive running quarters, with the exception of the 1st quarter 2012, wherein a compliance rate of 99% was achieved. By way of media release dated May 7, 2012, the OCG announced the delinquent Public Body and indicated that it would be referred to the Director of Public Prosecutions in line with the Zero Tolerance Policy of the OCG.

Table 1 below represents the QCA submission compliance levels of Public Bodies from 2009 to 2012 reporting periods.

Table 1 – QCA Reporting Compliance

Reporting Period	Number of Requisitioned Public Bodies	Number of compliant Public Bodies	Level of Compliance
4 th Quarter 2012	197	197	100%
3 rd Quarter 2012	197	197	100%
2 nd Quarter 2012	194	194	100%
1 st Quarter 2012	194	193	99%
4 th Quarter 2011	193	193	100%
3 rd Quarter 2011	194	194	100%
2 nd Quarter 2011	194	194	100%
1 st Quarter 2011	198	198	100%
4 th Quarter 2010	198	198	100%
3 rd Quarter 2010	198	198	100%
2 nd Quarter 2010	197	197	100%
1 st Quarter 2010	197	197	100%
4 th Quarter 2009	196	196	100%
3 rd Quarter 2009	193	193	100%
2 nd Quarter 2009	193	193	100%
1 st Quarter 2009	193	193	100%

QCA Uploads

The OCG, as a matter of policy, does not upload unsatisfactory and/or incomplete QCA Reports until and unless Public Bodies submit same in the requisite Microsoft Excel electronic and hard copy formats, which are duly completed in accordance with the OCG's instructions.

The Web Portal has eliminated the occurrence of incomplete QCA reports as Public Bodies are unable to submit a report unless all the mandatory fields have been completed.

Accordingly, and as it relates to the 1st and 2nd quarter 2012 reports, Table 2 demonstrates a decrease in the rate of Reports which have been successfully verified and added to the QCA Consolidated Database for these quarters.

Note however, that only the 1st quarter reports were assessed. This will be discussed further in a section which follows.

Table 2 – Summary of QCA uploads to the website

	2011 Reporting Period			2012 Reporting Period		
Reporting Period	Number of Requisitioned Public Bodies	Number of Reports Uploaded	Percentage of Reports Uploaded	Number of Requisitioned Public Bodies	Number of Reports Uploaded	Percentage of Reports Uploaded
1 st Qtr	198	195	98	194	188	97
2 nd Qtr	194	188	97	194	169	87
Total	392	383	97.5%	388	357	92%

Contract Award Data

The OCG received approximately 781 QCA reports, for the year ending December 2012, of which 357 were uploaded to the OCG’s website. Please note that information provided, in this section, for the 1st and 2nd quarters is relevant to the particulars of the 357 reports which were checked and verified for upload. The remaining figures represent the raw data received from the Public Bodies.

In the reporting year, for the 1st and 2nd quarters, 5,312 contracts were reported at a total value of \$8,246,078,789. The value of contracts for Goods and Services was \$7,177,858,775, while the value of Works contracts was \$1,049,888,899. In addition, the value of those contracts which were not classified by the Public Bodies as being goods, services or works amounted to \$18,331,115.

With respect to the 3rd and 4th quarters, 4,087 contracts were reported at a total value of J\$17,506,135,864.20. The value of contracts for Goods and Services was \$8,699,440,426.29, while the value of Works contracts was \$3,112,994,581.92. In addition, the value of those contracts which were not classified by the Public Bodies as being goods, services or works amounted to \$5,693,700,856.04.

The summaries in Tables 3 and 4 below illustrate a comparison of the compliance levels for the reporting year.

Table 3a – Summary of Contracts Awarded for 1st and 2nd Quarter

2012 Reporting Period	Total # of Contracts Awarded	Total value of Contracts Awarded	Number & Percentage of Contract Awards to Unregistered Contractors	Value of Contract Awards to Unregistered Contractors	Number % Percentage of Contracts not approved by Procurement Committee	Value of Contracts not approved by Procurement Committee	Contracts over \$1 million awarded by Direct Contracting
1 st Qtr	3,111	\$4,360,826,582	849 (27.29%)	\$1,313,329,255	580 (18.64%)	\$490,952,280	447 (14.37%)
2 nd Qtr	2,201	\$3,885,252,207	643 (29.21%)	\$1,083,912,591	428 (19.45%)	\$497,241,277	472 (21.44%)
Total	5,312	\$8,246,078,789	1,492 (28.09%)	\$2,397,241,846	1,008 (18.98%)	\$988,193,557	919 (17.30%)

Table 3b – Summary of Contracts Awarded for 3rd and 4th Quarter

2012 Reporting Period	Total # of Contracts Awarded	Total value of Contracts Awarded	Number & Percentage of Contract Awards to Unregistered Contractors	Value of Contract Awards to Unregistered Contractors	Value of Contracts over \$5 million awarded by Direct Contracting Procurement	Number & percentage of Direct Contracting Contracts Valued over \$5Mil
3 rd Qtr	1,941	\$10,348,139,184.40	96 (4.9%)	\$32,951,762.74	\$716,204,538.45	54 (2.8%)
4 th Qtr	2,146	\$7,157,996,679.85	100 (4.7%)	\$62,179,887.90	\$1,420,665,033.47	74 (3.4%)
Total	4,087	\$17,506,135,864.20	196 (4.8%)	\$95,131,650.64	\$2,136,869,616.92	128 (3.1%)

The OCG wishes to point out that it observed a significant decrease in the number of total contracts awarded for the reporting year while the value of contracts awarded had increased. The OCG attributes this variation to two (2) factors:

1. As at May 14, 2012, Public Bodies were only required to report contracts valued at above J\$500,000, which seeks to explain the decrease in the number of contracts being reported; and
2. The increase in the value of contracts reported is attributable to the OCG's requirement that Public Bodies report all contracts awarded from J\$500,000 to infinity.

Table 4 shows a comparison of figures of 2011 and 2012.

Table 4 – Comparative Compliance Levels

Reporting Period	Total Number of contracts awarded	Total Value of contracts awarded	Number and percentage of Contracts Awards to Unregistered Contractors	Value of Contract Awards to Unregistered Contractors
2011	11,152	\$16,143,777,148.00	3,106 (27.9%)	\$4,738,208,283
2012	9,399	\$25,752,214,653.20	1,688 (17.9%)	\$2,492,373,496.64

QCA 2nd Phase Assessment

As was reported earlier, the OCG had only completed the 2nd phase assessment for the 1st quarter 2012. By way of letter dated June 25, 2012, the OCG had informed all requisitioned Public Bodies that amendments had been made to its QCA report based on Circular No. 16 issued by the Ministry of Finance and Planning, which advised that the approval thresholds for the procurement of goods, services and works by Public Sector Entities have been increased.

Public Bodies were further informed that, "...the Office will not be able to sufficiently adjust its internal processes and its Information Technology systems to facilitate this change and, as such, no Assessments will be undertaken for the 2nd quarter 2012 QCA Report."

With regard to the remaining quarters in the reporting period, and as at December 31, 2012, the OCG was in the process of developing the second phase of the revised QCA format, which included the finalization and testing of the criteria to be used to assess the reports submitted by the Public Bodies.

QCA 2nd Phase Assessment Results

Once the QCA Reports have been submitted by the Public Body, the OCG conducts a comprehensive review of the information for completeness and accuracy. Where information submitted is deemed to be satisfactorily completed, a computer-aided assessment that is informed by the GOJ Public Sector Procurement Procedures is conducted and Public bodies are placed in one of the following four (4) levels:

Level 1 – An assessment result of between 96% and 100% indicates an acceptable level of compliance.

Level 2 – An assessment result of between 70% and 95% indicates an intermediary compliance level with areas identified for improvement

Level 3 – An assessment result of between 60% and 69% is indicative of an unacceptable level of procedural breaches.

Level 4 – An assessment result of below 60% indicates evidence of a fundamental, critical and/ or substantial failure of the affected Public Body to comply with the Government of Jamaica Public Sector Procurement Procedures.

Table 6 below represents the Assessment score of Public Bodies 4th Quarter 2011 and 1st Quarter 2012.

Table 6 – Summary 2nd Phase Assessment Results

	Level 1	Level 2	Level 3	Level 4	Submissions with no contracts	Un-Assessed	Total
4 th Quarter 2011	86	30	2	2	59	14	193
1 st Quarter 2012	84	32	3	3	58	14	194

SPECIAL REPORT ON THE ENGAGEMENT OF CONTRACTORS FOR THE PROVISION OF SECURITY, CLEANING AND PORTERING/JANITORIAL, AUDIT AND GARBAGE DISPOSAL SERVICES

The Office of the Contractor General (OCG), in pursuant of the discharge of its functions in keeping with its statutory mandate under the law, issued a Special Letter of Requisition in order to ascertain information regarding the engagement of contractors for the provision of security, cleaning and portering/janitorial, audit and garbage disposal services by Public Bodies.

The OCG had noted several instances whereby Public Bodies were either (a) continuously renewing contracts with the current service provider over an extended period of time without the benefit of a competitive tender process, or (b) were engaging service providers without formal contracts, at times, on a month by month basis. Accordingly, the OCG embarked upon this process to collect and collate vital information relating to the extension of contracts and/or engagement of contractors without a formal contract by Public Bodies.

On June 8, 2013, a letter of requisition was sent to all Accounting/Principal Officers of Public Bodies indicating the OCG's intention, and requesting the provision of stipulated information, where applicable. In this regard, the OCG requested that Public Bodies who were renewing contracts for the provision of any goods or services and/or who had not formally engaged service providers by way of contractual agreement, to declare same to the Office, indicating, (i) the name of the Contractor/Service Provider, (ii) Annual value of contract/payments made; and (iii) whether steps have been and/or are being made to put the subject contracts to tender. The OCG's requisition was only applicable to those Public Bodies which did not have formal or recently tendered contracts in place.

Of the one hundred and ninety-four (194) Public Bodies which were requisitioned, sixty-five (65) Public Bodies declared to the OCG that they had one or more recurring contracts or informal engagements in place. Information regarding the Contractor, nature of service, the annual cost and comments provided by the Public Bodies regarding same, is provided in the table below.

The OCG has conducted a preliminary review of the information which was provided, and has dispatched follow up letters of requisition to specific Public Bodies in order to ascertain further particulars regarding the disclosure which were made.

The OCG intends to, during 2013, create a new portfolio in order to: (i) continue analysis of the information which was provided, and (ii) embark upon an ongoing process to monitor the issuance/implementation of such service contracts, not just on a selected monitoring basis based upon tender advertisement as is currently done, but for all Procuring Entities.

Name of Public Body	No. of Contracts being Renewed/Extended	Contract Type	Contractor	Amount Paid Annually	Comments
National Irrigation Commission	6	Security Services - Electronic	King Alarm	J\$1,098,302.41	Formal contracts are in place. However, these contracts are open ended and include a roll over clause which has been in effect over several fiscal years to the present time.
		Security Services - Electronic	Atlas Protection Ltd	J\$2,610,451.99	
		Security Services - Electronic	Hawkeye Electronic Security	J\$449,061.50	
		Security Services - Manned	Protection and Security Ltd.	J\$2,866,023.16	
		Maintenance Services	A. South Electrical	J\$1,075,524.15	No contract in place. However, contractor engaged on an ad hoc basis. During the fiscal year 2011/2012 payments made to A. South Electrical for electrical maintenance services was \$1,075,524.15
		Plant Rental Services	Palm Court Limited	J\$153,960.00	No formal Contract for provision of plants for offices. Payments for fiscal year 2011/2012 was \$153,960.00
Kingston and St. Andrew Corporation	2	Security Services	Modern Investigations and Security Comp. Ltd/	J\$18,672,562.80	Contract ended March 31, 2012 and extended to facilitate new procurement process. The tender closed August 7, 2012.
		Cleaning & Sanitation			Individuals hired to provide services. No contract was signed however steps are being taken to sign official contracts with each person.
Port Authority of Jamaica	5	Garbage Disposal - Montego Bay Free Zone	Garbage Disposal and Sanitation Systems Ltd.	J\$6.5M	Tendered on March 25, 2012.
		Garbage Disposal - Kingston Free Zone	Garbage Disposal and Sanitation Systems Ltd.	J\$1.96M	Tendered on February 17, 2012.
		Security Services - Montego Bay Port	Marksman Limited	J\$50,294,683.00	Marksman engaged under a management contract with the PAJ. There is a month-to-month arrangement in place. However, discussions have begun with Port Security Corp to have a GG engagement. Simultaneously RFQ are being prepared for dispatch to other security companies.
		Security Services - Ocho Rios Cruise Ship Pier	Marksman Limited	J\$13,356,494.00	Marksman engaged by Lannaman and Morris Shipping Company which manages the Pier under a management contract with the Port Authority. Steps are being undertaken to commence new procurement process.
		Security Services - Errol Flynn Marina, Boat Yard, Ken Wright Pier	Port Security Corps	J\$4,152,336.00	Previous contract expired on January 17, 2012. Extensions approved. Formal contract to commence August 1, 2012.
HEART Trust/NTA	4	Security Services	Hawkeye Electronic Security Zone 3 &4		Retendered in May 2012.
		Janitorial Service	Hi Tech Chemicals		Was tendered in 2011, however was aborted after the evaluation. NCC approved extensions to 2012. The procurement opportunity was retendered in July 2012.
		Janitorial Service	OH & S Co. Ltd.		Was tendered in 2011, however was aborted after the evaluation. NCC approved extensions to 2012. The procurement opportunity was retendered in July 2012.

Name of Public Body	No. of Contracts being Renewed/Extended	Contract Type	Contractor	Amount Paid Annually	Comments
		Garbage Disposal	Garbage Disposal and Sanitation Systems Ltd.	J\$4,058,990.12	NCC granted extension until current negotiation with the NSWMA is finalized
Airports Authority of Jamaica	3	Security Services	Marksman Limited	J\$2,767,000.00 (paid Mthly as of August 2012)	Services are being provided by Marksman Limited as an interim measure since April 2012. This is following the termination of the originally contracted provider - Protection and Security Ltd. for breach of contract due to specific non-performance. Marksman 3 months contract ended July 2012. The procurement opportunity was to be retendered in July 2012.
		Janitorial Service	Manpower Maintenance Services Ltd.	J\$86,989,135.56	Was tendered on a number of occasions, however, a contract was not awarded. Manpower Maintenance Services Ltd. contract has been extended until the end of the current tender process. The Procurement opportunity was retendered and is being reviewed by the Procurement Committee.
		Audit	PricewaterhouseCoopers	J\$5,972,000.00	Contract ended March 2008. Contract renewed annually since April 2008, owing to the impending divestment of the NMIA. The procurement opportunity was advertised in August 2012.
College of Agriculture, Science and Education	1	Audit	Smith & Associates	J\$639,330.00	Most schools in the region use this Auditor. The Firm was recommended by the MOE several years ago. Procurement opportunity to be tendered for years 2011/2012 & 2012/2013.
Students' Loan Bureau	17	Software Maintenance Services	Fourth Generation Software Solutions	More than US\$10,000.00	
		Debt Recovery Services	Action Receivables Management Ja. Ltd (ARM)	J\$2,404,562.58	Initial date of execution is April 1, 2006. SLB will take immediate steps to regularize in keeping with GOJ Procurement Guidelines.
		Debt Recovery Services	Caribbean Credit Management and Investigation (CCMI)	J\$1,138,512.26	Last renewal date was Sept. 2010. SLB will take immediate steps to review and regularize this service in keeping with GOJ Procurement Guidelines.
		Debt Recovery Services	Caribbean Integrated Financial Services Ltd. (CIFS)	J\$2,673,929.03	Last renewal date was Sept. 2010. SLB will take immediate steps to review and regularize this service in keeping with GOJ Procurement Guidelines.
		Debt Recovery Services	Executive Protection and Debt Recovery Services	J\$2,567,147.10	SLB will take immediate steps to review and regularize this service in keeping with GOJ Procurement Guidelines.
		Debt Recovery Services	Inter Commodity Brokers and Consultants (ICBC)	J\$1,744,449.16	SLB will take immediate steps to review and regularize this service in keeping with GOJ Procurement Guidelines.
		Debt Recovery Services	Jamaica Collection and Recovery Services (JCRS)	J\$4,176,760.72	SLB will take immediate steps to review and regularize this service in keeping with GOJ Procurement Guidelines.
		Debt Recovery Services	Lawrence and Associates	J\$1,898,308.56	SLB will take immediate steps to review and regularize this service in keeping with GOJ Procurement Guidelines.

Name of Public Body	No. of Contracts being Renewed/Extended	Contract Type	Contractor	Amount Paid Annually	Comments
		Debt Recovery Services	Warmsville Investigation Security & Enquiry Limited (WISE)	J\$1,871,349.35	SLB will take immediate steps to review and regularize this service in keeping with GOJ Procurement Guidelines.
		Debt Recovery Services	DURO Investigations Ltd.	J\$757,004.67	SLB will take immediate steps to review and regularize this service in keeping with GOJ Procurement Guidelines.
		Debt Recovery Services (international)	Bluestone Law International	J\$18,531.84	Last renewal date was August 2006. SLB will take immediate steps to review and regularize this service in keeping with GOJ Procurement Guidelines.
		Collection Services	Grace Kennedy Payment Services Ltd.	J\$1,229,085.92	SLB will take immediate steps to review and regularize this service in keeping with GOJ Procurement Guidelines.
		Landline & Telephone & Data Services	Cable & Wireless (Ja.) Ltd.		SLB will take immediate steps to review and regularize this service in keeping with GOJ Procurement Guidelines.
		Website Hosting Services	Discount A.S.P. Net	J\$55,519.39	SLB will take immediate steps to review and regularize this service in keeping with GOJ Procurement Guidelines.
		Deposit Lodgement Services	Guardsman Armoured Courier	J\$236,739.18	This service was initiated in April 2007. SLB will take immediate steps to review and regularize this service in keeping with GOJ Procurement Guidelines.
		Security Monitoring	Hawkeye Electronic Security	J\$72,000.00	This service was renewed on Jan 10, 2011. SLB will take immediate steps to review and regularize this service in keeping with GOJ Procurement Guidelines.
		Pest Control Services	Target Pest Control Services	J\$108,000.00	Presently steps are being taken to procure a similar service in keeping with the GOJ Procurement Guidelines.
Southern Regional Health Authority (SRHA)	5	Security Services Mandeville Regional & Maypen Hospitals	Ranger Security Services	J\$19,350,938.88 (Mville) & J\$16,692,602.32 (Mpen)	Last extension contract expired July 31, 2012. Service was last retendered in April 2011. Cabinet submission being prepared by MOH.
		Mortuary Services - May Pen Hospital	Witter & Sons Ltd.	J\$1,584,000.00	Since the initial expiration of contract in 2005. Extensions were granted by the NCC which expired May 2010. Subsequently, SRHA has been offering monthly extensions while they wait on a formal extension from the MOH/NCC.
		Mortuary Services - Chapelton Community Hospital	Phillips & Sons Funeral Home	J\$484,364.00	Lease expired December 31, 2012
		Mortuary Services - Lionel Town	Witter & Sons Ltd.	\$0.00	This hospital was included in the public tender for divestment in July 2011. No Bidder responded. Currently exploring how to divest the morgue services by Nov 2012.
		Mortuary Services - Black River Hospital	Brown's Funeral Home	\$0.00	This hospital was included in the public tender for divestment in July 2011. No Bidder responded. Currently exploring how to divest the morgue services by Nov 2012.

Name of Public Body	No. of Contracts being Renewed/Extended	Contract Type	Contractor	Amount Paid Annually	Comments
Jamaica Library Service	25	Security Services - Kingston & St. Andrew Parish Library	Guardsman Limited	J\$1,291,059.64	No Contract in place. Procurement Process being undertaken.
		Garbage Disposal - St. Catherine Parish Library	Premier Waste Management Ltd.	J\$79,017.12	No Contract in place. Procurement Process started. RFQ made.
		Garbage Disposal - St. Catherine Parish Library	Shendor Services Ltd.	J\$62,990.08	No Contract in place. Procurement Process started. RFQ made.
		Security Services - St. Catherine Parish Library	Atlas Protection Ltd	J\$294,823.92	Contract prepared and to be signed
		Electronic Security Services - St. Catherine Parish Library	Hawkeye Electronic Security Ltd.	J\$207,000.00	Contract prepared and to be signed
		Security Services - Hanover Parish Library	Guardsman Limited	J\$3,146,474.36	No Contract in Place. Procurement Process will be initiated.
		Electronic Security Services - Hanover Parish Library	Guardsman Alarms Ltd.	J\$177,415.99	Electronic security continuously renewed Contract. Procurement process will be initiated for the next contract period.
		Janitorial Service - Hanover Parish Library	Super D Janitorial	J\$53,000.00	Continuously renew contract. Procurement process will be initiated for the next contract period.
		Janitorial Services - Trelwney Parish Library	Super D Janitorial	J\$21,000.00	Continuously renew contract. Procurement process will be initiated for the next contract period.
		Security Services - Trelawny Parish Library	Quest Security Services Ltd.	J\$316,897.50	Continuously renew contract. Procurement process will be initiated for the next contract period.
		Electronic Security Services - Trelawny Parish Library	Guardsman Alarms Ltd.	J\$100,398.66	Electronic security continuously renew contract. Procurement process will be initiated for the next contract period.
		Electronic Security Services - St. James Parish Library	Hawkeye Electronic Security	J\$93,000.00	Electronic security continuously renewed Contract. Procurement process will be initiated for the next contract period.
		Security Services - St. James Parish Library	Guardsman Limited	J\$3,170,268.16	Security Guard contract will be put to tender in accordance with the GOJ Procurement Process
		Security Services - Manchester Parish Library	Guardsman Limited	J\$3,314,372.34	Security Guard Continuously renew contract. Procurement process will be initiated for the next contract period.
		Electronic Security Services - Manchester Parish Library	Guardsman Alarms Ltd.	J\$91,728.00	Electronic security continuously renews Contract. Procurement process will be initiated for the next contract period.
		Janitorial Services - Manchester Parish Library	Super D. Services Ltd.	J\$84,000.00	Janitorial Services continuously renewed. Procurement process will be initiated for next contract period.
		Janitorial Services - Clarendon Parish Library	Rentokil Jamaica Ltd	J\$97,145.00	Janitorial Services continuously renewed. Procurement process will be initiated for next contract period.
		Security Services - Clarendon Parish Library	Alpha Security Company	J\$1,087,947.00	Security continuously renewed. Procurement process will be initiated for next contract period.

Name of Public Body	No. of Contracts being Renewed/Extended	Contract Type	Contractor	Amount Paid Annually	Comments
		Electronic Security Services - Clarendon Parish Library	Alpha Electronic Security	J\$54,000.00	Security Continuously renewed. Procurement process will be initiated for next contract period.
		Janitorial Services - St. Elizabeth Parish Library	Super D Services	J\$69,000.00	No Contract in place. Procurement Process started. RFQ made and quotes received.
		Electronic Security Services - Westmoreland Parish Library	Alpha Security Company	J\$57,024.00	No Contract. Steps will be taken to procure services in keeping with GOJ guidelines
		Electronic Security Services - Westmoreland Parish Library	Guardsman Alarms Ltd.	J\$127,000.00	No Contract. Steps will be taken to procure services in keeping with GOJ guidelines
		Janitorial Services - Westmoreland Parish Library	Super D Services	J\$34,500.00	No Contract. Steps will be taken to procure services in keeping with GOJ guidelines
		Security Services - Headquarters	Guardsman Limited	J\$4,217,159.72	Security Guards continuously renew contract. Procurement process will be initiated for next contract period.
		Electronic Security Services - Headquarters	Guardsman Alarms Ltd.	J\$134,200.89	Contract prepared and to be signed.
Ministry of Foreign Affairs and Foreign Trade	2	Security Services	Marksman Limited	J\$3,094,416.00	Contract extended annually since 2007. New Tender process begun.
		Janitorial Services	Cleanwell Janitorial Services Ltd.	J\$2,862,760.32	Last tendered in 2008 for a 3 yr contract. New tender process commenced and is to be completed by October 2012
Edna Manley College		Security Services	Modern Investigations and Security Comp. Ltd	J\$10,896,300.00	Service was put to tender, however deficiencies were observed during the evaluation and so procurement is being amended. Modern investigation currently provides service in the interim
		Garbage Disposal	Garbage Disposal and Sanitation Systems Ltd.	J\$390,500	Currently there is no contract. This is due to the fact that the monetary value per load/trip was of such that the provision of the service was never put to tender. Annual value of Contract J\$390,500.00
Statistical Institute of Jamaica	3	Security Services	Marksman Limited	J\$2,346,918.00	Engaged since 1999. Steps will be taken to regularize the process through competitive bidding.
		Garbage Disposal	Minot Services Ltd.	J\$55,384.15	Engaged since February 2004. Will continue to engage the services of a reliable contractor in accordance with the GoJ Procurement Guidelines
		Audit	Paul Goldson & Company	J\$1,200,000.00	Engaged since 1984. Will seek to engage the services of a reliable contractor in keeping with GoJ Procurement guidelines in 2013.
Ministry of Health	4	Security Services- National Blood Bank	Atlas Protection Ltd	J\$12,132,000.00	Contract ended Jan 2011. Retendered in November 2011. Proposal scheduled for review by Procurement Committee July 2012

Name of Public Body	No. of Contracts being Renewed/Extended	Contract Type	Contractor	Amount Paid Annually	Comments
		Security Services - Head Office, Manley Meadows, Allerdyce Apartments	Protection and Security Ltd.	Over J\$20M for all locations	Contract ended Jan 2011. Retendered in November 2011. Proposal scheduled for review by Procurement Committee July 2012
		Security Services - South East Waste Mgt Plant, National Chest Apartments, Kingston School of Nursing	Shalk Electronic Security Ltd.	Over J\$10M for all locations	Contract ended Jan 2011. Retendered in November 2011. Proposal scheduled for review by Procurement Committee July 2012
		Janitorial Services	Manpower Maintenance Services Ltd.	J\$5,559,528.56	Contract for service began June 1, 2004 and expired May 31, 2006. Proposals scheduled to be reviewed by the Procurement Committee on July 18, 2012. Procurement opportunity was retendered in March 2012.
Housing Agency of Jamaica	15	Audit	KPMG Chartered Accountants	J\$6,208,000.00	Incumbent firm will continue for rest of financial year. Services tendered in required manner. Procurement opportunity retendered in august 2012.
		Property Management Services	Jamaica Property Company Ltd.	J\$42,526,044.00	Tender currently being evaluated
		Security Services - Grange Pen, St. James	Business Recovery Services Ltd.	J\$3,075,600.00	The Agency will proceed to regularize these arrangements in keeping with GoJ Procurement Guidelines
		Bushing of Sewage Plant - Bushy Park	J & H Construction Solutions	J\$688,122.00	The Agency will proceed to regularize these arrangements in keeping with GoJ Procurement Guidelines
		Maintenance Sewage Plant - Bushy Park	Champion Industrial Equipment & Supplies	J\$752,124.00	The Agency will proceed to regularize these arrangements in keeping with GoJ Procurement Guidelines
		Maintenance of Sewage Plant - Dillsbury	Errol Folkes & Associates	J\$252,000.00	The Agency will proceed to regularize these arrangements in keeping with GoJ Procurement Guidelines
		Maintenance of Pumping & Disposal of Waste from Septic Tanks - Dillsbury	WAYMAY Water and Waste Environmental Solutions	J\$4,320,000.00	The Agency will proceed to regularize these arrangements in keeping with GoJ Procurement Guidelines
		Maintenance of 3 Re-Lift Stations - Luana	Errol Folkes & Associates	J\$1,680,000.00	The Agency will proceed to regularize these arrangements in keeping with GoJ Procurement Guidelines
		Bushing of Sewage Treatment Facility - Luana	J & H Construction Solutions	J\$1,233,000.00	The Agency will proceed to regularize these arrangements in keeping with GoJ Procurement Guidelines
		Maintenance of 3 re-Lift stations - Melrose	Errol Folkes & Associates	J\$1,152,000.00	The Agency will proceed to regularize these arrangements in keeping with GoJ Procurement Guidelines
		Maintenance of Sewage Treatment Plant - Melrose	Champion Industrial Equipment & Supplies	J\$1,939,026.00	The Agency will proceed to regularize these arrangements in keeping with GoJ Procurement Guidelines

Name of Public Body	No. of Contracts being Renewed/Extended	Contract Type	Contractor	Amount Paid Annually	Comments
		Maintenance of Lift Stations 2A & 2B- Portmore Villa	Errol Folkes & Associates	J\$1,597,200.00	The Agency will proceed to regularize these arrangements in keeping with GoJ Procurement Guidelines
		Maintenance of Sewage Treatment Plant - Portmore Villa	Errol Folkes & Associates	J\$786,000.00	The Agency will proceed to regularize these arrangements in keeping with GoJ Procurement Guidelines
		Maintenance of Sewage Treatment Plant - Seacrest	Errol Folkes & Associates	J\$831,600.00	The Agency will proceed to regularize these arrangements in keeping with GoJ Procurement Guidelines
		Maintenance of Sewage Treatment Plant - Tryall	Errol Folkes & Associates	J\$942,000.00	The Agency will proceed to regularize these arrangements in keeping with GoJ Procurement Guidelines
Hanover Parish Council	1	Janitorial Services	Super D Services	J\$34,500.00	No Contract in Place.
National Health Fund	4	Audit	KPMG Chartered Accountants	J\$7,500,000.00	Preparing to go to Tender for this contract
		Plant Rental Services	Shortwood Plant Heaven	J\$409,800.00	Will review engagement in accordance with GOJ Procurement Guidelines
		Courier Services	Tara Courier Services	J\$904,425.20	Will review engagement in accordance with GOJ Procurement Guidelines
		Scanning & Printing Application Forms	Xsomo International Ltd	J\$1,800,000.00	Will review engagement in accordance with GOJ Procurement Guidelines
St. Ann Parish Council	1	Security Services	Counterforce Security Ltd.	J\$3,352,840.00	Incumbent providing services for an extended period. The procurement opportunity was retender on June 27, 2012.
National Solid Waste Management Authority		Security Services - NSWMA & MPM	Quest Security Services Ltd.		Contracts issued for 42 days until completion of current tender process. Procurement opportunity was tendered on May 9, 2012.
		Security Services - NEPM, WPM & SPM	Vanguard Security		
		Garbage Collection and Street Sweeping	Multiple Contractors	Over J\$100,000,000.00	New Procurement process is expected to be complete in 6 months
Department of Cooperative and Friendly Societies	1	Garbage Disposal Services	Minot Services Ltd.	J\$60,000.00	On one occasion where premises was overgrown Whitely Eccleston was engaged for J\$20,000.00
Petroleum Company of Jamaica (PETCOM)	1	Security Services	Atlas Protection Ltd		Current contract was last renewed in October 2009. Agreement was for 1 year and renewable thereafter. Tender process will be initiated in September 2012.
Urban Development Corporation	5	Security Services - Reach Falls	Atlas Protection Ltd	J\$12,126,584.77	Approval for extension was granted by the NCC to facilitate the completion of the procurement process. These contracts are now to be submitted to the OPM
		Security Services - Ocho Rios Commercial Centre	Ranger Security Services	J\$20,103,223.69	Approval for extension was granted by the NCC to facilitate the completion of the procurement process. These contracts are now to be submitted to the OPM
		Security Services - St. Ann Development Comp (inc Dunns River, Turtle River Park et. al.	Atlas Protection Ltd	J\$51,854,244.00	Approval for extension was granted by the NCC to facilitate the completion of the procurement process. These contracts are now to be submitted to the OPM.

Name of Public Body	No. of Contracts being Renewed/Extended	Contract Type	Contractor	Amount Paid Annually	Comments
		Security Services - Waterfront properties	Allied Protection Security Ltd.	J\$22,764,445.33	Approval for extension was granted by the NCC to facilitate the completion of the procurement process.
		Security Services - Cotton Polyester	Crime Prevention Security Limited	J\$	An extension was issued for continued provision of the service up to July 31, 2012.
Jamaica Information Service (JIS)	1	Security Service	Milex Security Service	J\$10,300,000.00	Extension was sought from the NCC to facilitate completion of procurement for new security contract.
Coconut Industry Board	3	Garbage Disposal	Derrick Edwards	J\$2,479,907.00	Contract has been renewed annually. Steps will be taken on expiration of these contracts to ensure the GoJ Procurement Guidelines.
		Audit	PricewaterhouseCoopers	J\$1,087,556.00	
		Security	Vanguard Ltd.	J\$1,388,469.83	
Financial Services Commission	1	Audit	KPMG Chartered Accountants	J\$1,750,000.00	No tender process conducted to engage contractor.
Ministry of Agriculture and Fisheries	1	Rental and Cleaning of Skips	Premier Waste Management Ltd.	J\$347,100.00	Ministry has ceased using the contractor and tender documents being prepared for award of contract using the LT procurement method.
Petrojam Limited	3	Provision of Close circuit TV	Quest Security Services Ltd.	J\$3,525,000.00	This service will be included in current security tender. Process was retendered and endorsed by NCC in June 2012.
		Security Guard Services	Allied Protection Security Ltd.	J\$87,000,375.88	Currently awaiting Cabinet Submission. Process was retendered and endorsed by NCC in June 2012.
		Janitorial and Garbage Disposal	Minot Services Ltd.	J\$14,713,785.84 (Jan) J\$4,732,588.32 (Gar)	Contract with current contractors expired June 30, 2012. Contract re new procurement process being finalised as at June 27, 2012.
Sugar Industry Research Institute	1	Security Services	Ranger Security Services	J42,241,292.21	No contracts exist. Procurement opportunity will be put to tender via advertisement on July 1, 2012
Ministry of Labour & Social Security	5	Garbage Disposal Services	Minott Services	J\$229,397.60	No Contract, arrangements being made to regularize.
		Security Services - 3 Locations	Atlas Protection Ltd	J\$10,464,591.60	No Contract, arrangements being made to regularize.
		Elevator Services at 1 location	Comfortair Engineering Ltd.	J\$416,400.00	No Contract, arrangements being made to regularize.
		Sanitary Disposal at 16 Locations	Super D Services	J\$494,900.00	No Contract, arrangements being made to regularize.
		Contract type not clear	Novia Bennet	J\$2,304,000.00 (Ellemer Rd) J\$3,744,000.00 (Harbour Street)	No Contract. Procurement opportunity to be put to tender September 2012.
St. Joseph's Hospital	1	Garbage Disposal	Garbage Disposal and Sanitation Systems Ltd.	J\$1,096,410.00	No Contract
Planning Institute of Jamaica	1	Janitorial Services	Manpower Maintenance Services Ltd.	J\$3,500,000.00	Contract expired February 29, 2012. Procurement opportunity to be put to tender in July 2012.
Jamaica Urban Transit Company (JUTC)	3	Haulage of Fuel	Calee Transport Ltd.	J\$1,020,948.40	Request for Proposal being prepared.
		Custom Brokerage	All Island Freight Services	J\$5,361,763.65	Service was tendered and now with contractors to sign

Name of Public Body	No. of Contracts being Renewed/Extended	Contract Type	Contractor	Amount Paid Annually	Comments
		Canteen Concessionaire	Theresa Henry (Prtmore), Loraine Dobson (Rockfort), Karen Smith (Spanish Town)	J\$ 1,700,000.00 per location	Services tendered on several occasion but selected providers leave after short stints. Procurement opportunity was tendered in July 17, 2012.
Bureau of Standards Jamaica	2	Garbage Disposal	Premier Waste Management Ltd.	J\$353,571.50 (yr to date)	Contract signing put on hold in May 2012 to facilitate investigation to see possibility of engaging a sole provider to dispose of all type of waste (hazardous and non-hazardous)
Rural Agricultural Development Agency	2	Security Services	Atlas Protection Ltd	J\$3,000,000.00	Tenders to be invited by August 31, 2012.
		Audit	BDO MARWICL Chartered Accountants	J\$1,900,000.00	Tenders to be invited by august 31, 2012.
Manchester Parish Council	2	Armoured Services	Guardsman Limited	J\$350.00 per trip	Steps will be taken to put contract to tender.
		Security Services	Ranger Security Services	J\$1,452,500.00	Steps will be taken to put contract to tender.
St. James Parish Council	1	Security Services - Montego Bay Sports complex	Allied Protection Security Ltd.	J\$4,575,288.00	Tender to be placed by July 31, 2012.
Western Regional Health Authority	1	Security Guard Services - Westmoreland Health Services	Guardsman Limited	J\$15,411,201.60	Awaiting Cabinet Approval - Contract amount will be J\$41, 061,880.00. NCC approval was received March 12, 2012.
Jamaica Tourist Board	2	Audit Services	KPMG Chartered Accountants	J\$1,520,000.00	Contract expired in November 2011. Extension granted to facilitate audit of 2011/12.
		Security Services	Vanguard Security	J\$2,000,000.00	Procurement opportunity will be tendered in the 2012-2013 fiscal year.
North East Regional Health Authority	2	Security Guard Services	Marksman Limited	J\$56,023,643.90	New Procurement process is awaiting NCC approval
		Audit Services	Deloitte & Touche	J\$2,100,000.00	Services engaged in 2000. NERHA will take steps to regularize
Broadcasting Commission	1	Audit Services	Barrette & Company	J\$400,000.00	Providing the service for over 12 years
Scientific Research Council	2	Security Services	Silver Security Services	J\$4,978,907.00	Engaged on a month-to-month basis.
		Janitorial Services	Manpower Maintenance Services Ltd.	J\$3,843,011.00	Contract expired September 2009. Has been engaged since then, on a month-to-month basis. Steps will be taken to regularize in keeping with GoJ procurement guidelines
Finsac Limited	2	Audit Services	Deloitte & Touche	J\$2.2M	No tender process conducted to engage contractor.
		Audit Services	KPMG Chartered Accountants	J\$1.85M	No tender process conducted to engage contractor.
Post and Telecommunications Department	2	Security Services	Multiple Contractors	Over J\$10M for all locations	No contracts.
		Garbage Collection Services	4 contractors engaged	J\$2M in total	No tender process conducted to engage contractor.
Westmoreland Parish Council	1	Security Services	Canon Guards	J\$2,046,200.00	No procurement process was undertaken as the case was deemed to be an emergency.

Name of Public Body	No. of Contracts being Renewed/Extended	Contract Type	Contractor	Amount Paid Annually	Comments
University of Technology	3	Security Services	Marksman Limited	J\$82,985,552.00	Contract expired March 31, 2012.
		Cleaning &Portering	Garbage Disposal and Sanitation Systems Ltd.	J\$9,033,114.50 (since contract expired)	
		Sewage Services	Waymay Limited	JS27,729,034.46 (since contract expired)	
National Youth Service	2	Garbage Disposal	Rentokil Jamaica Ltd		Approval granted to Rentokil since 2009. Since then, yearly contracts signed. 2012 Contract not yet signed
		Security Services	MICA Security		NYS using service since 2008. Formal contract in place with no end date. NYS has since initiated competitive process to engage security services
Trade Board	2	Janitorial Services	Minott Services	J\$519,240.00	On a month-to-month basis since January 31, 2012. Procurement opportunity to be tendered in June 2012.
		Security Services	Guardsman Limited	J\$1,096,160.00	On a month-to-month basis since March 31, 2012. Procurement opportunity to be tendered in June 2012.
Banana Board	1	Security Services	King Alarm	J\$196,200.00	Engaged in 2003 to provide emergency response and electronic security services. Appropriate procurement process will be engaged for emergency security.
Jamaica Bauxite Institute	2	Security Services	Silver Star Protection	J\$2,040,362.00	Three year contract ended August 2011. Continued to engage services of contractor. In the process of preparing a tender
		Janitorial	Minott Services	J\$168,651.85	No formal contract in place. JBI will immediately request quotes in order to determine the competitiveness of current arrangement. Will ensure formal contract is in place.
Jamaica Foundation for Life Long Learning	3	Security Services	Guardsman Limited	J\$651,651.00	Expired November 11, 2011. Extension granted pending merger with HEART
		Garbage Disposal Services	Minott Services	J\$167,280.00	Expired November 17, 2011. Extension granted pending merger with HEART
		Servicing of AC	Geddes Refrigeration Ltd.	J\$271,6000.00	Expired November 16, 2011. Extension granted pending merger with HEART
Air Jamaica	1	Janitorial Services	Minott Services	J\$595,000.00	Engaged on a month-to-month basis pending Air Jamaica Legacy operations. Air Jamaica operations should be completed Sept 2012
St. Mary Parish Council	1	Janitorial Services	Rentokil Jamaica Ltd	J\$70,680.00 (yr)	Continuously engaging contractor since March 2007. Steps will be taken to renew contract according to Procurement Guidelines
Rural Water Supply	1	Audit	Lee Clarke Chang Chartered Accountants	J\$600,000.00	Contractor providing service since 1997. Board of Director made decision to invite tenders according to the GoJ procurement guidelines for 3 yrs commencing with Audit of 2012-2013 Financial year.
Jamaica Customs Department	4	Security Services	Atlas Protection Ltd	J\$12,375,657.52	Procurement opportunity retendered in October 2011, NWA Sector Committee requested clarification, which are currently being prepared.
		Security Services	Milex Security Service	J\$8,306,179.75	

Name of Public Body	No. of Contracts being Renewed/Extended	Contract Type	Contractor	Amount Paid Annually	Comments
		Security Services	Ranger Security Services	J\$17,658,927.03	
		Armoured Services	Guardsman Armoured Courier	J\$20,001,9996.65	Procurement opportunity retendered in May 2012.
Firearm Licensing Authority	1	Garbage Disposal	Garbage Disposal and Sanitation Systems Ltd.	J\$192,000.00	Contract in place effective July 7, 2010. Renewable annually without tender due to value of contract being below J\$275, 000.00
Mines and Geology Division	1	Security Services	Allied Protection Security Ltd.	J\$2,495,001.60	In the process of inviting tenders.
Companies Office of Jamaica	3	Security Services	Atlas Protection Ltd	J\$3,133,207.00	No tender process conducted to engage contractor.
		Electronic Security	King Alarm	J\$109,198.00	No tender process conducted to engage contractor.
		Garbage Disposal	Monica C. Rowe	J\$177,961.00	No tender process conducted to engage contractor.
Jamaica Racing Commission	5	Security	Knightsman Limited	J\$2,219,775.80	Moving Forward we will be putting the subject contracts to tender in accordance with the GoJ Procurement Guidelines
		Security	Guardsman	J\$1,525,655.49	
		Security	McKay Security Limited	J\$534,564.59	
		Garbage Disposal	Garbage Disposal and Sanitation Systems Ltd.	J\$42,000.00	
		Sanitation	Rentokil Jamaica Ltd	J\$215,366.93	
Civil Aviation Authority	6	Garbage Collection	Premier Waste Management Ltd.	J\$450,000.00	Services will be put to tender on July 28, 2012
		Garbage Collection	Garbage Disposal and Sanitation Systems Ltd.	J\$152,000.00	
		Garbage Collection	Clifton Thomas	J\$119,000.00	
		Security Services	Guardsman Limited	J\$18,000,000.00	
		Security Services	Silver Start Limited		
		Audit	Lee Clarke Chang Chartered Accountants	J\$1,020,000.00	
Portmore Municipal Council	1	Security Services	Desmond Bailey's Security Firm	J\$1,780,039.48	Currently taking steps to bring the arrangement in line with GoJ Procurement Guidelines
Portland Parish Council	2	Security Services	Marksman Limited	J\$1,092,480.00	Measures are being put in place to ensure that the procurement guidelines are adhered to.
		Janitorial/Sanitation	Rentokil Jamaica Ltd	J\$63,665.00	Falls below threshold.
Petro Caribe Development Fund	1	Audit	PricewaterhouseCoopers	J\$1.5M	Steps are currently being undertaken to tender in accordance with the GoJ procurement Guidelines and a selection made for the year 2012/2013.

Name of Public Body	No. of Contracts being Renewed/Extended	Contract Type	Contractor	Amount Paid Annually	Comments
South East Regional Health Authority	17	Security Services - National Chest Hospital	Marksman Limited	J\$12,336,238.08	Contract since 2002. New Tender submitted to Sector Committee
		Security Services - KPH, VJH	Bunker Security & Protection Ltd.	J\$61,354,983.60	Contract since 2006. Procurement opportunity was retendered in August 2012.
		Security Services - Bustamante Hospital for Children	Sovereign Security Guarding Ltd.	J\$22,142,730.24	Contract since June 2007. Procurement opportunity was retendered in August 2012.
		Security Services - Kingston & St. Andrew Health Centres	Atlas Protection Ltd	J\$17,906,319.36	Scope of Work being reviewed
		Security Services - Kingston & St. Andrew Health Centres	Sovereign Security Guarding Ltd.	J\$9,201,600.00	Scope of Work being reviewed
		Security Services - Kingston & St. Andrew Health Centres	Modern Investigation & Security Co. Ltd.	J\$21,782,808.00	Scope of Work being reviewed
		Security Services - Kingston & St. Andrew Health Centres	Ranger Security Services	J\$4,104,979.20	Scope of Work being reviewed
		Security Services - St. Thomas Health Department	Sovereign Security Guarding Ltd.	J\$1,635,840.00	Scope of Work being reviewed
		Security Services - St. Catherine Health Centres	Marksman Limited	J\$7,974,586.08	Scope of Work being reviewed
		Sir John Golding Rehabilitation Centre	Protection and Security Ltd.	J\$7,651,560.96	Scope of Work being reviewed
		Hope Institute	Protection and Security Ltd.	J\$1,945,013.75	Scope of Work being reviewed
		Linstead Hospital	Protection and Security Ltd.	J\$6,343,557.12	Scope of Work being reviewed
		Garbage Disposal - KPH & VJH	Minott Services	J\$2,147,048.28	Contract expired Feb 7, 2012. New contract submitted to Procurement Committee July 11, 2012 and approved.
		Audit Services	PricewaterhouseCoopers	J\$3,000,000.00	Procurement opportunity to be tendered in December 2012.
		Cleaning & Portering /Janitorial - KPH & VJH	Lamassa	J\$112,327,694.88	Original contract of 2002 which ended in 2005 was extended to August 2008. New procurement at Ministry of Health Sector Committee
		Cleaning & Portering /Janitorial - Bustamante Hospital for Children	Lamassa	J\$38,556,166.20	Original contract of 2002 which ended in 2005 was extended to August 2008. New Procurement submitted to NCC for endorsement.
		Cleaning & Portering /Janitorial - Spanish Town Hospital	Manpower Maintenance Services Ltd.	J\$78,153,968.40	Original contract of 2002 which ended in 2005 was extended to August 2008. New procurement was endorsed by the NCC and is to be submitted to Cabinet for approval.

Name of Public Body	No. of Contracts being Renewed/Extended	Contract Type	Contractor	Amount Paid Annually	Comments
E-Learning Jamaica	3	Electronic Security	King Alarm	J\$86,400.00	Initially put to tender. Has not been retendered since.
		Delivery Services/Courier	Go Deliver	J\$107,300.00	Company choice based on experience proximity and availability
		Insurance	Sagicor	J\$1,524,984.00	Initial Contract put out to tender.
Rural Electrification Programme	1	Security	Alpha Security Company	J\$10,000,000.00	Contract expired 2011. Contract was further extended. The procurement opportunity was advertised on May 15, 2012.

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TECHNICAL SERVICES DIVISION

OVERVIEW

The Office of the Contractor-General (OCG) is mandated under section 23J subsection (1) of the Contractor-General Act to provide to the National Contracts Commission (NCC), inter alia, administrative and secretarial support services. The Technical Services Department (TSD) functions as the Secretariat to the NCC.

The TSD operates in a dual capacity as, in addition to functioning as the Secretariat to the NCC, it is also responsible for ensuring probity, transparency and fairness in the award of contracts. The primary function of the Department may, therefore, be categorised as follows:

- a) The registration of Works Contractors and Suppliers of Goods and Services, within the appropriate category and grade, in accordance with the entity's demonstrated level of competency in keeping with the registration requirements of the NCC.
- b) Representing the NCC on its Sector Committees, as well as monitoring its deliberation on recommendations made by Public Bodies in the award of contracts. The Sector Committees operate within seven (7) Ministries/Executive Agencies as follows:
 1. National Works Agency;
 2. Jamaica Social Investment Fund;
 3. Urban Development Corporation;
 4. Ministry of Health;
 5. Ministry of Water, Land, Environment and Climate Change;
 6. Ministry of Education; and
 7. Port Authority of Jamaica.
- c) The provision of both technical and administrative support to the NCC, including the preparation of submissions from Public Bodies for its deliberation and the generation of all correspondence concerning same. Further, the Department is responsible for the verification of Contractors / Suppliers suitability for inclusion on the list of NCC Registered Contractors / Suppliers.
- d) The maintenance of records of endorsements and the generation of statistical reports.

STAFFING

In 2012, the TSD's operational activities were executed by eleven (11) members of staff as follows:

- One (1) Director
- One (1) Administrative Assistant
- Two (2) Managers
- Four (4) Technical Officers
- One (1) Supervisor

- Two (2) Records Officers

During 2012, the TSD, though faced with significant challenges in the availability of human resource, continued relentlessly in conducting a 100% compliance testing on all applications submitted seeking registration with the NCC. The referenced compliance testing was undertaken in an effort to ensure the veracity of assertions made by Applicants to ensure that Contractors and prospective Contractors are registered in the appropriate grade level and category, in keeping with their level of competency and other supporting resources.

Whilst executing this function, and out of an effort to simplify the registration process, the TSD embarked on developing a supplemental information document for Works Contractors for full introduction in 2013 which, when read in conjunction with the Works Contractor Registration Form, provides further clarity in relation to the registration requirement.

Further, the TSD carried out preparatory work which facilitated the introduction of a new Service Category "Renewable Energy Systems" under the Supplier of Goods and Services Registry within which entities may seek registration for the installation of Solar Water Heater System as well as, the design, installation and maintenance of Photovoltaic and Wind Powered Systems. This has served to enhance Public Bodies' selection of such service providers on an equitable basis which will promote fairness and transparency in the procurement of these services.

REFERRED CONTRACTORS

Over the years, several Contractors were referred to the Jamaica Constabulary Force Fraud Squad for further investigation in instances where, through the OCG 100% compliance audit, material misrepresentations were discovered within their application for registration. The OCG is still awaiting the outcome of the Fraud Squad's investigations.

NCC COMMISSIONERS

The Third Schedule of the Contractor General Act (Section 23B) outlines the composition of the Commission, which totals eight members, as follows:

- a) Six ex-officio members
 - i. One selected as Chairman by the Governor General from a panel of three persons nominated by the Contractor-General; and
 - ii. Five other Cabinet designated ex-officio members who shall be employees of Public Bodies, provided that not less than three shall be Public Officers.
- b) One member selected from a panel of five persons nominated by the Joint Consultative Committee of the Building Industry, or any other body performing similar functions which may replace it.
- c) One member selected from a panel of five persons nominated by the Professional Societies Association of Jamaica or by any body performing similar functions which may replace it.

During 2012, the following persons served as Commissioners:

1. Mr. Raymond McIntyre, Chairman of the Commission;
2. Mr. Robert Martin, Permanent Secretary in the Ministry of Youth and Culture;
3. Mr. Lascelles Dixon, representing the Professional Societies of Jamaica;
4. Mr. Karl Martin, former Director of Special Projects, Ministry of Transport, Works and Housing;
5. Mr. Donald Moore, Senior General Manager, National Housing Trust;
6. Mrs. Jean Fairclough, Senior Policy Analyst, Cabinet Office;
7. Mr. Milton Hodelin, former CEO of the National Works Agency (NWA); and
8. Mr. Richard Hylton, who was approved by the Construction Industry Council.

The Third Schedule (Section 23B), Sub-section 2 of the Contractor-General Act, stipulates that “*each member of the Commission shall....hold office for a period of seven years*”. Having commenced on May 17, 2006 the tenure of the present panel of Commissioners will expire on May 16, 2013.

NEW DEVELOPMENTS

Contractor Registration Process

In our continued effort to strengthen the Contractor Registration Process, a revised version of the Goods and Services Application Form was issued on November 12, 2012. The revised Application Form contained all the relevant information that would be required for Contractors seeking registration and re-registration.

The revised Application Form also included the requirement of the submission of the Office of Registrar of Companies (ORC) issued “Form 23”. The “Form 23” is applicable to all Companies registered with the ORC, except Business Name registered Companies. It indicates the particulars of the Companies’ Directors and any changes therein.

The “Form 23” is used as a conformance tool with the Director and/or Owner’s Declaration Form and is aimed at identifying any potential conflict of interest situations which may arise between a member of the Civil Service or person holding any position or office and their personal interest.

The NCC, effective October 1, 2012, increased the registration period for all Contractors wishing to be registered or re-registered as Works 1-4 Contractors, Suppliers of Goods and Services from twelve (12) to eighteen (18) months.

The increased registration period applied to all Contractors whose registration expired/expires after March 31, 2012, and included those Contractors who had submitted Applications during the period for registration or re-registration.

CONTRACTOR REGISTRATION

In accordance with the Government of Jamaica Handbook of Public Sector Procurement Procedures, Contractors are required to be registered with the NCC in order to be eligible to tender on Government Contracts above a specific monetary threshold. The registration of Contractors is, therefore, of significant import, as it informs Public Bodies of the grade level and category(ies) within which a specific Contractor, having been evaluated on its resources and the technical expertise residing in the company, is able to perform.

More specifically, as stipulated by Section 23H of the Contractor-General Act, the following factors are taken into consideration when classifying Contractors:

- a) Financial Soundness;
- b) Technical and Managerial Competence and Experience;
- c) General Level of Expertise;
- d) Specialization in the supply of the relevant Goods or Services or in the carrying out of the relevant Works;
and
- e) Equipment and other resources.

For the period under review, the OCG continued its drive to prevent and remove any form of fraudulent activities within the registration process. To this end, it continued in earnest to maintain the 100% compliance process that was initiated in 2010.

REGISTRATION AND RE-REGISTRATION OF CONTRACTORS**Suppliers of Goods and Services**

During 2012, the total number of registered Contractors of Goods and Services had a minimal increase of 1396 in 2011 to 1397 in 2012, which represents a .07% increase. This increase, although minimal, discontinued the downward trend in registration over the previous two (2) periods, 2011 and 2010.

This overall increase in the number of registered Contractors of Goods and Services resulted from a combined 25% increase in the number of new registration from 234 in 2011 to 293 in 2012, and a 5% reduction in the number of re-registration from 1162 in 2011 to 1104 in 2012.

Further analysis indicates that though a downward trend in the number of re-registration of Contractors of Goods and Services continued into 2012, this trend was also affected by the decision of the NCC, to grant a six (6) month extension to the registration period of registered Goods & Services Contractors Letter of Registration that expired after March 31, 2012.

The effect of the extension delayed some of the re-registering Contractors from seeking registration in 2012, as their expiration dates would extend to the year 2013.

Grades 1- 4 Works Contractors

In 2012 there was a minimal, if not insignificant decline in the total number of Grade 1-4 Works Contractors, moving from 219 in 2011 to 218 in 2012. The percentage decline was less than 1%.

The decline in the registration of Grades 1 - 4 Contractors, over the last three (3) years, is directly linked to the implementation of the OCG's anti-corruption initiative, which is aimed at, *inter alia*, detecting and examining certain NCC Contractor Registration Applications, which may reveal: **(a) inconsistencies with responses on the NCC Application Form, (b) suspected misrepresentations, (c) fraudulent supporting documentations and/or (d) a failure to meet the OCG's internal fraud threshold.**

Since the introduction of the referenced anti-corruption initiative, there has been a reduction in the submission of applications by Contractors, seeking either new registration or re-registration with the NCC. Consequently, there was a reduction in the total number of registered Grades 1 - 4 Contractors.

The number of new Grades 1 - 4 Works Contractors that were registered, increased by 38%, from 8 in 2011 to 11 in 2012, while re-registered Works Contractors had a 2% decrease, moving from 211 in 2011 to 207 in 2012.

In 2012, the continuing decline in the re-registered Works Contractors can also be attributed to the introduction by the NCC, of a six (6) months extension to the registration period of registered Grades 1-4 Works whose NCC Certificate expired after March 31, 2012. This initiative by the NCC, albeit a positive one, in particular, for the Contractors, had a negative impact on the number of Grades 1-4 Contractors who would have sought re-registration.

Grade 5 Works Contractors

In relation to the total registration of Grade 5 Works Contractors, the OCG noted that in the case of newly registered Grade 5 Contractors, there was a decrease of 38%, moving from 10 in 2011 to 4 in 2012, while re-registered Grade 5 Works Contractors had an increase of approximately 44%, moving from 9 in 2011 to 13 in 2012.

The Table below illustrates the number of registered Contractors for the period 2008 – 2012:

Table 1 - Number of Registered Contractors (2008 – 2012)

Year	Category									Total
	GOODS & SERVICES			WORKS GRADE 1-4			WORKS GRADE 5			
	NEW	R-r	Total	NEW	R-r	Total	NEW	R-r	Total	
2012	293	1104	1397	11	207	218	4	13	17	1632
2011	234	1162	1396	8	211	219	10	9	19	1634
2010	316	1221	1537	35	188	223	59	10	69	1829
2009	520	1278	1798	142	377	519	3	15	18	2335
2008	697	1176	1873	157	435	592	28	4	32	2497
2007	649	875	1524	175	380	555	35	20	55	2134

New: New Registration
R-r: Re-registration

NATIONAL CONTRACTS COMMISSION ENDORSEMENT OF CONTRACT AWARD RECOMMENDATIONS

During 2012, a total of 512 recommendations for the award of contracts were endorsed by the NCC, with an aggregated value of Twenty-four billion, two hundred and thirty-two million, nine hundred and seventy-one thousand, six hundred and fifty-three dollars (J\$24,232,961,653.00).

The OCG noted the minimal reduction in the total numbers of endorsed contracts over the previous period, of approximately 8%, moving from 555 in 2011 to 512 in 2012, and the reduction in the value of endorsed contracts of approximately 19% over the previous period, 2011.

The aforementioned reductions can be attributed to: (a) Cabinet Decision No. 14/12 to the increase in the approval thresholds as at May 14, 2012, from \$10M to \$15M, which requires the NCC endorsements and (b) a reduction in the procurement by the government, based upon the prevailing economic recession, as is depicted in Tables 2 and 3 below.

Tables 2 and 3 below, illustrate the total number of contracts which were endorsed by the NCC between 2008 and 2012:

Table 2 – National Contracts Commission Endorsed Contracts (2008 – 2012)

Year	No. Works	Value of Works \$J	No. Goods	Value of Goods \$J	No. Services	Value of Services \$J	Total No. of Endorsed Contracts	Total Value of Endorsed Contracts \$J
2012	148	10,314,568,600	151	4,628,846,414	213	9,289,546,639	512	24,232,961,653
2011	175	14,137,796,921	162	8,052,332,407	218	7,821,048,775	555	30,011,178,103
2010	118	12,493,926,279	97	3,595,757,775	133	3,890,683,889	348	19,980,367,943
2009	197	38,201,687,543	189	26,463,640,655	244	9,018,351,218	630	73,683,679,416
2008	414	19,478,577,806	252	15,304,931,225	262	7,451,236,259	928	42,234,745,290

Table 3 - Percentage Change in National Contracts Commission Endorsed Contracts over Previous Year

Year	Number of Works Contracts %	\$ Value of Works Contracts %	Number of Goods Contracts %	\$ Value of Goods Contracts %	Number of Services Contracts %	\$ Value of Services Contracts %	Overall % Change in No. of Contracts	Overall % Change in \$ Value of Contracts
2012	-15	-27	-7	-43	-2	19	8	-19
2011	48	13	67	124	64	101	59	50
2010	-40	-67	-49	-86	-46	-57	-44	-72
2009	-52	96	-25	72	-7	21	-32	75
2008	52	-10	45	185	90	66	59	34

NCC Endorsed Contracts by Method of Procurement

Of the 512 contract award recommendations, which were endorsed by the NCC in 2012, the Direct Contracting Procurement Methodology was utilised in 244 instances, which represents 48% of the total NCC endorsements. The Selective Tender Procurement Methodology was utilised in 197 instances, which represents 38% of the total NCC endorsements and was, therefore, the second most frequent procurement methodology undertaken.

Table 4 below illustrates the total endorsed NCC contract recommendations by procurement methodology in the procurement of Works, Goods and Services.

Table 4 – National Contracts Commission Endorsed Contracts by Method of Procurement (2012)

Method of Procurement	Total No. Works	Total No. Goods	Total No. Services	Total No. of Endorsed Contracts	Percentage of Total No. of Endorsed Contracts	Total Value of Endorsed Contracts \$J
Direct Contracting	38	105	101	244	48	6,534,739,323
Limited Tender	22	7	9	38	7	1,867,922,134
Selective Tender	84	32	81	197	38	11,474,820,377
Open Tender	3	7	14	24	5	4,106,271,809
Other	1	-	8	9	2	249,208,010
Total	148	151	213	512	100	24,232,961,653

NCC Endorsed Contracts by Value Range

Table 5 below illustrates the value ranges of the contracts which were endorsed by the NCC, during the year 2012:

Table 5 - National Contracts Commission Endorsed Contracts (2012)

Range	Number of Contracts	Percentage of Total Value of Endorsed Contracts	Total Value of Endorsed Contracts J\$
Under \$5M	65	13	133,154,128
\$5M - \$15M	140	27	1,367,865,806
Over \$15M - \$ 39,999,999.99M	184	36	4,528,754,601
Over \$40M - \$150M	95	19	7,471,601,848
Over \$150M	28	5	10,731,585,270
Total	512	100	24,232,961,653

*Percentages are rounded off to the nearest value.

Table 6 – National Contracts Commission Endorsed Contracts 02/01/2012-31/12/2012

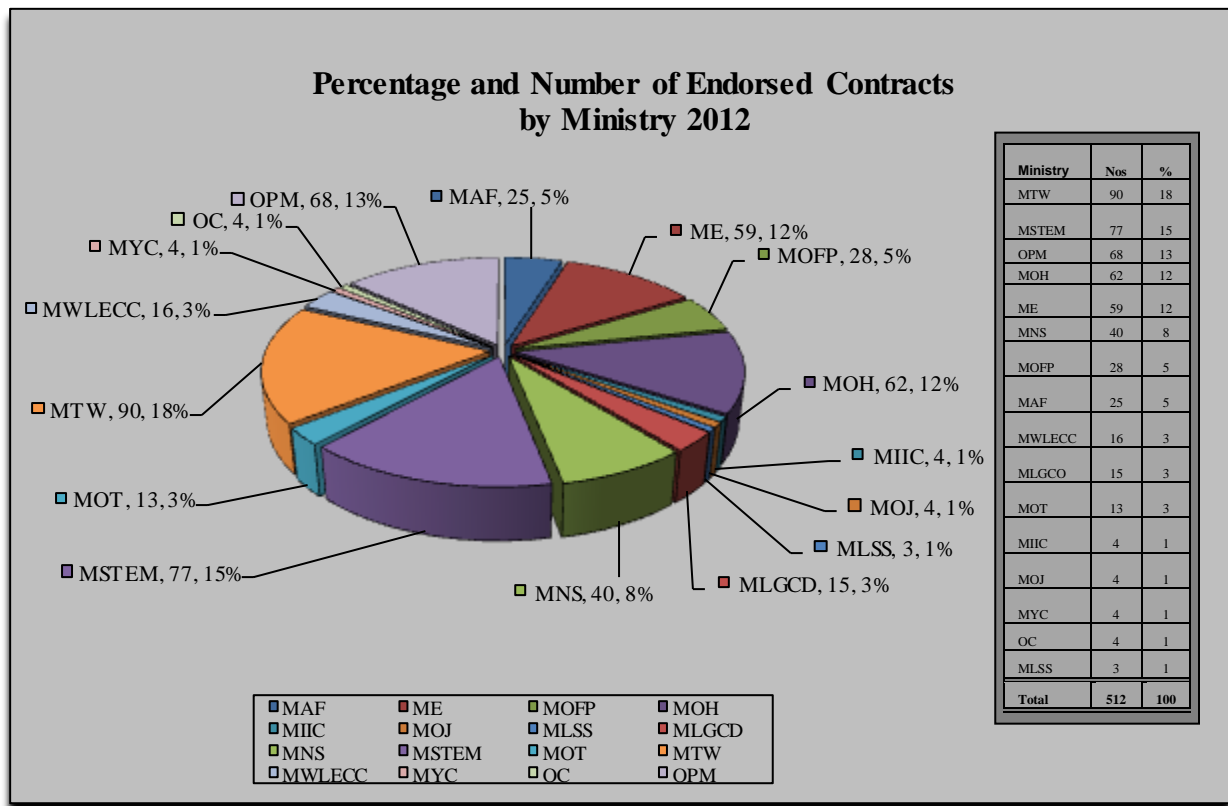
NATIONAL CONTRACTS COMMISSION ENDORSED CONTRACTS 02/01/2012 - 31/12/2012								
Currency	Exchange Rate	No. of Works Contracts	Value of Works Contract	No. of Goods Contracts	Value of Goods Contract	No. of Service Contracts	Value of Services Contract	TOTAL (Works, Goods & Services)
JA \$		139	JA 7,694,517,361	71	JA 2,287,423,211	153	JA 6,791,887,051	JA \$16,773,827,623
US \$		8	27,701,265	72	21,984,821	55	25,577,368	US \$75,263,454
JA EQU	92.65		JA 2,566,522,189		JA 2,036,893,711		JA 2,369,743,123	JA \$6,973,159,023
UK £		-	-	5	1,457,328	2	537,185	UK £1,994,513
JA EQU	150.88	-	-		JA 219,881,649		JA 81,050,472	JA \$300,932,121
EURO €		1	445,000	1	217,815	2	284,147	
JA EQU	120.29		JA 53,529,050		JA 26,200,946		JA 34,180,043	JA \$113,910,039
CAD \$		-	-	2	621,974		135,000	CAD \$756,974
JA EQU	93.97	-	-		JA 58,446,897	1	JA \$12,685,950	JA \$71,132,847
GROSS TOTAL		148	JA \$10,314,568,600	151	JA \$4,628,846,414	213	JA \$9,289,546,639	JA \$24,232,961,653

The information is to the nearest dollar. The Bank of Jamaica (BOJ) average rate for January to December 2012, for US \$1.00 = JA \$92.65. The BOJ average rate for the pound sterling UK £1 = JA \$150.88. The BOJ average rate for the Canadian \$1 = JA \$93.97. The average rate for the EURO \$1.00 = JA \$120.29. The NCC endorsed 512 contracts for 2012. Please note that a service contract has a substantial +US \$ and J\$ component. (Only the US Dollar contract is included in the quantities, since it is one (1) contract) DATE: February 22, 2013.

Percentage Distribution of Endorsed Contract Recommendations Submitted by Ministries

Figures 1 and 2 below illustrate the percentage distribution of recommended contract awards, which were submitted to the NCC in 2012, by various Government Ministries and had been subsequently endorsed.

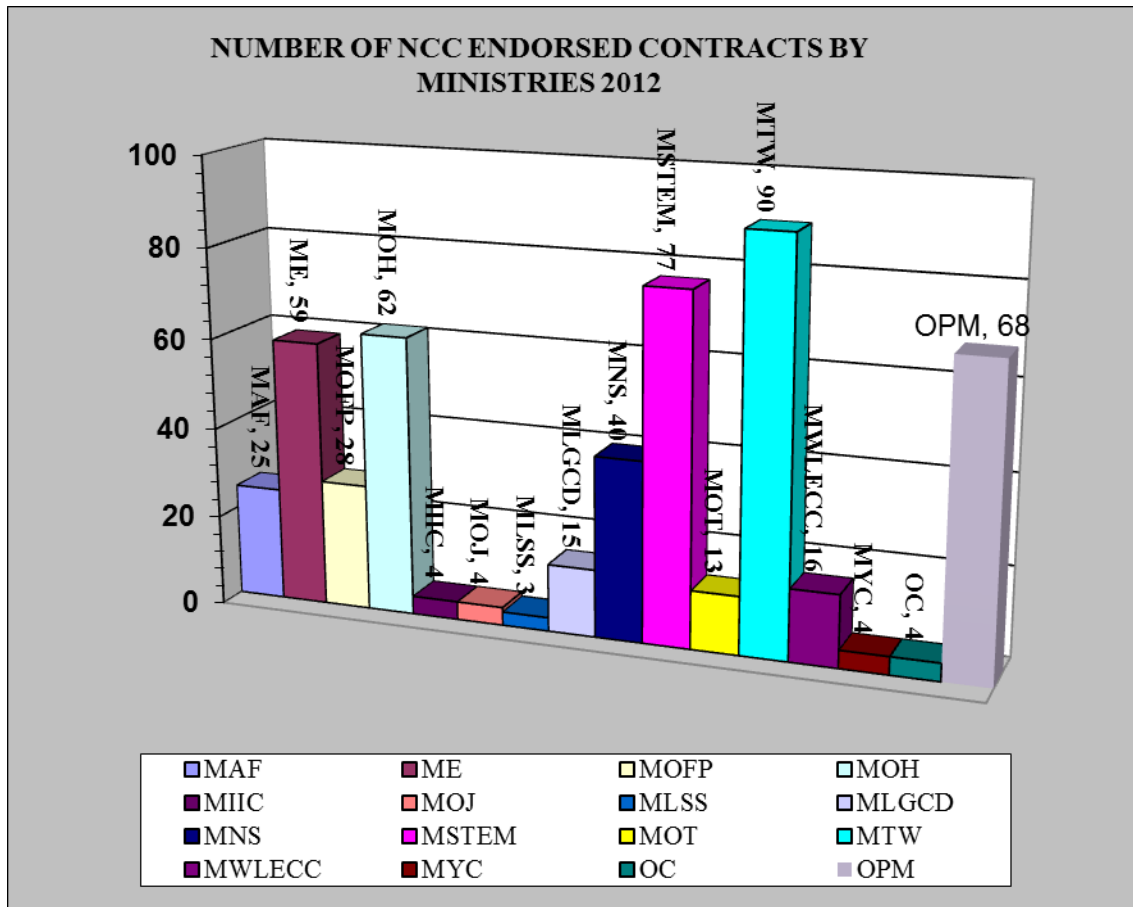
Figure 1



Legend

- | | | | |
|----------|---|-----------|--|
| 1. MAF | Ministry of Agriculture & Fisheries | 15. MOT | Ministry of Tourism |
| 2. MIIC | Ministry of Industry, Investment and Commerce | 16. MLGCD | Ministry of Local Government and Community Development |
| 3. MOJ | Ministry of Justice | | |
| 4. MTW | Ministry of Transport and Works | | |
| 5. ME | Ministry of Education | | |
| 6. MYCS | Ministry of Youth and Culture | | |
| 7. MWH | Ministry of Water, Land, Environment and Climate Change | | |
| 8. MSTEM | Ministry of Science, Technology, Energy & Mining | | |
| 9. OC | Office of the Cabinet | | |
| 10. MLSS | Ministry of Labour & Social Security | | |
| 11. OPM | Office of the Prime Minister | | |
| 12. MFPS | Ministry of Finance and Planning | | |
| 13. MNS | Ministry of National Security | | |
| 14. MHE | Ministry of Health | | |

Figure 2



In 2012, the Ministry of Transport and Works and its related agencies, accounted for the highest number of NCC endorsed contract recommendations with a total of ninety (90) endorsements.

NCC Endorsed Contracts by Goods, Works and Services

Tables 7 to 9 below illustrate details of the total recommended contract awards by Procurement Type, which were endorsed by the NCC in 2012.

Table 7 - NCC Endorsed Goods Contracts 2012

Categories	No. of Contracts	% No. of Contracts	JA \$	US \$	UK £	EURO €	CND \$	TOTAL JA\$	% \$ Value
Books & Stationery	13	8.61	616,707,546	3,207,042	1,333,378	-	-	1,115,020,060	24.08
Chemicals & Pesticides	3	1.99	6,342,000	281,957	-	-	-	32,465,278	0.70
Computers & Supplies	21	13.91	187,325,114	3,467,529	123,950	-	598,274	583,513,045	12.60
Electrical & Communication Supplies	2	1.32	13,215,038	-	-	-	-	13,215,038	0.28
Furniture Supplies	1	0.66	11,153,559	-	-	-	-	11,153,559	0.24
General Supplies	48	31.79	610,820,634	5,774,515	-	-	-	1,145,829,485	24.75
Hardware & Haberdashery	1	0.66	10,039,000	-	-	-	-	10,039,000	0.21
Industrial, Construction Equipment & Machinery	8	5.30	21,187,346	1,696,258	-	217,815	-	204,546,566	4.41
Medical, Pharmaceutical Equipment & Supplies	20	13.25	411,995,533	3,535,578	-	-	23,700	741,793,962	16.02
Motor Vehicles & Spares	11	7.28	159,338,771	1,344,323	-	-	-	283,890,297	6.13
Motor Vehicle Spares & Accessories	13	8.61	13,566,058	2,306,444	-	-	-	227,258,055	4.90
Petroleum Products	1	0.66	46,381,880	-	-	-	-	46,381,880	1.00
Safety Products	5	3.31	65,680,069	371,176.00	-	-	-	100,069,525	2.16
Textile & Garment Manufacturers	4	2.65	113,670,664	-	-	-	-	113,670,664	2.45
Total	151	100	2,287,423,211	21,984,821	1,457,328	217,815	621,974	4,628,846,414	100
<i>Bank of Jamaica Annual Average for US \$1 = 92.65JA\$. The Pound Sterling UK £1 =150.88JA\$. The Euro \$1 = 120.29 JA\$. The Canadian \$1 = 93.97JA\$</i>									

Table 8 - NCC Endorsed Works Contracts 2012

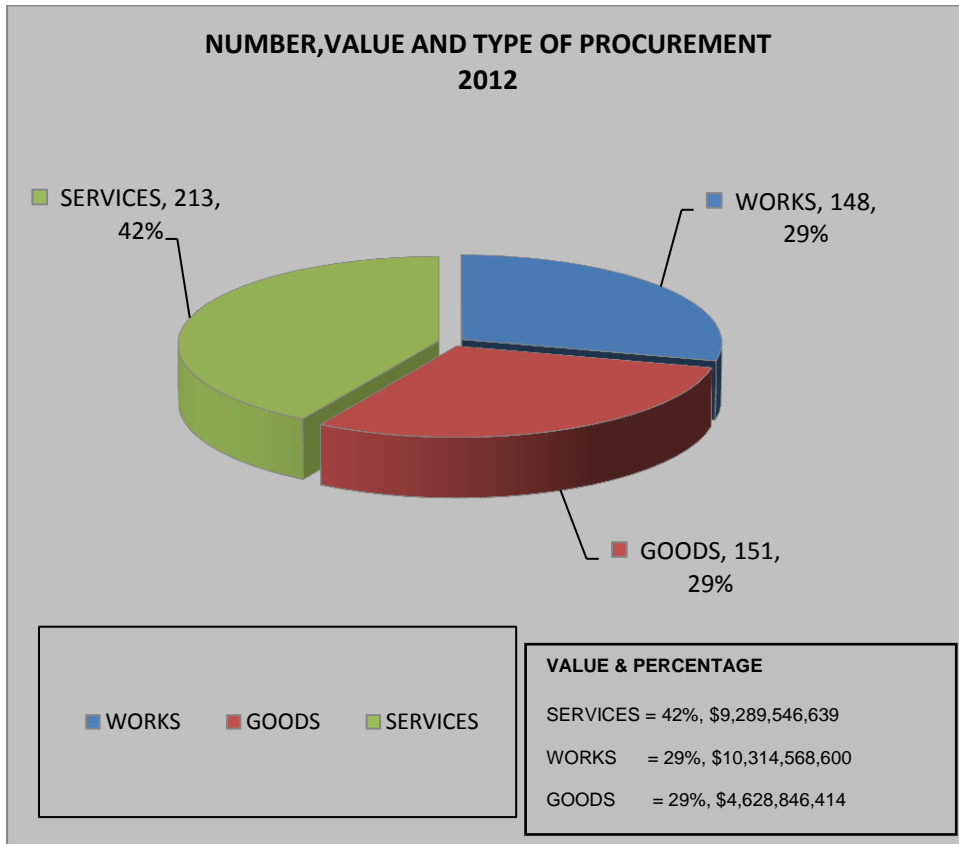
Categories	No. of Contracts	% No. of Contracts	JA \$	US \$	UK £	EURO €	CND \$	TOTAL JA\$	% \$ Value
Asphaltic Concrete Works	5	3.38	969,525,125	-	-	-	-	969,525,125	9.40
Bridge Construction	2	1.35	43,357,400	-	-	-	-	43,357,400	0.42
Building Construction	44	29.73	2,630,585,465	-	-	-	-	2,630,585,465	25.50
Civil Engineering	36	24.32	2,670,524,092	18,409,136.08	-	-	-	4,376,130,550	42.43
Electrical Works	3	2.03	43,774,569.84	2,142,699.69	-	-	-	242,295,696	2.35
General Road Works	17	11.49	382,107,293	-	-	-	-	382,107,293	3.70
Heating, Ventilation, Air-Conditioning and Refrigeration	3	2.03	290,676,771	86,000.00	-	-	-	298,644,671	2.90
Instrumentation	3	2.03	43,774,569.84	2,142,699.69	-	-	-	242,295,696	2.35
Interior Construction Works	3	2.03	52,289,274	-	-	-	-	52,289,274	0.51
Landscaping	1	0.68	25,680,179	-	-	-	-	25,680,179	0.25
Marine Engineering	2	1.35	6,000,000	2,545,000.00	-	-	-	241,794,250	2.34
Mechanical Works	10	6.76	92,984,879	-	-	-	-	92,984,879	0.90
Medical Equipment	3	2.03	4,008,048	164,950.00	-	445,000.00	-	72,819,715	0.71
Painting and Decorative Finishes	2	1.35	20,934,746	-	-	-	-	20,934,746	0.20
Pipe Laying	8	5.41	359,839,008	-	-	-	-	359,839,008	3.49
Security Systems	2	1.35	20,331,641	-	-	-	-	20,331,641	0.20
Steel Fabrication	2	1.35	34,744,443	-	-	-	-	34,744,443	0.34
Tank Erection	3	2.03	43,509,648	4,275,853	-	-	-	439,667,428	4.26
Total	148	100	7,694,517,361	27,701,265	-	445,000	-	10,314,568,600	100
<i>Bank of Jamaica Annual Average for US \$1 = 92.65JA\$. The Pound Sterling UK £1 =150.88JA\$. The Euro \$1 = 120.29 JA\$. The Canadian \$1 = 93.97JA\$</i>									

Table 9 - NCC Endorsed Services Contracts 2012

Categories	No. of Contracts	% No. of Contracts	JA \$	US \$	UK £	EURO €	CAN \$	TOTAL JA\$	% \$ Value
Catering	3	1.41	810,038,517	-	-	-	-	810,038,517	8.72
Chemicals & Pesticides	3	1.41	28,145,080	-	-	-	-	28,145,080	0.30
Computer and Related Services	8	3.76	20,514,000	1,956,646	-	-	-	201,797,238	2.17
Consulting Services	29	13.62	199,725,520	6,204,587	393,185	284,147	-	868,084,320	9.34
Courier Services	7	3.29	100,336,167	-	-	-	-	100,336,167	1.08
General Services	52	24.41	606,638,471	6,984,449	144,000	-	135,000	1,288,160,358	13.87
Information and Technology services	20	9.39	148,201,957	2,088,163	-	-	-	341,670,228	3.68
Insurance Services	8	3.76	1,460,547,816	1,221,119	-	-	-	1,573,684,491	16.94
Janitorial and Sanitation Services	17	7.98	1,190,851,772	-	-	-	-	1,190,851,772	12.82
Lithographic & Printing Services	3	1.41	37,777,119	-	-	-	-	37,777,119	0.41
Marine Services	11	5.16	43,236,157	2,756,804	-	-	-	298,654,034	3.21
Safety & Security Services	45	21.13	2,116,874,475	4,365,600	-	-	-	2,521,347,315	27.14
Transportation & Haulage	7	3.29	29,000,000	-	-	-	-	29,000,000	0.31
Total	213.00	100	6,791,887,051	25,577,368	537,185	284,147	135,000	9,289,546,639	100
<i>Bank of Jamaica Annual Average for US \$1 = 92.65JA\$. The Pound Sterling UK £1 =150.88JA\$. The Euro \$1 = 120.29 JA\$. The Canadian \$1 = 93.97JA\$</i>									

Figure 3 below illustrates: (a) the three (3) types of procurement; (b) the total number of contracts which were endorsed for each of the referenced procurement types; (c) the aggregated value of the endorsements for each procurement type; and (d) the referenced aggregated value of each procurement type, expressed as a percentage of the cumulated endorsements in 2012.

Figure 3



Number and Type of NCC Endorsed Contracts

Table 10 - Number and Type of NCC Endorsed Contracts for Period 2008 – 2012

Year	Works Contracts		Goods Contracts		Services Contracts		Total Number of contracts
	Number of contracts	%	Number of contracts	%	Number of contracts	%	
2012	148	29	151	29	213	42	512
2011	175	32	162	29	218	39	555
2010	118	34	97	28	133	38	348
2009	197	52	189	36	244	12	630
2008	414	46	252	36	262	18	928

TOP TEN CATEGORIES

Following an in-depth analysis of the endorsed recommendations for the award of contracts and the number of registered Contractors, a summary of the top ten agencies by volume and value of endorsed recommendations for the award of contracts, as well as registered Contractors by grades and categories, was undertaken and is detailed below in Tables 11 – 14:

For the period under review, the Service category “General Services” was ranked number one having the largest number of endorsed recommendations for the award of contracts with a total of 52 endorsements in 2012, which represented approximately 10% of the total number and accounted for 5% of the total dollar value of endorsed recommendations. Similarly, the top categories in both Goods and Works were “General Supplies” and “Building Construction” with a total of 48 and 44 endorsed recommendations, respectively, each accounting for approximately 5% and 11% of the total value of endorsed recommendations in 2012.

Petrojam Limited, with a total of 65, was represented as the Public Body which received the most endorsed recommendations and which accounted for approximately 13% of the total number of endorsed recommendations during 2012. Petrojam Limited also received the largest total dollar value of endorsed recommendations for the award of contract with approximately \$3.2B which represented 13% of the total value endorsed in 2012.

Table 11 - Top Ten Categories in which Contracts were Endorsed 2012

Rank	Categories	Type Of Contract	Number Of Contracts	Total JA\$
1	General Services	Service	52	1,288,160,358
2	General Supplies	Goods	48	1,145,829,485
3	Safety & Security Services	Service	45	2,521,347,315
4	Building Construction	Works	44	2,630,585,465
5	Civil Engineering	Works	36	4,376,130,550
6	Consulting Services	Service	29	868,084,320
7	Computers & Supplies	Goods	21	583,513,045
8	Medical Pharmaceutical Equipment & Supplies	Goods	20	741,793,962
9	Information and Technology Services	Service	20	341,670,228
10	Janitorial and Sanitation Services	Service	17	1,190,851,772

Table 12 illustrates the Top Ten (10) registered Works Contractor Categories, which are ranked according to the number of Contractors registered per Category and the respective Grade Levels.

Table 12 - Top Ten Number of Works Contractors Registered by Category and Grade Level 2012

Rank	Categories	Number of Grade 1 Contractors	Number of Grade 2 Contractors	Number of Grade 3 Contractors	Number of Grade 4 Contractors	Total Registered Contractors within Category
1	Building Construction	7	10	27	73	117
2	Building Maintenance	0	0	4	79	83
3	Road Maintenance Works	5	7	12	55	79
4	General Road Works	10	3	19	46	78
5	Civil Engineering Works	10	6	19	40	75
6	Pipe Laying	6	11	16	35	68
7	Electrical Works	4	7	16	30	57
8	Interior Construction Works	1	3	13	39	56
9	Roofing	0	6	10	32	48
10	Painting and Decorative Finishes	0	3	12	27	42
	Total	43	56	148	456	703

An analysis conducted on the number of Works Contractors registered by grade and category indicated that 'Building Construction' continues to hold the number one ranked position with 117 registered Contractors. This represented the largest number of Contractors registered within any one Works category. Building Maintenance (with 83) retained the second ranking it held over the previous year; however, Road Maintenance Works improved its ranking from fourth in 2011 to third in 2012.

Within the top ten categories identified in Table 12, the total number of Contractors registered at both the Grade One (1) and Grade Four (4) levels accounted for 6% and 65%, respectively.

Table 13 - Top Ten Agencies/Entities with the Largest Number of Endorsed Recommendations for Award of Contract 2012

Rank	Government Agency	No. of contracts	\$ Value	Direct Contracting	Limited Tender	Selective Tender	Open Tender	Other
1	Petrojam Limited	65	3,177,339,269.89	41	1	22	1	-
2	Jamaica Social Investment Fund (JSIF)	43	1,120,276,534.94	5	14	24	-	-
3	Port Authority of Jamaica (PAJ)	38	1,547,153,518.10	35	1	-	1	1
4	Ministry of National Security (MNS)	36	505,194,611.43	19	1	15	-	1
5	Ministry of Education (ME)	31	1,592,736,190.86	13	1	12	5	-
6	National Works Agency (NWA)	25	2,307,545,418.99	5	4	14	2	-
7	Ministry of Health (MOH)	22	563,632,956.48	20	1	1	-	-
8	Heart Trust/NTA	16	220,757,738.82	8	-	8	-	-
9	National Water Commission (NWC)	14	2,074,702,576.02	2	1	9	2	-
10	Ministry of Agriculture & Fisheries (MAF)	13	700,378,696.54	7	1	5	-	-
	Total	303	13,809,717,512.07	155	25	110	11	2

Table 14 - Top Ten Agencies/Entities with the Largest value of Endorsed Recommendations for Award of Contract 2012

Rank	Government Agency	No. of Contracts	\$ Value	Direct Contracting	Limited Tender	Selective Tender	Open Tender	Other
1	Petrojam Limited	65	3,177,339,269.89	41	1	22	1	
2	National Works Agency (NWA)	25	2,307,545,418.99	5	4	14	2	
3	National Water Commission (NWC)	14	2,074,702,576.02	2	1	9	2	
4	Ministry of Education (MOE)	31	1,592,736,190.86	13	1	12	5	
5	Port Authority of Jamaica (PAJ)	38	1,547,153,518.10	35	1		1	1
6	South East Regional Health Authority (SERHA)	11	1,333,258,191.40	2	1	7	1	
7	University of Technology, Jamaica (UTECH)	8	1,196,583,406.70	2		5	1	
8	Jamaica Social Investment Fund (JSIF)	43	1,120,276,534.94	5	14	24		
9	National Housing Trust (NHT)	12	1,023,025,699.88	4		8		
10	Ministry of Agriculture & Fisheries (MAF)	13	700,378,696.54	7	1	5		
	Total	260	16,072,999,503.32	116	24	106	13	1

CONSULTANCY CONTRACTS

The Ministry of Finance, via Circular No. 6, which was dated February 3, 2009, and Circular No. 1, which was dated on February 18, 2011, has indicated that professionals who are members of Professional Societies approved by the Government of Jamaica are recognized as Consultants. These professional bodies include Accountants, Architects, Engineers, Attorneys, Land Surveyors and Medical Doctors. The term Consultancy Service is generally used to describe services that are intellectual in nature. Currently, the NCC does not maintain a registry of Consultants.

During 2012, the National Contracts Commission endorsed twenty-nine (29) recommendations for the award of contracts which were by nature Consultancy contracts. These contracts amounted to \$868,084,319.54 and accounted for approximately 3.6% of the total endorsed recommendations for the award of contract.

NCC SECTOR COMMITTEES

The NCC, through its seven (7) Sector Committees, reviews the recommendations for the award of contracts that are valued at \$10,000,000.00 (\$15,000,000.00 as May 14, 2012, when the contract value thresholds were increased) and above, which are submitted by the Government Procuring Entities. The Sector Committees consist of members with particular expertise in varying fields within the Public Sector.

The OCG, pursuant to Section 4 of the Contractor General Act, assigns representatives to attend meetings of the respective Sector Committees, to monitor proceedings.

During the year 2012, the NCC Sector Committees convened one hundred and ten (110) meetings, at which a total of three hundred and twenty-nine (329) recommendations for the award of contracts were reviewed.

In 2012, there was a decrease of less than 1% in the number of recommendations which were reviewed by the NCC Sector Committees, when compared to the previous year.

Table 15 below illustrates the number of Sector Committee meetings for the years 2011 and 2012 and also shows the number of Public Sector Agencies that are assigned to each Committee.

The National Works Agency Sector Committee, which has the largest number of assigned Agencies (120), convened a total of thirty-five (35) meetings. This represents the highest number of meetings for any one Sector Committee for the period. The Ministry of Education Committee was second having convened a total twenty-one (21) meetings and the Ministry of Water and Housing Sector Committee ranked third, having convened a total of twenty (20) meetings.

Table 15 - National Contracts Commission Sector Committee Meetings for 2012 Compared to 2011

NCC Sector Committees	Number of Meetings in 2012	Number of Meetings in 2011	Number of Agencies / Departments Assigned
The Port Authority of Jamaica	9	8	13
Ministry of Health & Environment	12	18	46
Jamaica Social Investment Fund	9	5	6
Urban Development Corporation	4	5	30
Ministry of Education	21	21	74
Ministry of Water & Housing	20	21	39
National Works Agency	35	39	120
Total	110	117	328

Table 16 – Submissions to Sector Committees for 2012

NCC Sector Committees	No. of Works		No. of Goods		No. of Services		Total	
	2012	2011	2012	2011	2012	2011	2012	2011
The Port Authority of Jamaica	8	3	8	3	11	13	27	19
Ministry of Health & Environment	16	7	18	18	20	14	54	39
Jamaica Social Investment Fund	42	34	0	0	10	3	45	37
Urban Development Corporation	2	1	1	0	5	9	8	10
Ministry of Education	12	32	21	22	17	19	50	73
Ministry of Water & Housing	11	22	4	6	18	5	33	33
National Works Agency	38	44	21	20	53	56	112	120
Total	129	143	73	69	134	119	329	331

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CORPORATE SERVICES DIVISION

The Corporate Services Division (CSD) is the largest division within the OCG and is comprised of the Human Resource Management Department, Office Management Department, the Registry and the Finance and Accounting Department.

In the calendar period 2012, the Division wrestled with the challenge of managing the Office within tight fiscal constraints. The OCG was supported by two (2) subsequent supplements.

Notwithstanding the foregoing, the CSD team was, again, commended by the Auditor General's Department for its fiscal management that was accomplished within in an environment which the Auditor General assessed as compliant with the Government of Jamaica Financial Administration and Audit Act.

HUMAN RESOURCE MANAGEMENT

The OCG's approved Organizational Structure consists of sixty-four (64) positions. However, as at December 31, 2012, there were eight (8) vacant positions. Of the eight (8) positions, there are four (4) approved positions which were not filled during the calendar year. (Please see Appendices X - Organisational Chart and XI Staff Situation 2012).

Staff training

The OCG remains committed to providing an environment in which its staff members develop professional best practices, through both external and internal training. In 2012 Twenty-one (21) staff members benefited from one (1) or more of the thirteen (13) external training programmes which were identified by the Human Resource Management Department.

A Senior member of the investigation team participated in the Commonwealth Third Country Training Programme, "Better Governance – Managing Corruption", which targeted Heads of Investigation. Additionally, two (2) staff members completed the Commonwealth Executive Programme in Public Management. Appendix IX, Schedule of OCG Staff Training for the Year 2012, provides additional details on the training programmes which the OCG staff members participated in 2012.

The Human Resource Management Department remains committed to identifying quality training programmes aimed at enhancing the human resource asset of the OCG and increasing its capacity to discharge its mandates in a more effective and efficient manner.

Awards and Recognition Programme

In recognition of the continued commendable performance of staff members, the OCG hosted its Annual Awards and Recognition Ceremony in November 2012. The Awards and Recognition Ceremony also highlighted and recognized the tenure and contribution of the outgoing Contractor General, Mr. Greg Christie, who demitted Office on November 30, 2012.

Members of staff were presented with awards in the following categories:

- Employee of the year;
- Above and Beyond the Call of Duty;
- Punctuality;

- Highest attendance level;
- Most helpful; and
- Consistently working beyond normal work hours.

One employee received an award for long services after contributing twenty-four (24) years of sterling services to the OCG.

The Social Activity Committee

The Social Activities Committee (SAC), whose members are nominated by the OCG Staff, has the responsibility of promoting social interaction and creating an environment of comradeship among the OCG Staff.

During the reporting period the SAC successfully hosted the following events:

- Quarterly Birthday Socials;
- Valentine's, Mother's Day and Father's Day Treats;
- Movie Evenings;
- Christmas Pixie;
- Christmas Tree-Lighting Ceremony; and
- Christmas Luncheon.

The Committee also facilitated the OCG's participation in the Emancipation/Independence Celebrations which were hosted by the Planning Institute of Jamaica (PIOJ) during the period July 2012 to August 2012. Other Corporate Entities that participated in the events were the Office of Disaster Preparedness and Emergency Management (ODPEM), the Statistical Institute of Jamaica (STATIN), the National Housing Trust (NHT), the Ministry of Finance and Planning, the Independent Commission of Investigations (INDECOM) and the National Environment and Planning Agency (NEPA).

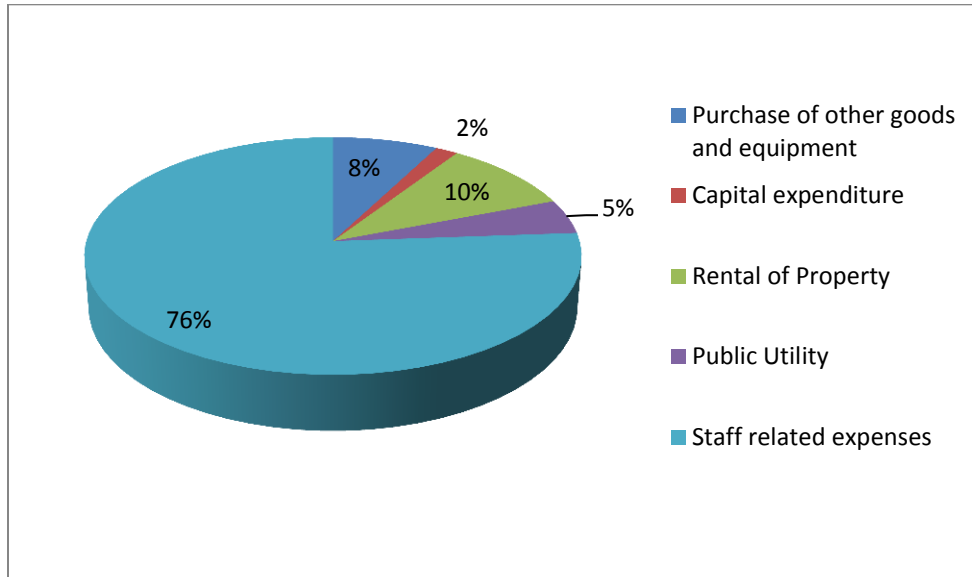
The OCG finished in 8th position after a very spirited performance. Again, the OCG Team anticipates the friendly and spirited games come 2013.

OFFICE MANAGEMENT DEPARTMENT

The Office Management Department has direct responsibility for procurement and the management of OCG assets. In the calendar year 2012, the Department purchased capital items and other goods and services, largely from the OCG's 2012/2013 Recurrent Budget. The OCG's Recurrent Budget (2012/2013) of \$214,453,000, provided for amongst other items (a) the purchase of other goods and equipment and (b) capital expenditure, capped at \$16,557,000 and \$3,528,000, respectively.

In the foregoing regard, only 8% of the total budget provided for the purchase of goods and equipment and 2% provided for the purchase of capital items. The remainder of the budget provided for the rental of property, utilities and staff related expenses. Please see Figure 1 below:

Figure 1 - Proportion of the OCG's budget which provides for procurement



Of the allocation which was provided for procurement, the following capital items and equipment were acquired:

Table 1 – Capital Items acquired in 2012

Items Procured	Quantity
Handheld Scanner	Two (2)
External Hard drive	Two (2)
Lunch Table	Four (4)
Chairs	Twenty (20)
4 Drawer Filing Cabinet	Two (2)
5 Drawer Filing Cabinet	Two (2)
Laserjet Printer	One (1)

During the calendar year 2012 the OCG benefited from a grant courtesy of the Canadian International Development Agency(CIDA), By way of a letter which was dated March 22, 2012, the OCG was advised by the CIDA, that its request for institutional support was approved in the amount of CDN\$40,000.00. The contribution agreement would seek to support the approved project agreement number 1201: ***Institutional Strengthening of the OCG through technology.***

The projects main objective was to strengthen the institutional and operational capacity of the OCG through technology by providing a more effective and robust data management system, thereby better leveraging the institution to discharge its core mandates.

The project objective was achieved through the acquisition of the following software and equipment:

- i. One (1) multifunction printer/copier unit;
- ii. Laptops to facilitate remote access;
- iii. Docushare CALs for greater functionality of the document management system;

- iv. Active Directory Server for centralized user control and security management;
- v. An active directory server which will create a single point of administration for all user and group; and
- vi. Backup tapes to improve data recapture/Offsite storage.

The project was completed within the approved time and budget allocations. The items were well received and have been deemed, through the means of verifiable indicators, instrumental in improved efficiencies for the OCG.

Rental of Property

Rental and Maintenance Expenditure, which consumes approximately 11% of the total budget is determined by the Lease Agreement which was consummated between the PIOJ and the OCG, and which was made effective on January 1, 2008. The Lease Agreement was entered into for a period of ten (10) years and expires on December 31, 2017.

The Rental rate was set at \$550.00 per square foot per annum. The OCG occupies 13,062 sq. ft. The Lease Agreement stipulates that the rental rate should be increased each year by 7%, compounded for year two (2) through to the sixth year of the Lease and, thereafter, annually, by 8.5% for the remainder of the term.

The Lease Agreement also stipulates that maintenance costs be calculated at a rate of \$550.00 per square foot in the first year and, thereafter, a fixed estimated monthly maintenance fee is to be charged based upon the cost to efficiently manage the Building. Additionally, the maintenance fee is to be budgeted annually, the actual expense is to be audited at the end of each year, by an Auditor appointed by the PIOJ, and the required adjustments are to be made where necessary.

On July 1, 2010, the PIOJ advised of a new estimated Maintenance Rate of \$886.83 per square foot, to take effect on January 1, 2010. On August 19, 2011, subsequent to the Audit of the Actual Maintenance Expenditure Account for the period January 1, 2010 – December 31, 2010, the PIOJ appointed Auditors apportioned actual maintenance expense for the OCG at \$10,731,764.00 or \$821.60 per square foot. The resulting overpayment of \$852,000.00 was credited to the OCG's maintenance account in 2011. The PIOJ, as at December 1, 2011, calculated the maintenance rates at an estimate of \$886.83 per square foot, which will remain effective until the conclusion of the independent Audit of the Actual Maintenance Expenditure for the periods January 1, 2011 – December 31, 2011 and January 1, 2012- December 31, 2012.

Utilities

Water Consumption

The OCG does not have an individually assigned water or electricity meter. Water charges are recovered through the Lease Agreement, PIOJ/OCG, which was made effective in 2008.

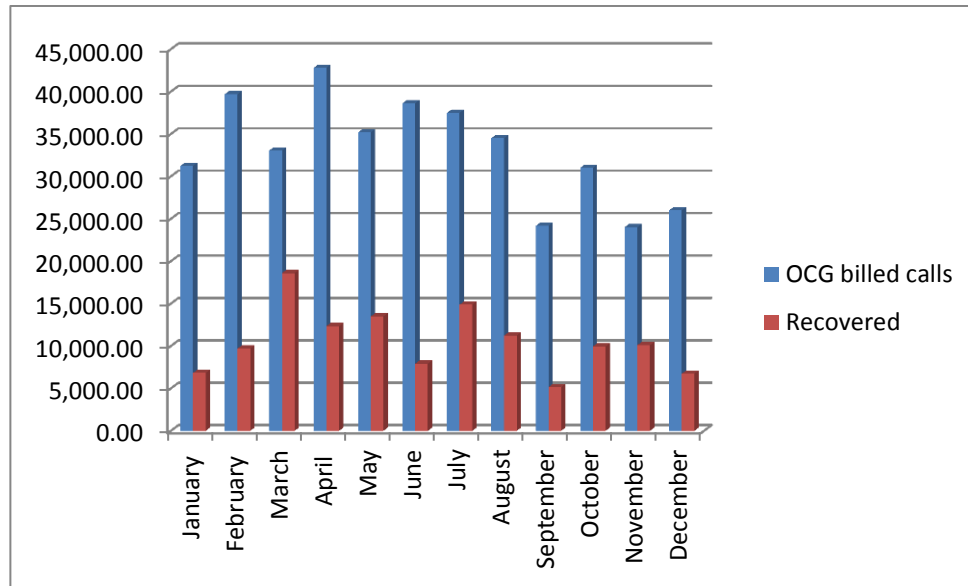
Electricity Consumption

Electricity charge is billed by the PIOJ on a monthly basis using a square footage apportionment method. The average amount that was paid by the OCG, for electricity, during the reporting period was \$589,475.68 monthly. The aforementioned represents a 6% decrease over a similar period in 2011. The decrease in electricity charges was recognized subsequent to the implementation of internal cost saving strategies. The OCG identified areas of increased usage during the year 2011 and implemented policy directives which regularized electricity usage and thus hedged increased costs which were being driven by the rapid increases in electricity rates.

Telephone Usage

The average amount that was paid by the OCG for telephone services was \$250,344.99 monthly. Line rentals and other fixed charges represent the larger portion of telephone expenses. The OCG has implemented an honour system, wherein which staff members are required to identify personal calls and the amounts for same subsequently recovered. Figure 2, shows the monthly call charges and the amounts which were recovered.

Figure 2- Recovered telephone Call Charges for Year ending December 31, 2012



THE REGISTRY

The OCG’s Registry has direct responsibility for document management. An electronic document management programme was also initiated by the Registry in 2011. The electronic data management system was improved in 2012 with the receipt of Docushare CAL’s through the CIDA funded Project.

The implementation of the Docushare CAL’s will enhance the functionality of the document management system and provide greater operational efficiencies for the OCG.

FINANCE & ACCOUNTING DEPARTMENT

The Finance and Accounting Department continued to support the OCG in the year 2012, by improving its budgeting and the financial accounting processes, thereby ensuring that the functions of the organisation were executed in an efficient, compliant and effective manner.

First Supplementary Estimates 2011 - 2012

A Supplementary Budgetary provision, which net \$4,414,000.00, was approved in September 2011 as additional requirement for Compensation of Employees in an effort to meet payments of the 7% wage increase for the period April 2011 to March 2012. An additional support of \$6, 414,000 was gained. However, the OCG’s Travel Expenses and Subsistence was reduced by \$2,000,000 to support the increased wage bill. It was proposed that the reduction in travel expense would be achieved by containing expenditure in mileage.

Second Supplementary Estimates 2011 - 2012

In the last quarter of the Financial Year ending March 2012, a Supplementary Estimate for compensation, travel and subsistence and public utilities, totalling \$4,347,000.00, was approved for the Financial Year 2011-2012. The Revised Recurrent Estimates for the Financial Year was \$199,002,000.00.

Estimates of Expenditure 2012 - 2013

The OCG's Estimate of Expenditure Proposals for the Financial Year 2012 – 2013 were drafted and sent to the Ministry of Finance on April 20, 2012. The Draft Estimates were prepared to accommodate the MOF&PS proposed budgetary ceiling of \$209,695,000.00, which presented a shortfall of \$15,826,918 when compared to actual required expenditure for the period. Subsequently, Estimates for the Financial Year was approved at \$209,695,000.00.

Warrant Allocation 2011 - 2012

The Warrant Allocation, as at December 31 2012, was in the amount of \$178,050,000, with a remaining balance of \$30,378,623.63 for the last quarter of the Financial Year.

Appropriation Account 2011 - 2012

The completed Appropriation Account for the Financial Year ended March 31, 2012, was submitted on September 25, 2012. Actual Recurrent Expenditure for the year totalled \$198,938,962.99. A surplus of \$63,037.01 was certified by the AGD on November 1, 2012. Please refer to the Summary of the OCG's Appropriation Account which is listed in Table 2 below.

Annual Return Declarations

All Annual Return Declarations for the Year 2012 were submitted before March 31, 2012. All returns which are listed below were submitted on March 12, 2012:

- The National Insurance Return;
- The National Housing Trust; and
- The Income and Education Taxes.

Auditor General's Comments over the last 13 years

A review of the Auditor General's Reports over the last 13 years has consistently revealed that the OCG's Financial Accounts, during the period April 1999 to March 2012, were a fair representation of the OCG's financial transactions and that proper accounting records were kept by the OCG throughout the period, all resulting in a generally satisfactory state of affairs.

Table 2 – The Office of the Contractor
General Summary of Appropriation
Accounts (1999-2012)

Financial Year	Total Approved Estimates	Actual Expenditure	Surplus to be Surrendered to the Consolidated Fund
	\$	\$	\$
April '99' - March '00'	43,653,000.00	43,627,605.20	25,394.80
April '00' - March '01'	49,182,000.00	49,163,829.73	18,170.27
April '01' - March '02'	49,989,000.00	49,972,180.49	16,819.51
April '02' - March '03'	70,638,000.00	68,696,485.99	1,941,514.01
April '03' - March '04'	73,163,000.00	71,490,924.73	1,672,075.27
April '04' - March '05'	68,137,000.00	67,470,092.00	666,908.00
April '05' - March '06'	84,294,000.00	80,307,269.10	3,986,730.90
April '06' - March '07'	92,971,000.00	92,704,231.66	266,768.34
April '07' - March '08'	154,398,000.00	146,663,647.29	7,734,352.71
April '08' - March '09'	189,042,000.00	177,060,955.42	11,981,044.58
April '09' - March '10'	170,727,000.00	168,540,488.73	2,186,511.27
April '10' - March '11'	180,519,000.00	176,106,347.60	4,412,652.40
April '11' - March '12'	199,002,000.00	198,938,962.99	63,037.01
Total	<u>1,425,715,000.00</u>	<u>1,390,743,020.93</u>	<u>34,971,979.07</u>

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INFORMATION SYSTEMS DIVISION

In 2012, the Office of the Contractor General's (OCG's) Information Systems Division (ISD) continued to provide technological support for the operations of the OCG and the National Contracts Commission (NCC). This was accomplished through the provision of software development, systems administration and support services by the ISD.

PROJECTS

Institutional Strengthening of the Office of the Contractor General (OCG) through Technology

On April 30, 2012, the Office of the Contractor General, signed a CDN\$40,000 Agreement with the Government of Canada, acting through the Canadian International Development Agency (CIDA), for the "Institutional Strengthening of the Office of the Contractor General (OCG) through Technology".

The OCG used the funds which were acquired through the CIDA to procure the following Information Technology equipment:

1. A Multifunction/Copier/Printer unit;
2. Ten (10) Laptop computers;
3. A Network Server; and
4. 60 Back-Up Tape Cartridges.

The aforementioned items were installed before the agreed deadline of October 30, 2012, and have since enhanced the efficiency and overall productivity of the OCG's core Business Processes.

Domain Migration

Under the "Institutional Strengthening of the Office of the Contractor General (OCG) through Technology" initiative, the ISD implemented its first Windows Active Directory Server (ADS). The new ADS improved the Division's ability to centrally manage network services, resources and users.

The implementation of the ADS is also the starting point of a planned upgrade of OCG's Client Machine Software, which is expected to be completed in 2013.

Office of the Contractor General Web Portal

The OCG's Web Portal was developed with the aim of providing a single communication interface which will facilitate both the reporting and feedback functions between the OCG and its stakeholders.

The Web Quarterly Contract Award (QCA) module was the first to be deployed with the launch of the Portal in the 3rd quarter for 2012. The module positively impacted the processes surrounding the receipt and analysis of QCA Reports.

Server Virtualization

The OCG's Server Virtualization Project was initiated in an effort to reduce maintenance costs and increase service stability by achieving the following goals:

1. Retire old Hardware without removing the network services that are supported by the retired Hardware;
2. Increase the stability of our network services by running major services in a Sandbox; and
3. Increasing the fault tolerance of our network by spreading services across existing Hardware.

In 2012, two (2) additional Servers were converted and introduced to the virtualized solution, while one (1) Virtual Server Host was repurposed. The OCG currently uses three (3) Virtual Server Hosts, which provides approximately 25 virtual machines across development and production environments.

SUPPORT OF STRATEGIC PORTFOLIOS

Contractor General /OCG /NCC Websites

The OCG's websites continue to provide support to the OCG's internal and external stakeholders by providing pertinent information on matters which relate to the work of the OCG and the NCC. The OCG utilises and maintains the following three (3) websites.

- The Contractor General's website;
- The National Contracts Commission's website;
- The Office of the Contractor General's website.

The primary purpose of the websites is to ensure transparency in the Government of Jamaica's (GOJ's) Procurement and Contract Award Processes. The websites also seek to ensure that relevant and timely information, which relates to the monitoring and investigative functions of the OCG, are easily accessible to all stakeholders.

Quarterly Contract Awards (QCA) Management System

The QCA system was developed and implemented internally to manage, *inter alia*, the receipt, consolidation and assessment of the contract awards, which are made by Public Bodies that do not require the endorsement of the NCC. Approximately 190 Public Bodies submit contract award data directly to the OCG on a quarterly basis.

The 3rd quarter of 2012 saw an expansion in the scope of QCA Regime. Public Bodies are now required to report on all contracts awarded over J\$500,000.00, which would include contracts that required the endorsement of the NCC.

A modified reporting interface, utilizing the OCG's Web Portal, was implemented to strengthen the QCA reporting process. The new interface provided Public Bodies with the following advantage:

- Real time notifications of the possibility that a contract did not adhere to the established GOJ Procurement Guidelines;
- The ability to submit comments on each contract that is submitted on a quarterly Report;
- The ability to submit the electronic copy of the Report via the Web Portal;and
- Online archive of Reports which have been submitted to the OCG since the 3rd quarter of 2012.

Prescribed Licences Information Database (PLID)

The OCG's PLID was an initiative which marked the first phase of the systematic and formal monitoring, by the OCG, of the Licensing activities executed by GOJ Public Bodies.

The PLID system is comprised of a public and private portal, both of which can be accessed from the OCG's and CG's websites. Access to the private portal is restricted to Public Bodies, and facilitates the capture of information related to the Public Bodies' Licensing activities. The public portal allows the general public access to view information captured by the PLID system. The portal may be accessed via the URL http://www.ocg.gov.jm/ocg/qpl_home_page.php.

SPECIAL INVESTIGATIONS DIVISION

The Office of the Contractor General (OCG), during the 2012 calendar year, concluded six (6) Special Investigations into a number of Public Sector procurement and contract award issues. These Investigations were conducted pursuant to the discretionary powers, which are reserved for the Contractor General, under Sections 15 and 16 of the Contractor General Act (1983).

Having regard to the mandatory requirements of Section 20 (1) of the Contractor General Act, the Reports of Investigation for all six (6) matters were promptly submitted to *“the principal officer of the Public Body concerned and the Minister having (portfolio) responsibility therefore.”*

Additionally, the Reports of Investigation for the six (6) referenced Investigations were submitted to the Houses of Parliament, pursuant to either Section 21 of the Contractor General Act and/or pursuant to the further discretionary powers which are reserved to the Contractor General under Section 28 (2) of the Contractor General Act.

The six (6) Reports which were submitted to the Houses of Parliament were as follows:

1. Special Report of Investigation - The Award of a Security Contract for the Provision of Landside Security Services to Protection and Security Limited;
2. Special Report of Investigation - Conducted into the Circumstances Surrounding the Award of a Contract to Syncon Technologies Limited for the Supply and Installation of a Telephone System in 2007;
3. Special Enquiry Audit - QCA Reports filed by the Rural Electrification Programme Ltd.;
4. Special OCG Report of Investigation – Allegations of Procurement Breaches regarding the Installation Ceremony for the Interim President of College of Agriculture, Science and Education (CASE);
5. Special Report to the Parliament of Jamaica - Concerning the Posture of the Cabinet of Jamaica with respect to certain Lawful Requisitions of the Office of the Contractor General; and
6. Special OCG Report of Investigation – Conducted into the Circumstances Surrounding Procurement and Contract Award Issues at the National Youth Service (NYS).

Once an Investigation Report is submitted by the Contractor General, to the Houses of Parliament, the Speaker of the House of Representatives, and the President of the Senate, are, thereupon, obliged, by Section 28 (3) of the Act, to table the Reports in each House *“as soon as possible”*. Pursuant to Section 28 (4) of the Contractor General Act, and in the public interest, the complete content of these six (6) Reports of Investigation were also made public by the OCG. The Reports are currently available for viewing on, or download from, the OCG's website at www.ocg.gov.jm.

The OCG's Special Reports of Investigations have identified numerous issues which involved governance, poor planning, impropriety, irregularity, conflict of interest and unethical conduct, and a lack of competition, transparency and value for money in public contracting in Jamaica. Consequently, the OCG, pursuant to Section 20(1) of the Contractor General Act, has made several remedial Recommendations. Additionally, several formal Referrals have been made by the OCG, regarding, *inter alia*, the respective Public Officers who were involved in the matters under scrutiny, to the appropriate State Authorities for the requisite action(s) to be taken by them in keeping with the requirements of Section 21 of the Contractor General Act.

SOME KEY ISSUES WHICH HAVE BEEN IDENTIFIED BY THE OCG IN ITS INVESTIGATION REPORTS:

The OCG, in the conduct of its Investigations, has identified a recurring pattern in the issues which have been investigated and is, therefore, quite concerned with the level of appreciation for the applicable procurement and contract award rules, procedures, policies, protocols, legislation and regulations which are to be adhered to by the Public Sector. Some of these issues are as follows:

1. Conflict of Interest and Unethical Conduct;
2. Breaches of the Contractor General Act and other applicable laws and/or regulations, such as the Public Bodies Management and Accountability Act, the Financial Administration and Audit Act and the Corruption Prevention Act;
3. Breach of Duty on the part of Accounting and Accountable Officers;
4. Breach of Duty on the part of Boards of Directors; and
5. Challenges to the OCG's Statutory Authority.

We have continued to observe weaknesses in the compliance levels, probity, accountability and transparency in Government contracting and have over the years made considered recommendations to respective Public Bodies and Public Officers in an effort to address the issues and concerns which are the subject of Investigations.

There is, however, heightened concern in the fact that upon the completion of several Reports of a similar nature, particularly as it regards issues of irregularity and impropriety in the award and implementation of government contracts, the majority of our Recommendations have been recapitulated, but to no avail. The OCG is of the considered position that Public Officer and Officials must commence acting in a manner and form that promotes due care, transparency and integrity, and for all Public Officers/Officials to be held accountable for such actions which are *ultra vires* and in breach of Public Sector policies, rules, procedures and all other applicable legislations which govern public procurement and contracting.

In this regard, the OCG stands firm in its recurring recommendation to be given the power and the authority to halt a procurement and/or contract award matter which exhibits signs of irregularity, impropriety, corruption and/or certain questionable occurrences which it considers to be administered in a manner harmful to the interests of the People and Taxpayers of this country.

Having regard to the foregoing, the following represents some of the key Recommendations which have been made, during the period under review:

SUMMARY OF KEY RECOMMENDATIONS:

1. The OCG recommends that in instances where a Public Body has identified that there is a breach of the procurement procedures, the responsible Agency should seek to remedy the said breach in an expeditious and effective manner as opposed to continuing the implementation of the project in violation of the applicable GOJ Public Sector Procurement Procedures, the Regulations and/or other governing laws.
2. The OCG recommends that the Procurement Committees of Public Bodies should be insulated from the direction and influence of management and/or the Boards of Public Bodies, as it regards the objective and impartial discharge of those of their responsibilities which are prescribed by the GOJ Procurement Guidelines.

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

3. Heads of Ministries, Departments and Agencies who are aware that a Public Officer is in a conflict of interest situation are strongly recommended to take the necessary action, in accordance with applicable administrative procedures, to remove such an Officer from the conflicted situation. Such action will ensure legitimacy and good governance in the administration and management of the GOJ's procurement process and the GOJ's affairs.
4. In instances where a member of the Public Body Board or any other Public Official/Officer finds himself/herself in a probable conflict of interest scenario, it is recommended that the individual not only makes the necessary and principled disclosures with the intent to remove himself/herself from the conflict of interest situation, but also withdraws himself/herself entirely from the process. Further, and in order to guard against any perceived shortcomings in the practice of making disclosures of interest, the OCG is hereby recommending that Public Officers/Officials make such declarations in writing and that same form a part of the record for the procurement under consideration.
5. The OCG recommends that in accordance with, inter alia, the Public Bodies Management and Accountability Act and the Financial Administration and Audit Act, the Cabinet, Accounting and Accountable Officers and Members of the Board of Directors of Public Bodies, should, at all times, ensure that the principles of good corporate governance are adhered to and promoted within the Public Sector.

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

6. The OCG must recommend and encourage Accounting and Accountable Officers to exercise the greatest level of care and diligence in their approval of the award of GOJ contracts and in the certification of representations which are made to the OCG and to other Statutory Authorities.
7. The OCG also respectfully recommends that all Appointees of the Board of Directors of any Public Body are fully made aware of their responsibilities and obligations under the provisions that are contained in the Public Bodies Management and Accountability Act, the recently issued Corporate Governance Framework for Public Bodies and all other applicable legislations.
8. The OCG recommends that in instances where a Public Body and/or a duly registered company or body corporate, whose policies are influenced by the GOJ and/or any duly authorized agency of the GOJ, is administered, controlled and/or managed by a parent Ministry, Statutory Authority or otherwise, and consists of a separate and distinct Board of Directors, such a Public Body Board of Directors should be required to conduct in-depth deliberations into matters relating to, inter alia, Government contracting, irrespective of any other deliberations which are conducted by the parent Ministry, Statutory Authority or otherwise.

The OCG is, therefore, recommending that an expressed display of due care and diligence be exhibited by the Boards of Directors of Public Bodies and not simply the 'ratification' of the decisions of the parent Entity.

The OCG is of the view that the foregoing will promote greater transparency within the Government contracting system, underscore the principles of good corporate governance and will lend itself to the fostering of increased accountability upon the Boards of Directors of Public Bodies for the affairs of the Public Body.

Given the foregoing, the OCG further recommends that the Boards of Directors of all Public Bodies be thorough in their deliberations, particularly as they relate to Government contracting, in an effort to ensure that contracts which are being recommended for award, by the respective Public Bodies, are in keeping with the Laws of the Jamaica, and the policies and procedures which govern such awards.

The OCG, also feels obliged to highlight, herein, some of the key Recommendations which have been a constant element of its Special Investigation Reports, but which we have seen no significant improvements in policy development and/or the practices which have been employed by several Public Bodies:

1. The OCG strongly recommends that procuring entities should plan their procurement activities in accordance with the Procurement Cycle, inclusive of the employment and application of an approved Procurement Plan. In this regard, contracts which are to be awarded should be properly packaged, tendered, evaluated and awarded within a specified timeframe, hence removing the need, inter alia, to rush the procurement process.
2. The OCG recommends that Accounting and Accountable Officers should be more proactive in the procurement activities of Public Bodies and ensure that contracts which are awarded should be consistent with the full application of the Procurement Guidelines and must be, and appear to be, awarded fairly, impartially and without any form of irregularity or impropriety.
3. The OCG recommends that the Accounting and/or Accountable Officers should take a more proactive and aggressive role in developing, implementing and enforcing effective risk management systems, and checks and balances, within their portfolio, in an effort to mitigate against any possibility of deviations from the RHPP by the institution's management and procurement staff.
4. The OCG is recommending that Public Officers and/or Officials, who are engaged by the GOJ, adhere to the strictest practices of professional ethics and conduct whilst in the employ of the GOJ.
5. In instances where the Government of Jamaica procurement guidelines are breached, the responsible agency should seek to remedy the breach in an expeditious and effective manner as opposed to continuing with the implementation of the project in violation of applicable Government procurement procedures and other regulations or laws.
6. The OCG remains concerned that the 'unsolicited proposal' mechanism is a corruption enabling device which can be utilized by unscrupulous Public Officials to direct lucrative multi-million dollar State contracts to connected, undeserving or desired contractors. This can be easily accomplished by influential but corrupt Public Officials who are willing to clandestinely conspire with a contractor to have the contractor approach the State with what appears to be a unique contracting proposal.

It is the OCG's considered position that all such proposals must be tested for propriety, legitimacy, cost-effectiveness, quality, value for money and competitiveness in the open market place.

Consequently, the OCG recommends that Public Bodies, through their respective Accounting and Accountable Officers, should pay keen attention to, and ensure compliance with, Section 1.2 of Volume 2 of 4 of the RHPP, which dictates how unsolicited proposals should be treated and, in particular, with respect to price testing and competitive bidding.

7. The OCG also feels compelled to strongly recommend that the Cabinet should move with expedition to develop and to implement a comprehensive and over-riding policy to be applicable to all Public Body Boards, to govern, restrict or prohibit, for a specified time, as the case may be, the award of Government contracts (or the divestment of publicly owned assets) by a Public Body, to former members of its Board of Directors, or to any entity in which a former Board member may have a pecuniary interest.

8. Transparency, the appearance of fairness and the need to avoid the possibility of a conflict of interest, in the public procurement process, require that there should be, among other things, a distinct separation of the Public Officials and Officers who sit and vote on a Public Body's established Procurement Committee with respect to a particular procurement, and the Officials and Officers who grant final approval for the procurement.
9. The OCG is compelled to remind Public Officials who are involved in the procurement process that they are required to uphold the highest standards of ethical conduct, and to observe the GOJ's Code of Conduct for Civil Servants which is outlined in the Staff Orders. Above all, Public Officials should, at all times, remain free of interest in relationships that could be potentially detrimental to the best interests of the GOJ.

Consequently, Public Officials should not participate and/or engage in any GOJ process which is related to a transaction which is to be executed between the GOJ and a company or entity, or its associated affiliates, divisions or subsidiaries, in which the Public Official has an interest.

Further, Public Body individuals who are involved in the procurement process should disclose any personal or other relationships and interests which they may have with a bidder, supplier, contractor and/or consultant. Pursuant to Section 4, Volume 1, of the Revised GOJ Public Sector Procedures (2012 January), such Public Body individuals should not take part in either the decision-making process, or the implementation of any contract, where any such relationship or interest exist.

OPERATIONAL CHALLENGES AND COURT HEARINGS

During the reporting year, the statutory authority of the Commission of the Contractor General, *inter alia*, to carry out its mandate pursuant to Sections 4, 15 and 16 of the Contractor General Act, has been challenged in the Courts. Without prejudice to the principles of the rule of law and the legal rights of the various Claimants, such challenges have impacted the effectiveness and efficiency of the Commission's ability to undertake its functions under the law.

There is also significant note of the refusal and failure on the part of certain persons of interest, which includes Government Officials and Public Officers, former and present, to comply with certain Statutory Requisitions which have been issued by the OCG. In three (3) such instances, the OCG is currently before the Courts defending its lawful authority to issue statutory Requisitions into matters which concern pre-contract award, licenses and permits and the divestment of state-owned assets.

The following represents the referenced Court actions which have been brought against the OCG:

1. In 2012 June, the current ruling Administration, through its Minister of Transport, Works and Housing, Dr. the Hon. Omar Davies, applied for Leave to apply for Judicial Review and sought reliefs into circumstances surrounding, *inter alia*, (a) the OCG formal commencement into the monitoring and investigation of the Independent Oversight Panel; (b) the OCG's power to monitor and investigate pre-contractual activities; (c) the OCG's publication of a Media Release on the matter.
2. In 2012 September, the Hon. Gordon Stewart, OJ, applied for Leave to commence Judicial Review Proceedings against the OCG in which he sought to challenge (a) the OCG's statutory Requisition of June 20, 2012 and his compliance of same and (b) the OCG's power to commence a Special Investigation into a Sandals Whitehouse matter.

The third Court action, which is on-going, was preceded by an OCG' Referral to the Office of the Director of Public Prosecutions (ODPP), in December 2011, pursuant to Section 29 of the Contractor General Act, as a result of the failure on the part of the former Commissioner of the Customs, the Hon. Danville Walker, OJ, to comply with a lawful statutory Requisition of a Contractor General. Consequent upon this action, which was brought against the Hon. Danville Walker, he applied for Court Orders for Administrative Orders for Judicial Review on February 17, 2012, seeking, *inter alia*, (a) to quash the OCG's Notice of Formal Requisition for Information and Documentation which was issued on November 18, 2011 and the Referral to the Director of Public Prosecutions; and (b) a declaration that the said Formal Requisition was in excess of jurisdiction, *ultra vires* and void.

As at the end of the reporting period, the OCG is awaiting the Court's adjudication on the aforementioned matters. Having undergone several challenges over the years, the OCG is of the belief that it is critical to allow the Rule of Law to take its course as it regards this Commission of the Parliament of Jamaica lawful authority to, *inter alia*, conduct investigations into pre-contract awards, licences and permits and the divestment of Government state-owned assets.

Another matter which followed to challenge the OCG's request for information and documentation, during the reporting year, was brought by the Cabinet of Jamaica, which had commenced in June 2012. In this matter, the OCG saw the Cabinet, advised by the Learned Attorney General, the Hon. Patrick Atkinson, refuse to comply with several lawful requests of the OCG to provide certain Cabinet Submissions and Decisions. In point of fact, the Learned Attorney General advised the Cabinet, in each instance, to await the outcome of the Judicial Review application which was brought by Dr. the Hon. Omar Davies, Minister of Transport, Works and Housing. As a result of the continued non-compliance on the part of the Cabinet of Jamaica, the OCG submitted a Special Report to the Parliament of Jamaica, which sought to (a) provide a comprehensive overview of the challenges encountered by the OCG in its attempt to receive the information and documentation that was requested, in an effort to effectively discharge its mandate under the law; and (b) advise that, in the circumstances, the OCG will act within the confines of the law and exercise such recourse as is available to it under law to effectively discharge its mandate.

Notwithstanding the aforementioned challenges, and whilst we await the Court's adjudication in the referenced matters, the OCG continues to carry out its investigative functions strictly within the confines of the law, and in particular, the Contractor General Act.

SUMMARY OF SPECIAL INVESTIGATION REFERRALS

SUMMARY OF REFERRALS MADE PURSUANT TO SECTION 21/RECOMMENDATIONS FOR PROSECUTION PURSUANT TO SECTION 29 OF THE CONTRACTOR GENERAL ACT REGARDING FORMAL INVESTIGATIONS CONDUCTED BY THE OCG

STATUS REPORT AS AT DECEMBER 31, 2012

Year of Completion of Investigation		2012											
Name of Investigation		Special Report of Investigation Conducted into the Circumstances Surrounding the Award of a Contract to Syncon Technologies Limited for the Supply and Installation of a Telephone System in 2007. The Accountant General's Department/Ministry of Finance and Planning.											
	Name(s) of Person(s) Referred / Recommended	Date of Referral / Recommendation	Reason(s) / Nature of Referral / Recommendation	House of Parliament	Responsible Minister	Accounting/ Accountable Officer	Prime Minister	DPP	Attorney General	Auditor General	Corruption Prevention Commission	Commissioner of Police	Other State Authorities
1	The Accountable Officer of the AGD, Ms. Millicent Hughes.	July 2012	Breached the provisions of the Financial Administration and Audit Act. Particularly, in light of the provisions which are contained in Sections 2, 16, 19, 20, and 24 of the Financial Administration and Audit Act.							√			Financial Secretary
Action Taken to Date/Remarks: None on record as at December 31, 2012													
2	The Accountable Officer of the AGD, Ms. Millicent Hughes.	July 2012	In light of the questions and concerns which were raised by the PAC regarding the this Investigation, and the Findings, Conclusions and concerns which have been detailed, the OCG formally referred a copy of this Report to the Chairman of the PAC to facilitate any further action which the PAC might, in its discretion, deem to be appropriate in this matter.										The PAC
Action Taken to Date/Remarks: None on record as at December 31, 2012													
3	The Accountable Officer of the AGD, Ms. Millicent Hughes.	July 2012	The AGD failed to report the award of the referenced contract to the OCG, by way of its QCA Reports and thereby failed to comply with a lawful Requisition of a Contractor General, contrary to the provisions of Section 29 (b) (ii) of the Contractor General Act.					√					
Action Taken to Date/Remarks: As at December 31, 2012 the ODPP acknowledged the OCG's Referral by way of a letter which was dated 25, July 2012.													

Year of Completion of Investigation		2012											
Name of Investigation		The Award of Contracts to Unregistered Contractors for the Provision of Labour for Pole Line Construction Rural Electrification Programme Limited (Ministry of Science, Technology, Energy and Mining)											
	Name(s) of Person(s) Referred / Recommended	Date of Referral / Recommendation	Reason(s) / Nature of Referral / Recommendation	State Authority to whom Referral/Recommendation was Made									Other State Authorities
				Houses of Parliament	Responsible Minister	Accounting/ Accountable Officer	Prime Minister	DPP	Attorney General	Auditor General	Corruption Prevention Commission	Commissioner of Police	
1	Mr. Keith Garvey, the then General Manager and Mr. Aldrane Genius, the then Acting General Manager,	July 2012	<p>1. Signed and submitted the QCA Reports which reported the contracts which were awarded to Mactech Enterprise Company Limited and Int'Lecz Company Limited, and, in particular, which reported patently false and misleading NCC Contractor Identification Numbers, have committed a breach of Section 29 (a) and 29 (b) (ii) of the Contractor General Act, and by doing so, have committed a criminal offence.</p> <p>2. Awarded contracts to two (2) unregistered Contractors in contravention of the Government of Jamaica Procurement Guidelines and in direct contravention of Section 40 of the Public Sector Procurement Regulations, which were promulgated in 2008 December.</p>					√				√	Financial Secretary
<p>Action Taken to Date/Remarks 1. Acknowledgement letters were received from the DPP and the Commissioner of Police. Subsequently, in August 2012 a meeting was convened with representatives of the Fraud Squad and a Witness Statement provided to assist with the investigation.</p>													

SUMMARY OF SPECIAL INVESTIGATION REFERRALS

Year of Completion of Investigation		October 2012												
Name of Investigation		Special Enquiry Management Report of Investigation Conducted Into Allegations Surrounding Procurement Breaches Associated with the Installation Ceremony for the Interim President of the College of Agriculture, Science and Education (CASE)												
	Name(s) of Person(s) Referred / Recommended	Date of Referral / Recommendation	Reason(s) / Nature of Referral / Recommendation	State Authority to whom Referral/Recommendation was Made										
				Houses of Parliament	Responsible Minister	Accounting/ Accountable Officer	Prime Minister	DPP	Attorney General	Auditor General	Corruption Prevention Commission	Commissioner of Police	Other State Authorities	
1	The then Interim President of CASE, Dr. Victor Watt,	October 2012	1. Breached Sub-Section S-2040, of the Handbook of Public Sector Procurement Procedures (November 2008), which states, inter alia, that the Limited Tender Procurement Methodology is the required method to be employed for contracts within the threshold of J\$100,000.00 to J\$275,000.00. The value of the contract awarded to the Event Planner, was J\$250,000.00. Thereby breaching Section 40 of the Public Sector Procurement Regulations (2008),						√					
Action Taken to Date/Remarks: Letter of acknowledgement received from the DPP.														
2	Ms. Charmaine McKenzie, then Secretary to the then Interim President of CASE, or any other person.	October 2012	Breached Section 29 of the Contractor-General Act, having regard to the conflicting statements which were provided by the said Ms. Charmaine McKenzie, Dr. Victor Watt, and Ms. Michelle Allen, Lecturer at CASE, regarding the extent of Ms. McKenzie's knowledge of and involvement in the planning of the subject Installation Ceremony.						√					
Action Taken to Date/Remarks														
3	Accountable Officers of the CASE	October 2012	Evidence of the breach of the Public Bodies Management and Accountability Act, which has been identified									√		
Action Taken to Date/Remarks: Letter of acknowledgement received from the DPP. No further action as at December 2012.														

Year of Completion of Investigation		December 2012											
Name of Investigation		Special Report to the Parliament of Jamaica Concerning the Posture of the Cabinet of Jamaica with respect to certain Lawful Requisitions of the Office of the Contractor General Office of the Cabinet											
	Name(s) of Person(s) Referred / Recommended	Date of Referral / Recommendation	Reason(s) / Nature of Referral / Recommendation	State Authority to whom Referral/Recommendation was Made									
				Houses of Parliament	Responsible Minister	Accounting/ Accountable Officer	Prime Minister	DPP	Attorney General	Auditor General	Corruption Prevention Commission	Commissioner of Police	Other State Authorities
1	The Cabinet of Jamaica	December 2012	<p>Referred the Cabinet of Jamaica to the Director of Public Prosecutions (DPP), for criminal prosecution, for its failure to comply with several lawful Statutory Requisitions relating to, respective Cabinet Submissions and Decisions in regard to the following matters:</p> <p>1. The approval for (a) the continuation of the North South Link of Highway 2000, (b) the Gordon Cay Container Transhipment Hub, (c) the Fort Augusta Container Terminal and (d) the establishment of an Oversight Panel to oversee the Award of Government contracts;</p> <p>2. The extension of the Operating Agreement with Blue Diamond Hotels and Resorts Inc. – Braco Resorts Hotel (formerly Breezes Rio Bueno), Trelawny; and</p> <p>3. The Liquefied Natural Gas (LNG) Project – Floating, Storage and Regasification Terminal and the Supply of LNG.</p>					√					
<p>Action Taken to Date/Remarks: None as at December 2012.</p>													

Year of Completion of Investigation		December 2012												
Name of Investigation		Special Report of Investigation Conducted into the Circumstances Surrounding Procurement and Contract Award Issues at the National Youth Service (NYS) Ministry of Education												
	Name(s) of Person(s) Referred / Recommended	Date of Referral / Recommendation	Reason(s) / Nature of Referral / Recommendation	State Authority to whom Referral/Recommendation was Made										
				Houses of Parliament	Responsible Minister	Accounting/ Accountable Officer	Prime Minister	DPP	Attorney General	Auditor General	Corruption Prevention Commission	Commissioner of Police	Other State Authorities	
1	Accountable Officers of the NYS	December 2012	<p>Contravention of the GOJ Public Procurement Guidelines, and the attendant Public Sector Procurement Regulations, which resulted in payments in excess of J\$15M, per annum, to the JTS, for the period of 2006 through to 2008. In particular, during the referenced period, the NYS failed to prepare a formal written contract to govern its contractual relation with the JTS but, instead, relied upon approved Rate Sheets as the principal basis of its engagement of the services of the JTS. The Matter is also referred for further review, in light of fact that the contract was awarded without the authorization of the Permanent Secretary and also in light of the remedial and other related actions which have already been reportedly taken by the NYS with respect to (a) its procurement activities, (b) its management and disbursement of public funds, (c) the conduct of Procurement workshops and (d) the sensitization of procurement officers with the upgraded procurement guidelines.</p>							√				
Action Taken to Date /Remark: None as at December 31, 2012.														

2	Accountable Officers of the NYS	December 2012	<p>It has found, herein, prima facie evidence that the then Accountable Officers of the NYS, who signed and submitted the QCA Reports which reported the contracts which were awarded to the JTS, and, in particular, which reported that several contracts during the period of 2006 through to 2008 were awarded to the JTS using the Limited Tender Procurement Methodology, despite the fact that the foregoing contract was only subject to a semblance of the Limited Tender Procurement Methodology once in 2005 and a Selected Tender Procurement Methodology in 2009, have committed a breach of Section 29 (a) and 29 (b) (ii) of the Contractor General Act, and by doing so, have committed a criminal offence.</p>					√				√	
Action Taken to Date/Remarks: None as at December 31, 2012.													

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APPROPRIATION ACCOUNT



0400 - Office of the Contractor General
16 Oxford Road

Page Number : 1
25/09/2012
15:37

FS6 - Statement of Expenditure by Objects (Object Summary) - Selected Items ONLY

Financial years : 04 (2011/2012) Financial Pattern : 10 - Recurrent Voted
Period Number: 1 (Close) To : 12 (Open) (Apr 01 2011 - Mar 31 2012)

Function	-	Sub-Function	-	Programme	-
Sub-Programme	-	Project	-	Sub-Project	-
Activity/Proj	-				

	Code	Description	Approved Vote 1	Warrant Allocate To Date 2	Month Expense 3	YTD Expense 4	Advance 5	Un-Discharged Commitment 6	YTD Exp & Adv Un-Disc. COM. 7=(4+5+6)	UnComit Warr. 8=(2-7)	Bal on Vote 9=(1-7)
Object	21	Compensation of Emp	96,682,000.00	96,682,000.00	7,746,795.96	94,927,624.46	00.00	00.00	94,927,624.46	1,754,375.54	1,754,375.54
Object	22	Travel Expenses and	21,517,000.00	21,517,000.00	1,935,152.33	20,624,864.09	00.00	00.00	20,624,864.09	892,135.91	892,135.91
Object	23	Rental of Property,	20,636,000.00	20,636,000.00	3,980,623.35	20,636,000.00	00.00	00.00	20,636,000.00	00.00	00.00
Object	24	Public Utility Serv	9,236,000.00	9,236,000.00	247,277.95	10,519,437.82	00.00	00.00	10,519,437.82	-1,283,437.82	-1,283,437.82
Object	25	Purchase of Other G	15,799,000.00	15,799,000.00	2,309,902.89	18,982,460.36	00.00	00.00	18,982,460.36	-3,183,460.36	-3,183,460.36
Object	28	Retirement Benefits	29,840,000.00	29,840,000.00	4,904,154.64	27,869,431.22	00.00	00.00	27,869,431.22	1,970,568.78	1,970,568.78
Object	31	Purchase of Equipme	5,292,000.00	5,292,000.00	795,921.00	5,379,145.04	00.00	00.00	5,379,145.04	-87,145.04	-87,145.04
Total for Fin. Pattern : 10 - Recurrent Voted			199,002,000.00	199,002,000.00	21,419,831.12	198,938,962.99	00.00	00.00	198,938,962.99	63,037.01	63,037.01

Accountant
Date: 25/9/12

Dir of Finance/
Financial Controller
Date: 20/9/12

Accounting Officer
Date: 25/9/12

OFFICE OF THE CONTRACTOR-GENERAL
APPROPRIATION ACCOUNT
YEAR ENDED 31ST MARCH 2012

Explanation of the causes of variation between approved estimates and expenditure:

21 - COMPENSATION OF EMPLOYEE

The under expenditure of \$1,754,375.54 was the result of an over estimation in the Second Supplementary Estimates.

22 - TRAVEL EXPENSE AND SUBSISTENCE ALLOWANCE

The under-expenditure of \$892,135.91 was the result of an over estimation in the Second Supplementary Estimates.

24 - PUBLIC UTILITY SERVICE

The over- expenditure of \$1,283,437.82 was the result of increases in the cost of Electricity over the period.

25 - PURCHASE OF OTHER GOODS AND SERVICES

The OCG requested a budgetary allocation of \$18,099,000.00 for the year 2011-2012. This amount would have provided for the anticipated increases in the required cost of goods and services. However, the Approved Estimates did not cover the OCG's request as the OCG was unable to avoid the required goods and services in 2011 2012. This resulted in an over-expenditure of \$3,183,460.36

28 - RETIRING BENEFITS

The under-expenditure of \$1,970,568.78 was the result of savings realized from the non-payment of projected interim gratuities.

31 - PURCHASE OF EQUIPMENT

The over-expenditure of \$87,145.04 was due to the purchase of capital goods at the end of March 2012.

Greg Christie (Signed)

25/9/12

.....

.....

Greg Christie

Date

CONTRACTOR-GENERAL

EXCERPTS FROM THE AUDITOR GENERAL'S REPORT TO THE ACCOUNTING OFFICER OF THE OFFICE OF THE CONTRACTOR GENERAL – DATED OCTOBER 08, 2012

Report on the Appropriation Account

I have audited the accompanying Appropriation Account of the Office of the Contractor General – Head 0400 which comprise the Account by Objects, Activity Projects and explanatory statement of the causes for variation between approved estimates and expenditure as at March 31, 2012.

Opinion

In my opinion, the attached Appropriation Account is a fair representation of the financial transactions for the year ended March 31, 2012 in accordance with Section 24 I (1) (a) (b) of the Financial Administration and Audit Act.

Report on Additional Requirements of the Financial Administration and Audit Act

I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. In my opinion, proper accounting records have been maintained and the Appropriation Account is in agreement therewith and gives the information required in the manner so required.

Pamela Monroe Ellis (Mrs.) (Signed)
Auditor General