

# **INTEGRITY COMMISSION**



## **INVESTIGATION DIVISION SPECIAL REPORT**

**PURSUANT TO SECTION 36(3) OF THE INTEGRITY COMMISSION ACT**

**THE USE OF THE EMERGENCY CONTRACTING METHODOLOGY BY PUBLIC BODIES**

**2015-2019**

**SEPTEMBER 2021**

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## **Background**

The Director of Investigation (DI) has received and reviewed a number of complaints regarding the use of the emergency contracting methodology in the procurement process. Though the use of the referenced methodology has been addressed on a case by case basis, the Commission has not, until now, done a general review of same.

Based upon the foregoing, a decision was taken to conduct a statistical analysis of the use of the emergency contracting methodology for the period 2015-2019.

The information used in the conduct of this analysis was obtained from the Integrity Commission's Quarterly Contract Award (QCA) database, which is a running compilation of all contracts reportedly awarded by approximately 197 procuring entities with values greater than JMD\$500,000.00, irrespective of the procurement methodology employed. The aggregate sum of contracts reported from January 01, 2015 to December 31, 2019, amounted to 79,717 with a total contract value of JMD\$525,587,968,310.11 – see Table 1 below.

**Table 1: Contracts Awarded by Procurement Methodology**

	Number of Contracts Issued	Methodology	Total Value of Contracts
	2,252	Emergency Contracting Methodology	\$23,466,776,489.88
	46,133	Direct Contracting/Single Sourcing	\$279,172,317,362.36
	25,882	Limited Tendering/Restrictive Bidding	\$113,724,341,455.33
	3,261	Local Competitive Bidding/National Competitive Bidding	\$65,056,645,972.40
	253	International Competitive Bidding	\$29,896,466,949.50
	1,936	Government to Government	\$14,271,420,080.63
<b>Grand Total</b>	<b>79,717</b>		<b>\$525,587,968,310.11</b>

The total number of contracts reported using the emergency contracting methodology was 2,252 with the total value of those contracts amounting to JMD\$23,466,776,489.88. The total number and values of contracts reported as having been awarded using other methodologies are: Direct Contracting/Single Sourcing 46,133 contracts with a total contract value of JMD\$279,172,317,362.36; Limited Tendering/Restrictive Bidding 25,882 contracts with a total contract value of JMD\$113,724,341,455.33; Local Competitive Bidding/National Competitive Bidding 3,261 contracts, with a total contract value of JMD\$65,056,645,972.40; International Competitive Bidding 253 contracts with a total contract value of JMD\$29,896,466,949.50 and Government to Government 1,936 contracts with a total contract value of JMD\$14,271,420,080.63.

### **Jurisdiction**

In keeping with Section 36(3) of the Integrity Commission Act 2017, which states, *"The Commission may, at any time, submit a report relating to any particular matter which, in the opinion of the Commission, requires the special attention of the Parliament."* This report is being submitted by the Commission to the Houses of Parliament, for their information and attention.

### **Preamble**

Pursuant to Section 25(1)(d) of the Public Procurement Act (2015) and Volume 2, Section 1.1.5 - *Contracting under Emergency Circumstances* of the Government of Jamaica Handbook of Public Sector Procurement Procedures (GHPP) March 2014, the use of the emergency contracting methodology must coincide with a sudden, unexpected, and/or pressing need or exigency,

whereby the use of a competitive methodology would be impractical because of the time involved.

Emergency contracting pursuant to the referenced Section of the GHPP is permitted under the following circumstances:

“... ”

- a) *for the repairs or remedial action necessary to preserve public safety or property; or to avoid great social harm or significant public inconvenience;*
- b) *for the procurement of goods, services or works in any extenuating circumstances in which the Procuring Entity is likely to incur or suffer financial loss if the procurement is not executed immediately;*
- c) *for the procurement of goods, services or works in any circumstance in which the national interest and/or national security considerations demand that the procurement be undertaken immediately; or*
- d) *for business-sensitive procurement of goods, services or works in any extenuating circumstances in which the operating functions or business objectives of a Procuring Entity are likely to be significantly impeded, or placed in jeopardy if the procurement is not executed in a limited timeframe.*

...”

Having regard to the aforementioned and based upon the procedures for emergency contracting, the Head of the Procuring Entity is permitted to approve contracts valued up to JMD\$100,000,000.00. The approval must be in writing and must form part of the procurement record. For contracts with values greater than JMD\$100 million, endorsement from the Public Procurement Commission and approval from Cabinet are required prior to contract award. Where the contractor is based overseas or is not registered as a supplier in

Jamaica, the procuring entity must refer the matter to the Public Procurement Commission for approval.

Notably, contracts awarded under emergency circumstances must commence immediately or within one month of approval, otherwise same will result in an automatic reversion to the general procurement provisions.

Emergency contracts with values above JMD\$5,000,000.00 must be reported to the Public Procurement Commission within the month in which the award was made, along with full justification for the procurement, which should include a statement as to why the contractor was selected and the value of contract awarded.

The stated Section of the Handbook was used as the basis in preparing this report.

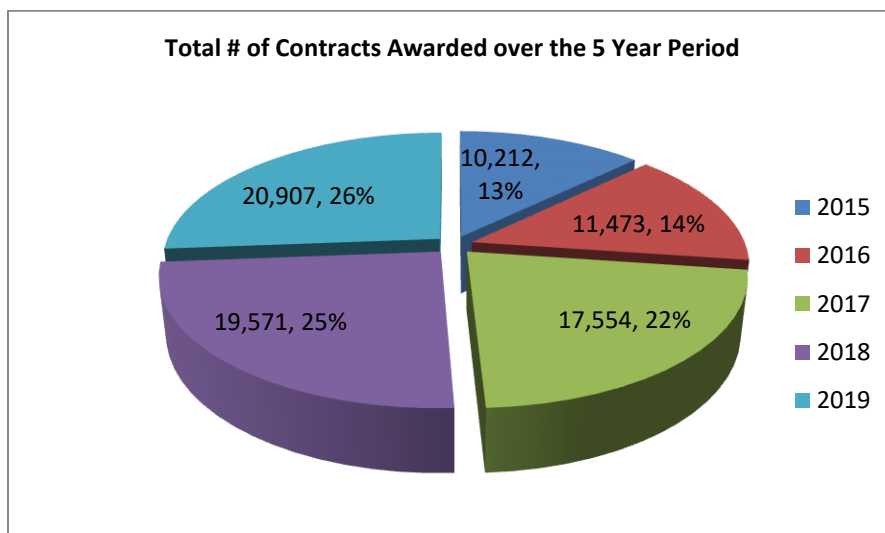
### **Review of Existing Data**

As a function of one of its legacy entities, namely the Office of the Contractor General (OCG), the Integrity Commission continues, pursuant to Section 51(1)(b) of the Integrity Commission Act, 2017, to require that all procuring entities report, on contracts awarded within each quarter. Approximately 197 public bodies were requisitioned by the legacy OCG during the year 2006, to provide pre-contract details for contracts awarded with values JMD\$250,000.00 to JMD\$4,000,000.00. The aforementioned reporting threshold was subsequently revised on October 01, 2008, to contracts with values greater than JMD\$275,000.00 up to JMD\$10,000,000.00 and thereafter in July 2012, revised to JMD\$500,000.00 and above. This Report, however, is a review of Contracts awarded using the Emergency Contracting methodology over the 2015-2019 reporting period. It is important to note that the data represented in this Report is a consolidation of information as reported by procuring entities.

With due consideration for the above-mentioned, the Commission conducted a review of the contracts reported under QCA for all quarters over the past five (5) calendar years. The table below is a summary of the statistics for all contracts reported per calendar year, and the corresponding contracts of values above JMD\$500,000.00.

**Table 2: Summary of total number of contracts awarded per year and the sum of those contracts over the period under review (2015-2019):**

	2015	2016	2017	2018	2019	Total
Total number of Contracts	10,212	11,473	17,554	19,571	20,907	<b>79,717</b>
Sum of Contracts	\$ 101,797,356,613.85	\$ 82,375,350,441.16	\$ 118,820,840,314.12	\$ 92,947,196,396.67	\$ 129,647,224,544.29	<b>\$ 525,587,968,310.10</b>



**Figure 1: Total number of contracts awarded**

Based upon the information illustrated above, a total of **79,717** contracts were awarded over the five years period with an aggregate sum of **JMD\$525,587,968,310.10**. The number of contracts awarded per year over the period under review increased by 12% over the 2015/16 period; 53% over the

2016/17 period; 12% over the 2017/18 period and by 7.5% over the 2018/19 period.

Approximately **3% or 2,252** of the number of reported contracts were awarded by way of the emergency contracting. Tables 2&3 below are summaries of the number of contracts awarded and corresponding values of said contracts, respectively, which were awarded using the Emergency Contracting Methodology over the period under review:

**Table 3: No. of Contracts awarded using Emergency Contracting 2015-2019**

Reporting Year	Emergency Contracts Awarded from Q1, 2015 – Q4, 2019				
	Q1	Q2	Q3	Q4	Total Contracts Awarded
2015	125	119	109	195	<b>548</b>
2016	152	146	113	81	<b>492</b>
2017	83	100	120	88	<b>391</b>
2018	114	89	108	69	<b>380</b>
2019	93	102	98	148	<b>441</b>
Total	<b>567</b>	<b>556</b>	<b>548</b>	<b>581</b>	<b>2,252</b>

**Table 4: Value of Contracts awarded using Emergency Contracting 2015-2019**

Reporting Year	Value of Emergency Contracts Awarded from Q1, 2015 – Q4, 2019				
	Q1	Q2	Q3	Q4	Total Value of Contracts Awarded
<b>2015</b>	\$1,148,657,393.15	\$1,120,369,796.70	\$542,116,185.11	\$927,244,858.67	<b>\$3,738,388,233.63</b>
<b>2016</b>	\$989,272,691.41	\$1,104,186,372.59	\$698,588,532.82	\$463,013,014.19	<b>\$3,255,060,611.01</b>
<b>2017</b>	\$956,569,928.62	\$420,814,019.85	\$1,298,818,728.43	4,681,988,819.90	<b>\$7,358,191,496.80</b>
<b>2018</b>	1,371,436,734.35	1,272,615,769.06	580,454,679.20	824,744,901.54	<b>\$4,049,252,084.15</b>
<b>2019</b>	682,113,442.92	1,207,243,441.44	1,193,362,085.36	1,983,165,094.57	<b>\$5,065,884,064.29</b>
Total	<b>\$5,148,050,190.45</b>	<b>\$5,125,229,399.64</b>	<b>\$4,313,340,210.92</b>	<b>\$8,880,156,688.87</b>	<b>\$23,466,776,489.88</b>

As illustrated in the tables above, 2,252 contracts were awarded over the five (5) year period with an aggregate contract value of JMD\$23,466,776,489.88.

The use of the emergency contracting method generally decreased over the period. The number of contracts awarded using emergency contracting decreased by 56 contracts or 10% over the 2015/16 period; 101 contracts or 21% over the 2016/17 period; 11 contracts or 3% over the 2017/18 period. It, however, increased by 61 contracts or 16% over the 2018/19 period.



**Table 5: Emergency Contracts awarded as a Percentage of Total Contracts 2015-2019**

<b>Total Number of Contracts Awarded to Total Number of Emergency Contracts (EC) Awarded</b>						
Year	Total Contracts (TC)	Value of Contracts (VC) (\$)	No. of Emergency Contracts	Value of Emergency Contracts (\$)	% of TC awarded using EC	% of VC awarded using EC
2015	10212	101,797,356,613.85	548	<b>3,738,388,233.63</b>	<b>5%</b>	<b>4%</b>
2016	11473	82,375,350,441.16	492	<b>3,255,060,611.01</b>	<b>4%</b>	<b>4%</b>
2017	17554	118,820,840,314.12	391	<b>7,358,191,496.80</b>	<b>2%</b>	<b>6%</b>
2018	19571	92,947,196,396.67	380	<b>4,049,252,084.15</b>	<b>2%</b>	<b>4%</b>
2019	20907	129,647,224,544.29	441	<b>5,065,884,064.29</b>	<b>2%</b>	<b>4%</b>
<b>Total</b>	<b>79,717</b>	<b>525,587,968,310.10</b>	<b>2,252</b>	<b>23,466,776,489.88</b>	<b>3%</b>	<b>4%</b>

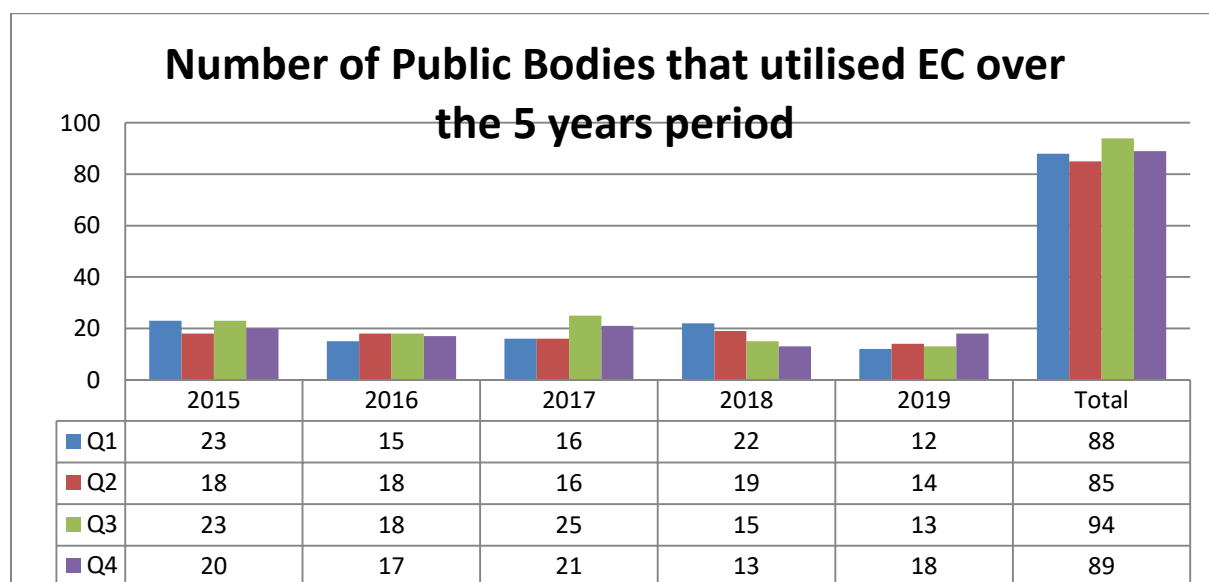
Based upon the table above, over the period under review, 2-5% of the total contracts awarded were awarded using the emergency contracting methodology. The abovementioned sums represent approximately 3% of the total number of contracts awarded and/or approximately 4% of the total value of contracts awarded over the five (5) year period.

The Emergency Contracting Methodology was utilised on average by approximately 18 of the 197 public bodies in any given quarter. Below is a summary of the number of procuring entities to have utilised the emergency contracting method over the five (5) year period under review.

**Table 6: No. of Procuring Entities to have utilised the Emergency Contracting Methodology 2015-2019**

Reporting Year	Number of Procuring Entities that used the EC Methodology over the period					
	Q1	Q2	Q3	Q4	Annual Total	Percentage of 197 Total PB
2015	23	18	23	20	<b>84</b>	<b>11%</b>
2016	15	18	18	17	<b>68</b>	<b>9%</b>
2017	16	16	25	21	<b>78</b>	<b>10%</b>
2018	22	19	15	13	<b>69</b>	<b>9%</b>
2019	12	14	13	18	<b>57</b>	<b>7%</b>
<b>Total</b>	<b>88</b>	<b>85</b>	<b>94</b>	<b>89</b>	<b>356</b>	<b>9%</b>

At the highest, 11% of procuring entities utilised the emergency contracting methodology, which accounted for 3% of the total number of contracts awarded and 4% of the total expenditure for the five year period under review.

**Figure 2: Graphical Representation of Table 6**

Of note, the numbers per quarter represent distinct procuring entities to have used the emergency contracting methodology in each instance. However, there are instances where a procuring entity that is counted in one quarter could be amongst those counted (double counted) in another, as such; the aggregated totals are not conclusive.

Below are tables summarising the number of procuring entities that have utilised the emergency contracting methodology, 5 or more times for any given quarter as well as five (5) or more times per annum. It also shows the total percentage of contracts awarded using the emergency contracting method to the total number of contracts awarded per quarter as well as the percentage of total contract value. The information is tabulated separately and will be referenced comparatively in analysing the period under review.

**Table 7: Quarterly Review of the use of the Emergency Contracting Method, 2015**

No.	Name of Procuring Entity	Year	Quarter	Total Value of Contracts Awarded (JMD\$) (JMD\$)	Total number of Contracts Awarded	Total number of Contracts Awarded using Emergency Contracting	Value of Contracts Awarded using Emergency Contracting (JMD\$) (JMD\$)	Percentage of Total Contracts Awarded using Emergency Contracting	Percentage of Total Contract Value
1	Child Protection and Family Services Agency	2015	1	32,467,504.79	10	5	20,005,560.01	50%	62%
2	Jamaica Constabulary Force	2015	1	352,562,504.25	72	15	200,272,860.08	21%	57%
3	Jamaica Constabulary Force	2015	2	87,241,894.03	36	7	25,094,873.94	19%	29%
4	Jamaica Constabulary Force	2015	3	720,526,116.51	65	23	620,394,334.69	35%	86%
5	Jamaica Constabulary Force	2015	4	510,891,067.74	55	25	459,484,177.78	45%	90%
6	Ministry of Education, Youth and Information	2015	3	177,473,048.00	53	5	14,010,126.00	9%	8%
7	Ministry of Health	2015	4	340,095,280.73	76	18	124,109,043.23	24%	36%
8	National Energy Solution Company Limited	2015	4	47,867,826.73	12	6	39,379,904.74	50%	82%
9	National Health Fund	2015	1	103,015,950.41	43	31	79,710,305.90	72%	77%
10	National Health Fund	2015	2	1,997,996,521.17	72	45	175,378,789.68	63%	9%
11	National Health Fund	2015	3	4,004,483,158.41	81	31	161,377,331.68	38%	4%
12	National Health Fund	2015	4	380,925,145.52	68	47	244,189,001.40	69%	64%
13	National Solid Waste Management Authority	2015	1	283,107,421.59	93	11	88,906,986.92	12%	31%
14	National Water Commission (NWC)	2015	1	1,118,092,273.05	279	15	207,598,428.48	5%	19%
15	National Water Commission (NWC)	2015	2	548,234,150.79	241	7	16,308,568.80	3%	3%
16	National Water Commission (NWC)	2015	3	716,240,341.05	224	10	28,966,325.40	4%	4%
17	National Water Commission (NWC)	2015	4	369,158,868.53	311	57	64,019,974.01	18%	17%
18	North East Regional Health Authority	2015	4	180,779,513.04	14	5	58,868,106.58	36%	33%
19	Office of Disaster Preparedness and Emergency Management (ODPEM)	2015	1	173,474,761.53	20	5	13,642,881.10	25%	8%
20	Office of Disaster Preparedness and Emergency Management (ODPEM)	2015	2	15,981,097.84	9	6	12,175,176.60	67%	76%
21	Petrojam Limited	2015	1	14,284,382,767.99	174	5	36,975,340.23	3%	0%
22	Petrojam Limited	2015	2	13,586,141,217.57	184	27	131,768,790.75	15%	1%
23	Petrojam Limited	2015	3	8,552,082,699.57	173	12	68,657,577.11	7%	1%
24	Petrojam Limited	2015	4	7,411,834,890.85	183	13	69,348,000.06	7%	1%
25	Port Authority of Jamaica	2015	1	331,956,497.97	175	9	18,433,800.25	5%	6%
26	Port Authority of Jamaica	2015	2	575,951,529.01	223	5	52,077,053.79	2%	9%
27	South East Regional Health Authority	2015	3	861,308,740.14	224	5	105,069,375.56	2%	12%
28	Western Regional Health Authority	2015	1	156,685,349.54	29	5	79,275,354.62	17%	51%
				57,920,958,138.35			3,215,498,049.39		

**Table 8: - 2015 Annual Review of Use of Emergency Contracting Method**

No.	Name of Public Body	Year	Total Annual Contract Value	Total Number of Contracts Reported for the Year (JMD\$)	Total Number of Contracts Awarded using Emergency Contracting	Total value of Contracts Awarded using Emergency Contracting (JMD\$)	Percentage of Total Annual number of Contracts	Percentage of Total Annual Value
1	Child Protection and Family Services Agency	2015	65,427,506.44	19	8	23,676,059.66	42%	36%
2	Financial Services Commission	2015	60,351,351.06	28	5	14,208,047.85	18%	24%
3	Jamaica Constabulary Force	2015	1,671,221,582.53	228	70	1,305,246,246.49	31%	78%
4	Ministry of Agriculture and Fisheries	2015	1,003,661,081.68	92	5	8,217,761.20	5%	1%
5	Ministry of Education, Youth and Information	2015	1,085,969,631.00	175	6	15,246,486.00	3%	1%
6	Ministry of Finance and the Public Service	2015	599,753,658.06	93	5	48,806,847.02	5%	8%
7	Ministry of Health	2015	857,479,166.82	190	25	170,261,902.07	13%	20%
8	National Energy Solution Company Limited	2015	146,588,877.58	32	7	40,232,853.80	22%	27%
9	National Health Fund	2015	6,486,420,775.51	264	154	660,655,428.66	58%	10%
10	National Housing Trust	2015	2,271,475,193.64	138	11	25,660,320.96	8%	1%
11	National Solid Waste Management Authority	2015	1,089,024,962.29	433	13	93,112,332.71	3%	9%
12	National Water Commission (NWC)	2015	2,751,725,633.42	1055	89	316,893,296.69	8%	12%
13	North East Regional Health Authority	2015	242,718,455.65	44	8	77,750,030.98	18%	32%
14	Office of Disaster Preparedness and Emergency Management (ODPEM)	2015	195,281,977.05	35	12	26,778,475.01	34%	14%
15	Petrojam Limited	2015	43,834,441,575.98	714	57	306,749,708.15	8%	1%
16	Port Authority of Jamaica	2015	3,002,926,820.74	848	20	121,158,977.65	2%	4%
17	South East Regional Health Authority	2015	11,955,535,263.62	704	13	222,000,709.83	2%	2%
18	Western Regional Health Authority	2015	972,307,454.80	206	11	93,908,264.61	5%	10%
			78,292,310,967.87			3,570,563,749.34		

A review of the contracts awarded using the emergency contracting methodology during the calendar year 2015, using a filter of five (5) or more instances, revealed at the quarterly level that in nine (9) of twenty eight (28) instances, the value of the contracts awarded via emergency contracting was greater than 50% of the named public bodies' total contracts values for the referenced period. The aggregate number of contracts was 163 and the aggregated sum amounts to \$1,754,886,675.82, or 55% of the overall annual value of \$3,215,498,049.39, based upon the filter applied.

However, at the annual level, the information tabulated shows that only one public body awarded contracts which were greater than 50% of the total sum of contracts represented in the table. The Jamaica Constabulary Force awarded 70 contracts using the emergency contracting methodology that amounted to \$1,305,246,246.49 or 78% of the total contract value awarded by the Constabulary during 2015. This represents the highest cumulative contract value for the use of the method during the period and accounts for 36% of the overall annual figure of \$3,570,563,749.34, based upon the applied filter.

**Table 9: Quarterly Review of the use of the Emergency Contracting Method, 2016**

No.	Name of Procuring Entity	Year	Quarter	Total Value of Contracts Awarded (JMD\$) (JMD\$)	Total number of Contracts Awarded	Total number of Contracts Awarded using Emergency Contracting	Value of Contracts Awarded using Emergency Contracting (JMD\$) (JMD\$)	Percentage of Total Contracts Awarded using Emergency Contracting	Percentage of Total Contract Value
1	Jamaica Constabulary Force	2016	1	232,324,070.19	44	6	105,680,643.45	14%	45%
2	Jamaica Constabulary Force	2016	2	153,135,541.48	42	21	84,933,077.64	50%	55%
3	Jamaica Constabulary Force	2016	3	244,142,921.69	43	14	41,575,416.25	33%	17%
4	Ministry of Health	2016	1	240,875,187.14	51	12	107,055,871.63	24%	44%
5	Ministry of Health	2016	3	215,407,848.67	52	9	118,153,638.53	17%	55%
6	National Health Fund	2016	1	540,484,936.89	100	63	301,597,812.25	63%	56%
7	National Health Fund	2016	2	391,009,118.39	64	47	269,206,829.82	73%	69%
8	National Health Fund	2016	3	461,596,922.74	67	35	227,982,082.33	52%	49%
9	National Health Fund	2016	4	393,208,854.05	90	33	213,491,195.84	37%	54%
10	National Water Commission (NWC)	2016	1	1,533,092,616.68	230	16	37,066,869.87	7%	2%
11	National Water Commission (NWC)	2016	2	1,282,893,157.98	285	12	64,237,911.45	4%	5%
12	National Water Commission (NWC)	2016	3	624,276,137.47	257	8	13,200,097.69	3%	2%
13	National Water Commission (NWC)	2016	4	389,372,781.95	307	8	14,009,458.93	3%	4%
14	Petrojam Limited	2016	1	6,763,574,898.48	199	30	188,652,787.04	15%	3%
15	Petrojam Limited	2016	2	15,275,857,129.64	278	30	127,925,285.99	11%	1%
16	Petrojam Limited	2016	3	12,477,982,442.27	253	29	206,452,682.56	11%	2%
17	Petrojam Limited	2016	4	7,854,102,713.31	228	7	51,792,688.84	3%	1%
18	Western Regional Health Authority	2016	1	550,259,477.16	97	7	166,730,866.21	7%	30%
19	Western Regional Health Authority	2016	2	380,503,772.12	91	8	189,783,037.54	9%	50%
				50,004,100,528.30			2,529,528,253.86		

**Table 10: Annual Review of use of the Emergency Contracting Method, 2016**

No.	Name of Public Body	Year	Total Annual Contract Value	Total Number of Contracts Reported for the Year (JMD\$)	Total Number of Contracts Awarded using Emergency Contracting	Total value of Contracts Awarded using Emergency Contracting (JMD\$)	Percentage of Total Annual number of Contracts	Percentage of Total Annual Value
1	Jamaica Constabulary Force	2016	785,802,056.73	173	45	243,280,256.10	26%	31%
2	Jamaica Customs Agency	2016	399,471,994.72	159	5	32,764,283.55	3%	8%
3	Ministry of Education, Youth and Info	2016	567,622,819.00	145	6	43,815,375.00	4%	8%
4	Ministry of Health	2016	978,935,643.97	191	28	310,447,388.03	15%	32%
5	National Health Fund	2016	1,786,299,832.07	321	178	1,012,277,920.24	55%	57%
6	National Housing Trust	2016	1,271,654,043.14	198	13	29,960,375.11	7%	2%
7	National Water Commission (NWC)	2016	3,829,634,694.08	1079	44	128,514,337.94	4%	3%
8	Petrojam Limited	2016	42,371,517,183.70	958	96	574,823,444.43	10%	1%
9	Urban Development Corporation (UD	2016	341,846,686.89	35	6	147,852,128.18	17%	43%
10	Western Regional Health Authority	2016	1,312,672,572.46	337	18	367,813,993.28	5%	28%
			53,645,457,526.76			2,891,579,501.86		

A review of the contracts awarded using the emergency contracting methodology during the calendar year 2016, using a filter of five (5) or more instances, revealed at the quarterly level that in 6 of 19 instances, the value of the contracts awarded via the emergency contracting was greater than 50% of the named public bodies' total contracts values for the referenced period. The aggregate number of contracts was 181 and the total sum amounts to \$987,382,554.08, which accounts for 39% of the overall annual value of \$2,529,528,253.86 based upon the filter applied.



However, at the annual level, the information tabulated shows that only one Public Body awarded emergency contracts which were valued more than 50% of the total of value of contracts awarded by said public body. The National Health Fund (NHF) awarded 178 contracts using the emergency contracting methodology that amounted to \$1,012,277,920.24 or 57% of the total contract value awarded by the Fund during 2016. This represents the highest cumulative contract value for the use of the emergency contracting method during the period and accounts for 35% of the amount of \$2,891,549,501.86 which is the total annual sum of all contracts, based upon the applied filter.

**Table 11: Quarterly Review of the use of the Emergency Contracting Method, 2017**

No.	Name of Procuring Entity	Year	Quarter	Total Value of Contracts Awarded (JMD\$)	Total number of Contracts Awarded	Total number of Contracts Awarded using Emergency Contracting	Value of Contracts Awarded using Emergency Contracting(JMD\$)	Percentage of Total Contracts Awarded using Emergency Contracting	Percentage of Total Contract Value
1	Independence Park Limited	2017	1	28,183,129.85	12	5	6,549,578.80	42%	23%
2	Jamaica Constabulary Force	2017	1	448,830,376.07	116	11	101,066,369.42	9%	23%
3	Jamaica Constabulary Force	2017	3	179,394,811.88	65	9	20,577,083.73	14%	11%
4	Jamaica Defence Force	2017	3	581,073,520.79	89	23	427,120,642.93	26%	74%
5	Ministry of Education, Youth and Info	2017	1	130,888,073.00	34	5	12,993,104.00	15%	10%
6	National Health Fund	2017	1	420,599,042.54	127	25	210,708,214.30	20%	50%
7	National Health Fund	2017	2	559,591,948.38	137	45	253,394,211.55	33%	45%
8	National Health Fund	2017	3	1,267,039,816.87	145	30	200,940,135.04	21%	16%
9	National Health Fund	2017	4	653,829,868.77	143	31	240,610,645.90	22%	37%
10	National Water Commission (NWC)	2017	1	523,588,539.33	284	6	73,687,542.75	2%	14%
11	National Water Commission (NWC)	2017	2	1,346,255,108.89	344	12	10,830,183.37	3%	1%
12	Petrojam Limited	2017	1	9,937,037,970.40	280	16	137,188,418.57	6%	1%
13	Petrojam Limited	2017	2	9,410,476,410.15	265	15	66,208,757.22	6%	1%
14	Petrojam Limited	2017	3	9,842,445,238.13	285	30	300,201,478.05	11%	3%
15	Petrojam Limited	2017	4	13,878,445,159.00	369	16	101,757,534.00	4%	1%
16	St. Catherine Municipal Corporation	2017	4	5,574,800.00	6	5	3,350,000.00	83%	60%
17	St. Thomas Municipal Corporation	2017	2	58,550,600.00	67	11	9,040,000.00	16%	15%
				49,271,804,414.05			2,176,163,899.63		

**Table 12: Annual Review of use of Emergency Contracting Method, 2017**

No.	Name of Public Body	Year	Total Annual Contract Value	Total Number of Contracts Reported for the Year (JMD\$)	Total Number of Contracts Awarded using Emergency Contracting	Total value of Contracts Awarded using Emergency Contracting (JMD\$)	Percentage of Total Annual number of Contracts	Percentage of Total Annual Value
1	Bank of Jamaica	2017	733,054,738.45	171	6	13,192,274.32	4%	2%
2	HEART Trust/NTA	2017	2,253,580,415.93	675	5	12,089,245.43	1%	1%
3	Independence Park Limited	2017	55,275,818.33	28	5	6,549,578.80	18%	12%
4	Jamaica Constabulary Force	2017	919,714,861.56	317	23	134,137,080.61	7%	15%
5	Jamaica Defence Force	2017	3,099,105,221.56	294	28	481,352,139.06	10%	16%
6	Ministry of Education, Youth and Info	2017	796,115,996.00	187	6	16,993,103.00	3%	2%
7	National Health Fund	2017	2,901,060,676.56	552	131	905,653,206.79	24%	31%
8	National Solid Waste Management A	2017	2,768,735,349.17	1339	8	225,806,384.00	1%	8%
9	National Water Commission (NWC)	2017	9,129,332,968.10	1338	21	239,244,126.18	2%	3%
10	Petrojam Limited	2017	43,068,404,777.68	1199	77	605,356,187.84	6%	1%
11	St. Catherine Municipal Corporation	2017	11,470,196.00	8	5	3,350,000.00	63%	29%
12	St. Thomas Municipal Corporation	2017	79,276,991.99	88	11	9,040,000.00	13%	11%
			65,815,128,011.33			2,652,743,326.03		

A review of the contracts awarded using the emergency contracting methodology during the calendar year 2017, using a filter of five (5) or more instances, revealed at the quarterly level that in 3 of 17 instances, the value of the contracts awarded via emergency contracting was greater than 50% of the named public bodies' total contracts values for the referenced period. The aggregate number of contracts was 53 and the aggregated sum amounts to \$641,178,857.23, which is 29% of the overall annual value \$2,529,528,253.86 based on the filter applied.

However at the annual level, the information tabulated shows that none of the public bodies awarded contracts which were valued more than 50% of the total value of contracts awarded by any of the respective public bodies. Of note, however, 24% or 131 of the 552 contracts awarded by NHF were awarded by way of emergency contracting, with a total contract sum of \$905,653,206.76. This is the highest cumulative contract value for the period and accounts for 34% of the amount of \$2,652,763,326.03, which is the total annual sum of all contacts, based upon the applied filter.

**Table13: Quarterly Review of the use of the Emergency Contracting Method,2018**

No.	Name of Procuring Entity	Year	Quarter	Total Value of Contracts Awarded (JMD\$) (JMD\$)	Total number of Contracts Awarded	Total number of Contracts Awarded using Emergency Contracting	Value of Contracts Awarded using Emergency Contracting(JMD\$)(JMD\$)	Percentage of Total Contracts Awarded using Emergency Contracting	Percentage of Total Contract Value
1	Jamaica Constabulary Force	2018	1	346,454,492.11	98	16	52,714,147.66	16%	15%
2	Jamaica Constabulary Force	2018	3	485,109,457.99	186	33	95,727,459.73	18%	20%
3	Jamaica Defence Force	2018	1	529,976,573.06	128	14	243,383,358.89	11%	46%
4	Ministry of Justice	2018	1	465,025,261.10	62	7	220,512,813.32	11%	47%
5	National Health Fund	2018	1	555,941,193.77	146	38	345,223,289.19	26%	62%
6	National Health Fund	2018	2	954,083,893.04	169	28	213,300,371.75	17%	22%
7	National Health Fund	2018	3	1,250,049,922.59	135	31	174,408,664.60	23%	14%
8	National Health Fund	2018	4	559,160,787.95	202	48	312,921,244.90	24%	56%
9	Petrojam Limited	2018	1	8,495,223,720.83	249	8	129,335,820.94	3%	2%
10	Petrojam Limited	2018	2	4,210,661,731.77	296	36	803,835,456.24	12%	19%
11	Petrojam Limited	2018	3	6,477,217,186.56	174	22	168,693,519.45	13%	3%
12	Rural Agricultural Development Auth	2018	1	379,658,705.27	27	5	87,900,554.00	19%	23%
				24,708,562,926.04			2,847,956,700.67		

**Table 14: Annual Review of use of the Emergency Contracting Method, 2018**

No.	Name of Public Body	Year	Total Annual Contract Value	Total Number of Contracts Reported for the Year (JMD\$)	Total Number of Contracts Awarded using Emergency Contracting	Total value of Contracts Awarded using Emergency Contracting (JMD\$)	Percentage of Total Annual number of Contracts	Percentage of Total Annual Value
1	Bank of Jamaica	2018	916,234,738.22	235	6	114,417,178.12	3%	12%
2	Jamaica Constabulary Force	2018	1,147,205,511.78	433	55	181,414,912.42	13%	16%
3	Jamaica Defence Force	2018	3,673,569,528.38	527	16	247,290,926.46	3%	7%
4	Ministry of Justice	2018	913,925,001.11	155	8	222,846,191.55	5%	24%
5	National Health Fund	2018	3,319,235,797.35	652	145	1,045,853,570.44	22%	32%
6	National Housing Trust	2018	3,825,403,039.70	717	5	51,397,984.53	1%	1%
7	National Solid Waste Management A	2018	3,052,210,933.52	1367	8	45,778,500.00	1%	1%
8	Petrojam Limited	2018	21,581,143,406.76	914	70	1,123,417,194.91	8%	5%
9	Port Authority of Jamaica	2018	4,179,633,423.76	162	6	58,400,835.51	4%	1%
10	Rural Agricultural Development Auth	2018	972,985,289.21	71	7	92,554,782.00	10%	10%
11	Western Regional Health Authority	2018	2,485,081,547.62	869	6	149,162,808.75	1%	6%
			41,886,994,793.65			3,332,534,884.69		

A review of the contracts awarded using the emergency contracting methodology during the calendar year 2018, using a filter of five (5) or more instances, revealed at the quarterly level that in 2 of 12 instances, the value of the contracts awarded via emergency contracting was greater than 50% of the named public bodies' total contract values for the referenced period. The aggregate number of contracts was 86 and the aggregated sum amounts to \$625,842,489.80 or 22% of the overall annual value of \$2,847,956,700.67 based upon the filter applied.

However, at the annual level, the information tabulated shows that none of the public bodies were awarded contracts which were more than 50% of the total value of contracts awarded by any of the respective public bodies. Of note however, 22% or 70 of the 914 contracts awarded by one procuring entity namely, Petrojam Limited, were awarded by way of emergency contracting, with a total contract value of \$905,653,206.76. This is the highest cumulative contract value for the use of the emergency contracting method during the period and accounts for 34% of the amount of \$3,332,534,884.69, which is the total annual sum of all contracts, based upon the applied filter.

**Table 15: Quarterly Review of the use of the Emergency Contracting Method, 2019**

No.	Name of Procuring Entity	Year	Quarter	Total Value of Contracts Awarded (JMD\$) (JMD\$)	Total number of Contracts Awarded	Total number of Contracts Awarded using Emergency Contracting	Value of Contracts Awarded using Emergency Contracting(JMD\$)(JMD\$)	Percentage of Total Contracts Awarded using Emergency Contracting	Percentage of Total Contract Value
1	Department of Correctional Services	2019	4	119,285,014.08	48	5	77,774,215.00	10%	65%
2	Jamaica Constabulary Force	2019	1	246,289,064.75	88	16	56,910,195.82	18%	23%
3	Ministry of Health	2019	1	614,208,411.08	228	5	60,519,140.66	2%	10%
4	Ministry of Health	2019	4	976,675,025.15	239	22	446,433,731.52	9%	46%
5	Ministry of National Security (MNS)	2019	1	261,922,914.98	26	6	198,532,648.82	23%	76%
6	Ministry of National Security (MNS)	2019	2	240,278,230.57	18	6	212,257,457.17	33%	88%
7	Ministry of National Security (MNS)	2019	3	403,133,613.89	39	15	313,376,766.31	38%	78%
8	Ministry of National Security (MNS)	2019	4	341,009,301.64	26	6	302,209,610.66	23%	89%
9	National Health Fund	2019	1	445,688,834.29	198	54	292,043,436.61	27%	66%
10	National Health Fund	2019	2	951,334,786.51	221	75	698,063,662.20	34%	73%
11	National Health Fund	2019	3	886,344,185.76	214	68	636,618,531.48	32%	72%
12	National Health Fund	2019	4	1,569,149,983.02	283	90	880,396,874.38	32%	56%
13	National Water Commission (NWC)	2019	2	1,898,064,586.40	498	5	167,423,927.96	1%	9%
				8,953,383,952.12			4,342,560,198.59		



**Table 16: Annual Review of use of the Emergency Contracting Method, 2019**

No.	Name of Public Body	Year	Total Annual Contract Value	Total Number of Contracts Reported for the Year (JMD\$)	Total Number of Contracts Awarded using Emergency Contracting	Total value of Contracts Awarded using Emergency Contracting (JMD\$)	Percentage of Total Annual number of Contracts	Percentage of Total Annual Value
1	Department of Correctional Services	2019	310,912,728.09	189	5	77,774,215.00	3%	12%
2	Jamaica Constabulary Force	2019	627,751,040.90	245	16	56,910,195.82	7%	6%
3	Jamaica Customs Agency	2019	1,027,810,578.86	234	7	42,680,249.98	3%	1%
4	Ministry of Health	2019	2,887,182,165.51	885	27	506,952,872.18	3%	41%
5	Ministry of National Security (MNS)	2019	1,246,344,061.08	109	33	1,026,376,482.96	30%	27%
6	National Health Fund	2019	3,852,517,789.58	916	287	2,507,122,504.67	31%	56%
7	National Water Commission (NWC)	2019	4,510,908,159.98	1946	6	177,915,589.56	0%	0%
8	Petrojam Limited	2019	38,546,543,356.80	770	12	136,122,970.42	2%	3%
9	Port Authority of Jamaica	2019	4,767,202,654.75	159	5	186,287,842.61	3%	4%
			57,777,226,535.55			4,718,142,923.20		

A review of the contracts awarded using the emergency contracting methodology during the calendar year 2019, using a filter of five (5) or more instances, revealed at the quarterly level that in nine (9) of thirteen (13) instances, the value of the contracts awarded via emergency contracting was greater than 50% of the named public bodies' total contracts values for the referenced period. The aggregate number of contracts was 325 and the total sum amounts to \$3,611,273,202.63, or 83% of the overall annual value of \$4,342,560,198.59 based on the filter applied.

However, at the annual level, the information tabulated shows that only one public body awarded contracts which were valued more than 50% of the total

value of contracts awarded by said public body. The NHF awarded 287 contracts using the emergency contracting methodology that amounted to \$2,507,122,504.67 or 31% of the total contract value awarded by the Fund during 2019. This represents the highest cumulative contract value for the use of the emergency contracting method during the period and accounts for 11% of the amount of \$4,718,142,923.20, which is the total annual sum of all contracts, based on the applied filter.

### **Discussion of Findings and Conclusion**

The data indicates that, the emergency contracting methodology was used on average 3% of the time and accounts for at most 4% of the value of contracts awarded for the period under review. The emergency contracting methodology was utilized by at least 18 of the 197 public bodies in any given quarter. The information showed a fluctuation in the use of the method in each year over the period reviewed.

There were at least three (3) procuring entities which utilised the method to award contracts which were in excess of 50% of the total annual contract value. During 2015, the total value of the contracts awarded using the emergency contracting by the Jamaica Constabulary Force accounted for 78% of its total annual value. The method was used by the Constabulary to procure forensic supplies, safety tools and apparels, motor vehicles, equipment, as well as services to repair/rehabilitate police stations. 51% of the contracts awarded by the Constabulary using the emergency contracting methodology were above the \$5,000,000.00 threshold for which procuring entities are required to report to the PPC. One contract was awarded for a value greater than \$100,000,000.00. The requisite external approvals (PPC & Cabinet) were obtained in keeping with Section 1.1.5 of the GHPP.

For the calendar years 2016 and 2019, the National Health Fund used the emergency contracting method to procure, goods, works and services which amounted to 55% and 65% of the total annual contract value respectively. 35% of the contracts awarded using the method during 2016 was greater than \$5,000,000.00. The highest contract value for the stated calendar year of \$73M falls within the \$100,000,000.00 threshold for which the Head of the procuring entity may approve the use of the methodology. Similarly, during the 2019 calendar year, 52% of the contracts awarded using the method were above the \$5,000,000.00 reporting threshold with the highest contract value being less than the \$100M threshold. The method was used by the procuring entity to procure medical supplies and pharmaceuticals.

During the calendar year 2018, the procuring entity with the highest cumulative contract value for that calendar year was Petrojam Limited. The value of the contracts awarded by Petrojam Limited using the emergency contracting methodology amounted to 5% or \$1,000,000,000.00 of the procuring entity's overall contract value. The method was used by this procuring entity during this calendar year to procure goods and services directly related to the functioning of the oil refinery. It is to be noted also that Section 1.2.2., of the GHPP, provides permission for commercial entities like Petrojam to employ the emergency contracting methodology for business sensitive procurements.

Notably, the value of contracts awarded by Petrojam using the emergency contracting methodology is approximately 7% greater than the value of contracts awarded by the National Health Fund using the emergency contracting method. The number of contracts awarded by way of emergency contracting by the NHF accounts for 22% of the overall number of contracts awarded and cumulatively values \$1,000,000,000.00 or 32% of the Fund's overall

contract value. Similarly, in 2017, 34% of the value of the overall value of contracts awarded, by NHF were by way of emergency contracting.

Notwithstanding the use of emergency contracting methodology only accounting for 3% of the procurement methodologies used over the 2015-2019 period, there were instances in which the goods and/or services procured were misclassified, as evidenced from the description of goods and/or services reviewed for the JCF, NHF and Petrojam. That is, a number of the items and/or services procured were not procured under circumstances for which the use of the emergency contracting methodology is permitted under Section 1.1.5 of the GHPP.

### **Recommendation**

It is recommended that procuring entities ensure that all procurement undertaken via the emergency contracting methodology fits squarely within the ambit of the scope and purpose for the use of the procurement method. This involves making a distinction between matters of emergency (immediate threat) and matters of urgency (foreseeable threat) - for which a separate methodology namely Direct Contracting, is permitted. It also involves developing a comprehensive procurement plan in an effort to reduce the likelihood of utilising the method outside of the specified scope.

It is also recommended that procuring entities ensure that contracts awarded by way of emergency contracting, commence within the specified timeframe consistent with the use of the methodology, since the purpose of same includes, amongst other things, resolving a matter of emergency in the shortest possible time.

It is further recommended that procuring entities seek to obtain value for money from procurement undertakings in keeping with one of the main objectives of public procurement which is to ensure the timely award of cost-effective contracts to qualified contractors, consultants, suppliers, and/or service providers, on the best possible terms. This is primarily achieved from promoting competitive procurement processes undergirded by the principles of openness, transparency and fairness. Competition sustains the integrity of the procurement process and reduces the likelihood of corrupt practices as well as, builds trust and confidence in the public procurement process. Therefore, anti-competitive methods such as Emergency Contracting are only encouraged if the need for same is great.



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Kevon A. Stephenson, JP  
Director of Investigation

September 24, 2021