



Report of Investigation

Investigation

**Into the Allegations Concerning Acts of
Improprieties and Irregularities in the Procurement
Practices at the Bethlehem Moravian College
during the period 2015-2017**

**Integrity Commission
February 2023**



This Publication until tabled in Parliament shall be confidential.

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

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

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

Section 56 of the Integrity Commission Act states:

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

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

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

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

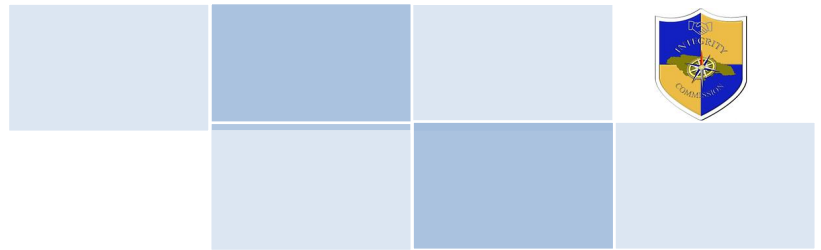
commits an offence and shall be liable on summary conviction in a Parish Court to a fine not exceeding one million dollars or to a term of imprisonment not exceeding one year.

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Chapter 1 – Executive Summary

1.1.0 The Office of the Contractor General (OCG) commenced an Investigation on November 23, 2016, into the procurement process (es) which led to the award of contracts by the Bethlehem Moravian College (BMC), to certain contractors, namely Décor Spaces, Mr. Gayrol Smith and Atlas Security Services.

1.1.1 The findings of the investigation contained herein are premised primarily on an analysis of requisition responses and documentary evidence which were provided by the Respondents, who were requisitioned by the Contractor General, during the course of the investigation. The investigation revealed a breach of the Government Procurement procedures.



Chapter 2 – Background

2.1 This chapter outlines the background information concerning the investigation.

Jurisdiction

2.1.0 The investigation was conducted pursuant to Sections 4, 15 and 16 of the then applicable Contractor - General Act, which empowered the Office of the Contractor General to investigate the referenced matter.

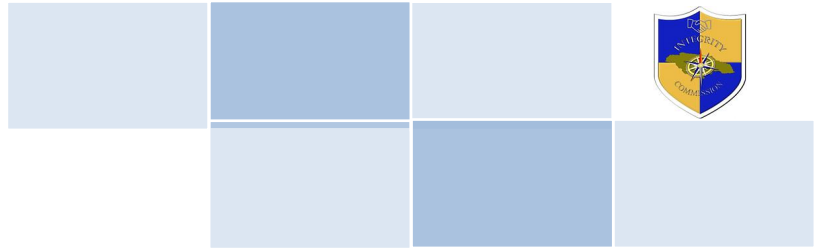
2.1.1 Further, and pursuant to Section 63 of the Integrity Commission Act, the Director of Investigation (DI) continued the investigation into the said matter. The Reference sections are provided in the Appendices 1 and 2 of this report.

Methodology

2.1.2 During the course of the investigation, a review and cross referencing of the statements and supporting documentation that were submitted by the Individuals pertinent to the investigation, was conducted.

2.1.3 A review of the government of Jamaica Handbook of Public Sector Procurement Procedures, Ministry of Finance Circulars and other attendant Regulations and Policies was also undertaken.

Allegations



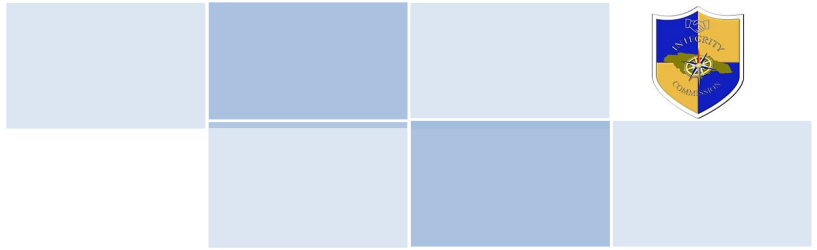
2.1.4 The OCG commenced an Investigation into the subject matter subsequent to receiving an anonymous letter of complaint on November 14 and 17, 2016.

2.1.5 The referenced letters, outlined the following allegations:

- a) That there was irregularity and/or impropriety in relation to the engagement of "Gerald Smith" for the provision of transportation services for BMC students
- b) That there was irregularity and/or impropriety in relation to the engagement of Atlas Security by the BMC for the provision of security services'; and
- c) That Bethlehem Moravian College reengaged Décor Spaces after the Ministry of Education instructed that they should 'cease all dealings' with Décor Spaces in respect of the implementation of the Library Project;
- d) That the Bethlehem Moravian College awarded a contract to Décor Spaces in the amount of J\$10,000,000.00;

2.2 Individuals pertinent to the Investigation

- a) Mr. Dean-Roy Bernard, Permanent Secretary, Ministry of Education;
 - b) Lowell Morgan, Board Chairman, Bethlehem Moravian College;
 - c) Mrs. Yvonne Clarke, former Principal, Bethlehem Moravian College;
 - d) Miss Marlene McLean, Purchasing Officer, Bethlehem Moravian College;
- and



e) Mrs. Taniesha Parchment Roach, Acting Bursar, Bethlehem Moravian College.



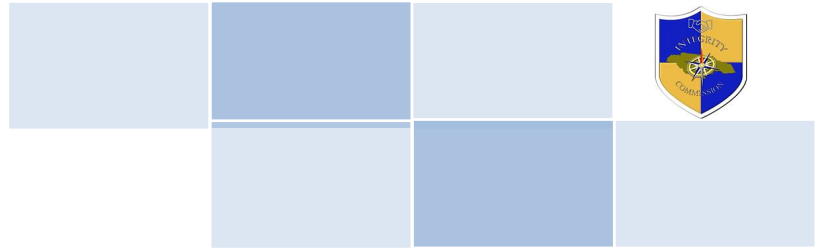
Chapter 3 – Terms of Reference

3.0 This chapter sets out the scope of the investigation and the issues that were examined.

3.1.0 The primary objective of the Investigation into the subject matter was to determine, *inter alia*, BMC's compliance with the provisions of the Government of Jamaica (GOJ) Handbook of Public Sector Procurement Procedures (GPPPH 2014) and the Contractor-General Act (hereinafter referred to as the CG Act), the Public Sector Procurement Regulations (hereinafter referred to as the Regulations), the Public Bodies Management and Accountability Act (PBMA) and the Financial Administration and Audit Act (FAA Act).

More specifically, the investigation sought to determine the following:

- a) The procurement process undertaken with respect to the engagement of Mr. Gayrol Smith for the provision of transportation services for the Teaching Practicum at the Bethlehem Moravian College;
- b) Whether there were any irregularities and/or impropriety in the procurement process utilized to award and implement the contract for the provision of transportation services for the Teaching Practicum at the Bethlehem Moravian College;



- c) Whether there were any irregularities and/or improprieties in the procurement process undertaken with respect to the award and implementation of the contract to Atlas Security Limited for the provision of Security Services at the Bethlehem Moravian College;
- d) Whether the procurement process undertaken in the engagement of Décor Spaces and the implementation of said contract for the upgrade of library facilities at the Bethlehem Moravian College was void of irregularities and/or improprieties; and
- e) Whether recommendations ought to be made herein.



Chapter 4 - The Investigation

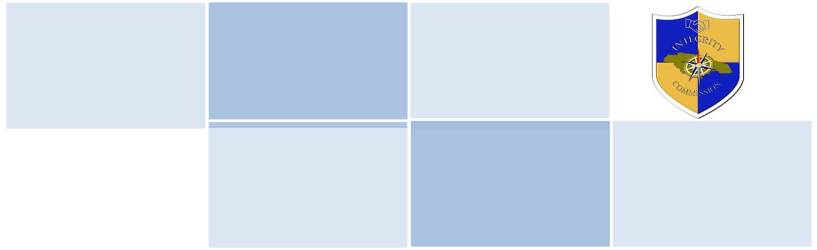
4.0 A commencement letter addressed to the Honorable Ruel Reid, Minister of Education, Youth and Information, as he then was, dated November 23, 2016 was dispatched notifying the then Minister of the commencement of the Investigation pursuant to Section 15 of the Contractor General Act (CGA).

4.1.0 Requisitions dated November 23, 2016 were dispatched to the following persons:

- i) Mrs. Yvonne Clarke, former Principal, Bethlehem Moravian College;
- ii) Mr. Lowell Morgan, Board Chairman, Bethlehem Moravian College;
- iii) Mrs. Taneisha Parchment Roach, then Bursar (acting), Bethlehem Moravian College;
- iv) Miss Marlene McLean, Purchasing Officer, Bethlehem Moravian College; and
- v) Mr. Dean – Roy Bernard, then Permanent Secretary Ministry of Education, Youth and Information.

4.1.2 Pursuant to Section 48 of the Integrity Commission Act (ICA), Notices were served on the following persons:

- i) Mr. Ralston Pessoa, Chief Executive Officer, Atlas Group which was who was served on June 22, 2022; and
- ii) Notice to Ms. Andrea Wilson, Principal (acting), Bethlehem Moravian College which who was served on March 1, 2022.



4.1.3 Responses were received in each instance and the same were reviewed analysed and documented herein.



Chapter 5 –Law/Policies, Evidence and Discussion of Findings

5.0 This chapter sets out the law, evidence and discussion of the findings and the relevant legislation concerning the investigation.

The Award of Contract to Mr. Gayrol Smith by the Bethlehem Moravian College for the Provision of Transportation Services.

5.1.0 In relation to whether an award of contract was made by the Bethlehem Moravian College for the provision of Transportation services, the DI is in possession of a contract which was signed between the College and Mr. Gayrol Smith on September 20, 2016 for the provision of the referenced services for the period September 20, 2016 to March 31 2017.

5.1.1 The referenced contract included, *inter alia*, the following terms:

“

1. *To transport passenger, from time to time as agreed by both parties, hereto in a safe, timely and efficient manner;*
2. *That the vehicle shall be operated in a manner, where there is no unlawful or uncivil behavior is portrayed in the said Vehicle;*
3. *To provide alternative means of transportation in order to fulfill required requests;*
4. *To transport passengers to and from, by obeying the speed limits and other road traffic signs;*
5. *To negotiate payment, according to service;*
6. *To have the passengers in readiness for observation of the conditions as stated in the schedule;*



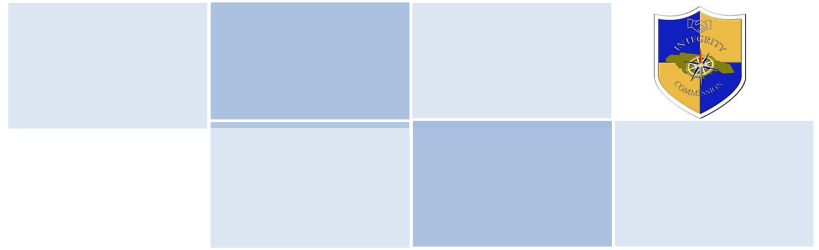
7. *Not to require the Vehicle to transport more than the number of passengers, as stipulated by Law;*
8. *To notify the Contractor of the Customer's need for transportation, under the Agreement, not later than one (1) Hour, prior to the time of commencement;*
9. *To have all the passengers ready for embarking on the vehicle, at the time and places agreed on;*
10. *That the Agreement can be immediately terminated, if the required License is not available or any breach of the Road Traffic and Transport Authority Acts;*
11. *This Agreement shall be in force until the revocation thereof."*

The agreed rates of the contract are as follows:

Areas/Routes	Coasters \$	Small Bus \$
Teaching Practice Routes	22,000.00	15,000.00

5.1.2 The Bethlehem Moravian College (BMC) specializes in teacher education and has been a coeducational institution since 1980¹. In relation to the rationale for the referenced contract, the DI observed by way of a response from Mr. Lowel Morgan, Chairman, BMC, made the following representations: - *"With the increase in the number of students for the Teacher Education programmes, the placement of teacher trainees was extended to other schools within the parish of St. Elizabeth, farther away*

¹ Response dated December 1, 2016, of Mr. Lowel G. Morgan, Chairman, Bethlehem Moravian College to the then OCG. Pg. 3



from the college. Many of these institutions are located in deep rural communities which necessitates direct transportation daily"².

5.1.3 Mr. Lowel Morgan, Chairman, BMC, by way of his response which is dated December 1, 2016, advised the OCG that the college has to provide transportation for teacher trainees to the different school as a result of the following factors:

- the unreliability of the public transportation system;
- the element of care extended by the college in relation to the matter of safety of the students while in the field and;
- The fact that on time arrival at the institution speaks volumes regarding professionalism of the teacher trainees.³

Procurement Procedures Utilized by the BMC in the award of Contract for Transportation Services

5.1.4 Having regard to the allegation received by the OCG that there was irregularity and/or impropriety in the award of contract to Mr. Gayrol Smith for the provision of transportation services to the students in the teaching practicum, the OCG sought to ascertain the contents of the submissions made by each bidder (see table 1 below).

5.1.5 Further to the foregoing, the OCG sought to ascertain the procurement methodology and procedures undertaken in the award of the referenced

² Ibid Pg. 6

³ Ibid



contract. In this regard, Mr. Morgan provided, *inter alia*, the following response:

“The procurement methodology which was utilized was Limited Tendering. ... Limited tendering was utilized because the Colleges benchmarked schedule of costs for the contract was Two million Two Hundred and Thirty Thousand Two Hundred Dollars (\$2,230,200.00) when the Tender Document was being prepared.”⁴

5.1.6 The Limited Tender Procurement Methodology means that a specific number of contractors are invited to participate in the tendering process. Section 1. the GPPPH outline the following: *“ Procuring Entities may award their contracts by the limited tendering procedure, in the following cases: (a) when no suitable tenders have been submitted in response to an open or Local Competitive Bidding procedure, on condition that the requirements of the initial tender are not substantially modified; (b) when, for technical reasons or for reasons connected with protection of exclusive rights, the contract may be performed only by a particular contractor and no reasonable alternative or substitute exists; and (c) for purchases made under exceptionally advantageous conditions, which only arise in the very short term in the case of unusual disposals, resulting for example, from liquidation, receivership or bankruptcy, and not for routine purchases from regular contractors.*

⁴ Response dated December 1, 2016, of Mr. Lowel G. Morgan, Chairman, Bethlehem Moravian College to the OCG. Response #2 Pg. 7



NOTE: The Head of the Procuring Entity may approve the use of the Limited Tender procurement method for contracts up to a value of J\$10M. Contract values above this threshold will require the pre-approval of the NCC."

5.1.7 The DI further Highlights that Section 1.3.1 of the GPPH provides the following:

"Contractors and named sub-contractors participating in Public Sector procurement opportunities shall provide a valid NCC Registration Letter at the time of bid submission."

5.1.8 The referenced section also highlights that NCC registration is required for contracts with a value of \$500,000.00 or more. Additionally, the DI highlights Appendix A7.3 of the GPPH which provides that the criteria which are outlined by the Procuring Entity should be used to evaluate the Bids and select the Lowest Responsive Bidder. Appendix A8.15 also provide circumstances under which bids may be rejected. Specifically, Appendix A8. 15 (b) all Bids may be rejected in the circumstance that all the bid submissions received in relation to the opportunity are considered not responsive for the purposes of the requirements outlined in the Bidding documents.

5.1.9 Having regard to the foregoing, the DI observed a Tender Report which outlined the procurement process utilized by the Bethlehem Moravian College, this was consistent with the representations made by Mr. Lowel Morgan.



5.1.10 In an effort to ascertain the benchmark for the value of the services being procured, the OCG posed questions to the then Principal in this regard. In his December 1, 2016, response Mr. Morgan indicated that during the “... period September – December 2016, the College has only contracted six (6) small buses so the cost per day is Ninety Thousand Dollars (\$90,000.00) ...The Estimated value for this contract is Five Million, Eight Hundred and Fifty Thousand Dollars (\$5,850,000.00) and there are thirteen (13) weeks of Teaching Practice in this period.”⁵

5.1.11 General instructions to bidders which were provided by the Bethlehem Moravian College in a Tender Report dated August 17, 2016, stipulated that Bidders were required to provide the following documentation:

- Valid Public Passenger Vehicle (PPV) Driver's License for respective drivers of the vehicles provided
- Valid Tax Compliance Certificate (TCC) letter
- NCC Certificate
- Vehicle Registration Certificate & Certificate of Fitness for all vehicles provided
- PPV Road License for all vehicles being provided
- A valid Insurance Cover with liability to third parties for death or bodily injury to any person.⁶

⁵ Response dated December 1, 2016, of Mr. Lowel G. Morgan, Chairman, Bethlehem Moravian College to the OCG. Response. Response #2 Pgs. 9-10

⁶ Tender Report dated August 17, 2016, for “BETHLEHEM MORAVIAN COLLEGE TENDER FOR THE PROVISION OF TRANSPORTATION SERVICES, SECTION B



5.1.12 A review of the Tender Report was conducted which provided a summary of the quotations submitted to the BMC and the following observations made in Table 1 below:

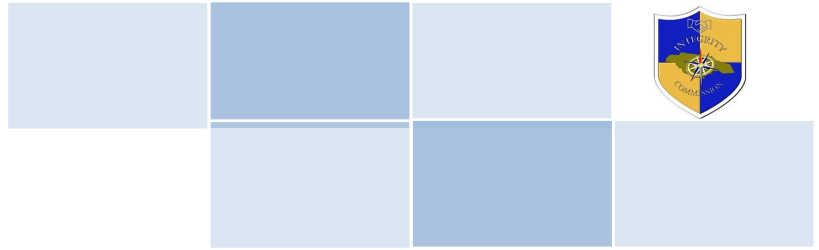
Table 1: Summary of Quotations Submitted

BIDDER/SUPPLIER	QUOTATIONS J(\$)	COMMENTS
<i>Evon [Beharie]</i>	<i>7,534,800</i>	<i>Did not submit any of the required documents</i>
<i>Garfield Dixon</i>	<i>8,942,200</i>	<i>Did not submit any of the required documents</i>
<i>Gayrol Smith</i>	<i>7,452,000</i>	<i>Submitted valid TCC & Insurance Letter</i>
<i>Weston Grant</i>	<i>10,432,800</i>	<i>Did not submit any of the required documents⁷</i>

5.1.13 Further it was observed that the **EVALUATION & RECOMMENDATION** section of the Procurement Evaluation Report dated September 2016, which was prepared by Ms. Marlene McLean, Procurement Officer, BMC stated, *inter alia*, as follows:

"... Only one bidder submitted one of those documents that [was] Mr. Gayrol Smith...Mr Gayrol Smith offered the lower total price of \$7,452,000.00...The basis for selection of the supplier for contract award for

⁷ Ibid Pg. 4



this procurement activity is the supplier offering the lowest price for the listed quantities and also the bidder that submits the required documents.⁸

5.1.14 Consequently, it was recommended by the Procurement Committee on September 19, 2016 that "...the contract for the **Provision of Transportation Services** be awarded to **Mr. Gayrol Smith in the sum of Seven Million Four Hundred and Fifty Two Thousand Dollars (7,452,000.00)**". The DI highlights that the recommendation approved by Mrs. Yvonne Clarke, former Principal, BMC on September 19, 2016.⁹

5.1.15 The DI highlights here that none of the bidders were responsive by virtue of them not meeting all the requirements set out in BMC's instructions to bidders.

Circumstances Surrounding the Award of Contract to Atlas Security Group by the Bethlehem Moravian College for the Provision of Security Services

5.2.0 Having regard to the allegation that the Bethlehem Moravian College (BMC) awarded a contract for the provision of Security Services to the Atlas Group¹⁰ irregularly, the DI is in possession of a contract document which was executed between Atlas Protection Limited and the Bethlehem Moravian College on January 11, 2016, for a period of 2 years.¹¹

⁸ Evaluation and Recommendation section of the Procurement Evaluation Report dated September 2016 Pg. 4

⁹ Ibid Pg 5

¹⁰ Atlas Group Incorporated and Atlas Protection Limited are to be read as one entity

¹¹ Third Schedule of **ATLAS PROTECTION LIMITED SECURITY SERVICE AGREEMENT** dated January 11, 2016.

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5.2.1 In the referenced response, Mrs. Yvonne Clarke, former Principal, Bethlehem Moravian College, advised the OCG that the procurement methodology which was utilized for the engagement of Atlas Protection Limited for the provision of security services was the “...Local Competitive Bidding, which are contracts above J\$15 million to J\$40 million.”¹²

5.2.2 The DI notes that Local Competitive Bidding refers to procurement opportunities which are open to all appropriately registered and qualified contractors. Contractors should be registered with the National Contracts' Commission (NCC) at the time of tender submission. Procurement offered through Local Competitive Bidding shall be advertised in a national, daily circulated newspaper¹³.

Procurement Procedures Utilized Which Resulted in the Award Contract for Security Services

5.2.3 Having regard to the procedure undertaken by the Bethlehem Moravian College the DI observed a newspaper clipping which indicated that on Sunday October 25, 2015¹⁴, the BMC invited the submission of tenders for “**PROVISION FOR SAFETY & SECURITY SERVICES**”.

5.2.4 Having regard to the Procurement process Mrs. Clarke indicated, *inter alia*, the following:

¹² Ibid Response #6 Pg. 11

¹³ GoJ Handbook of Public Sector Procurement Procedures Volume 2, Section 1.1.2

¹⁴ Response dated December 1, 2016, of Mr. Lowel G. Morgan, Chairman, Bethlehem Moravian College to the OCG. Response #6i



“... Only two companies responded to the advertisement namely, Atlas Protection Limited and Guardsman Limited ... The companies submitted their NCC and TCC Certificate with the Tender Documents. Based on the Evaluation Report that was done, Atlas Protection Limited was selected due to the fact that they quoted on all the required items whereas Guardsman did not.”¹⁵

5.2.5 Having regard to the foregoing, the following table displays the observations made from supporting documentation which outlines the eligibility requirement of the bidders and the bidders who submitted bids for the contract to provide security services:

Table 2: Eligibility Requirements vs. Particulars of Bidders’ Submissions

NAME OF CONTRACTOR	REQUIREMENTS FOR BID SUBMISSION	BID SUBMISSION
Guardsman Limited	<ul style="list-style-type: none">- NCC Registration- Private Security Regulation Authority (PSRA) Registration- Valid Certificate of Incorporation	<ul style="list-style-type: none">• PSRA Registration with October 31, 2016 expiration date• Valid TCC with January 9, 2016 expiration date• NCC registration with January 9, 2016 expiration date

¹⁵ Ibid Response #6 iv



	<ul style="list-style-type: none"> - Valid TCC - List of customers and their contact information - Company's profile 	<ul style="list-style-type: none"> • Certification of Declaration by David Whittaker
Atlas Group Incorporated		<ul style="list-style-type: none"> • Certification of Declaration by Ralston Pessoa • PSRA Certificate with January 21, 2017 expiration date • NCC Registration in the category of Safety and Security Services with expiration date January 21, 2017 • TCC valid up to and including April 6, 2016

5.2.6 The "Evaluation Report on the Provision of Security Services" provided, *inter alia*, the following:

Table 3: "4.0 Analysis of Tenders"

Complements- (Rates per. Hr.)	Atlas Protection Limited \$	Guardsman Limited \$
<i>Unarmed Guard</i>	<i>315.50</i>	<i>317.50</i>
<i>Armed Guard</i>	<i>415.50</i>	<i>390</i>
<i>Armed Courier Service</i>	<i>2328.75</i>	<i>DID NOT QUOTE</i>



Total Annual Cost	\$9,660,690.00	\$9,249,600.00”¹⁶
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5.2.7 The Evaluation Committee recommended that the contract for the provision of security services be awarded to Atlas Protection Limited in the sum of \$9,660,690.00. The Committee based its recommendation on the analysis of both contractors' cost proposals and the quality of service received by the BMC from Atlas Protection Limited on previous occasions.¹⁷

5.2.8 On December 21, 2015, the BMC's Procurement Committee approved the Evaluation Committee's recommendation that the contract for the provision of security guard services should remain with Atlas Protection Limited in the sum of \$9,660, 690.00¹⁸.

5.2.9 The DI observed a letter dated January 7, 2016 from Atlas Group Protection Limited to Mrs. Yvonne Clarke, former Principal, BMC, which stated “We acknowledge receipt of your letter of December 22, 2015 accepting our tender proposal ... to provide security services to the Bethlehem Moravian College for the next two (2) years.¹⁹”

Withdrawal of offer of contract which was awarded to Atlas Protection Limited

¹⁶ Sections 4.0 of the ‘**EVALUATION REPORT ON PROVISION OF SECURITY SERVICES**’ dated November 30, 2015.

¹⁷ Ibid. Section 5.0

¹⁸ Response of Mrs. Yvonne Clarke, former Principal, Bethlehem Moravian College, dated December 9, 2016. Response #6 iv Appendix 6 iv Evaluation Report on Provision of Security Services dated November 30, 2015 (286 of response)

¹⁹ Ibid 6 vi Pg. 303 of response



5.2.10 In furtherance of the investigation, the DI sought to ascertain the circumstances which surrounded the noted withdrawal of the offer to contract to Atlas Protection Limited by the BMC in the provision of security services.

5.2.11 Having regard to the foregoing, the DI notes a letter dated February 4, 2016, from Mrs. Yvonne Clarke, former Principal, BMC to Mrs. Charmaine Malcolm–Hewitt, Chairman, Regional Procurement Committee, Ministry of Education, Region 5-Mandeville, which stated, *inter alia*, as follows:

“Bethlehem Moravian College is currently in the procurement process for the provision Security Guard Services for the College for the period 2016-2018, and the institution is desirous of having this process completed by April 30, 2016.”²⁰

5.2.12 By way of a letter dated February 23, 2016, under the signature of Mrs. C. Malcolm –Hewitt, Chairman, Regional Procurement Committee, Ministry of Education, to the Chairman, BMC, stated *inter alia*, as follows:

“Re: Renewal of Contract for Security Guard Services

The Regional Procurement Committee (RPC) of the Ministry of Education, Region 5 met and reviewed the tender report submitted. The following documents were missing from the report and therefore we are returning the package for you to complete:-

- *Source of funding*
- *Receival Form (who collected bids)*

²⁰ Letter dated February 4, 2016, from Mrs. Yvonne Clarke, former Principal, BMC to Mrs. Charmaine Malcolm–Hewitt, Chairman, Regional Procurement Committee, Ministry of Education, Region 5-Mandeville
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- *Register for Tender Opening*
- *Bid documents from all competitors*
- *Terms of Reference and specifications*
- *Courier Service charges (Guardsmen's should be written to as they need to state whether or not service would be free.)*
- *Gleaner clipping reflecting advertisement*

*Kindly resubmit package ..."*²¹

5.2.13 Subsequent to the signing of the contract on January 11, 2016, by way of letter dated February 3, 2016, Mrs. Yvonne Clarke, advised Mr. Ralston Pessoa, Group Managing director, Atlas Group, *inter alia*, as follows:

"I hereby write seeking to retract the letter dated December 22, 2016 that was sent to you that informed you that Bethlehem Moravian College accepted your tender offer.

*Due to an unfortunate administrative mishap we are rescinding the acceptance. In the interim we are requesting that the period for the previous contract be extended to April 30, 2016 with all the agreed arrangements therein..."*²²

5.2.14 Consequently, the DI, in ascertaining the propriety of the extension of the provision of services provided by Atlas Protection Limited to BMC, enquired as to whether Atlas Protection Limited accepted the proposed extension

²¹ Letter dated February 23, 2016, from Mrs. C. Malcolm –Hewitt, Chairman, Regional Procurement Committee, Region 5-Mandeville, Ministry of Education, to The Chairman, BMC.

²² Letter dated February 3, 2016, from Mrs. Yvonne Clarke, former Principal, BMC directed to Mr. Ralston Pessoa, Group Managing Director, Atlas Group.



as detailed in the February 3, 2016 letter. In this regard, the Bethlehem Moravian College in a response dated March 15, 2022 stated that the request for extension was accepted, however, there was no written document verifying the acceptance but that operations continued as previously arranged in the ²³.

5.2.15 The rationale which was provided for the retraction letter was that the Ministry of Education, Mandeville Regional Office was received by the Bethlehem Moravian College which provided that certain documents were missing from the tender report which was submitted for their review²⁴. The following documents were listed:

1. Receival form;
2. Bid documents for all competitors;
3. Terms of reference and specifications;
4. Gleaner clipping reflecting advertisement;
5. Register for tender opening;
6. Courier Service charges; and
7. Source of funding.

5.2.16 The letter further stated that BMC was to submit the referenced outstanding documentation by March 7, 2016.

²³ Response dated March 15, 2022 from Andrea Wilson, Managing Director, Atlas Group Incorporated at Response 2

²⁴ Letter dated February 23, 2016, from the Ministry of Education Mandeville Regional Office to Mr. Lowel Morgan, Chairman of the Board, Bethlehem Moravian College.



5.2.17 Atlas Group in a July 15, 2022 response, confirmed that notwithstanding that *“there was no written extension document ...Atlas Protection continued service arrangements up to 4 years with the same terms and conditions.”*²⁵

5.2.18 The referenced arrangement continued for an additional period of 6 months after the referenced retraction at paragraph 5.2.13 and subsequent request to extend the security services. The engagement was subsequently discontinued by way of an email dated July 7, 2017, from Mr. Lowel Morgan, Chairman of the Board of Management, to Mr. Ralston Pessoa, citing financial constraints at the college as the reason for the termination of the arrangement²⁶.

Rationale for Retaining Atlas Protection Limited

5.2.19 The OCG, required Mrs. Yvonne Clarke, former Principal, BMC, to respond to the allegation that *“the contract for the security services is also outstanding as it was retracted last time for breach of procedures.”* By way of response dated December 9, 2016, Mrs. Clarke provided the following statement:

“At a meeting of the Board of Management held March 26, 2016, it was raised by the Chairman of the Finance Committee that, based on the sum of the contract, all documents should have be (sic) sent to the Procurement Unit of the Ministry of Education for approval before any contract was awarded. The Committee reported that they reviewed the package

²⁵ Response dated July 5, 2022 from Ralston Pessoa, Acting Principal, BMC at Response 2 ii)

²⁶ Ibid iii)



and requested that additional documents be submitted. The package was returned to the College to resubmit the additional documents. The re-submission was done in April 2016 and, to date, we have not received any feedback from the Ministry of Education. Hence the college had no other option but to continue with the previous contract.”²⁷

5.2.20 Having regard to the foregoing, the DI highlights that Clause 14 of the January 11, 2016 contract provided the following allowance: “No variation, extension, omission or cancellation of the terms of this Agreement shall be binding upon party hereto, unless and until it is confirmed in writing by a Director, the Company Secretary or the General Manager of the respective parties and it is declared that no person other than such Director, Company Secretary or General Manager has any authority to negotiate or enter into any such agreement...”

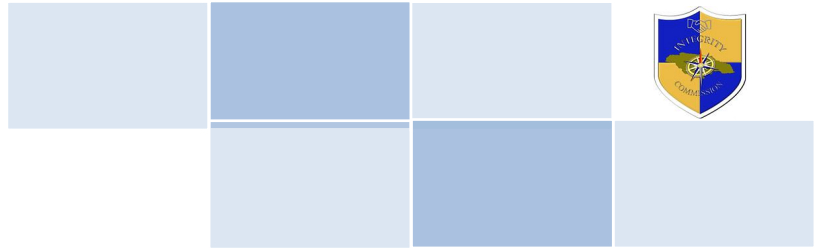
5.2.21 The DI reiterates that no written acceptance was received by the BMC in this regard, however the provision of services continued.

Allegation Regarding the Circumstances Surrounding the Engagement of Décor Spaces by Bethlehem Moravian College to Undertake Retrofitting of Computer Lab and Library

5.3.0 In relation to the allegation that “a ten million dollar contract was awarded to Décor Spaces” the DI observed a contract document which provided that Décor Spaces was engaged by BMC on September 22, 2016 in the

²⁷ Response of Mrs. Yvonne Clarke, former Principal, Bethlehem Moravian College, dated December 9, 2016.

Response #8



amount of \$1,685,000.00 for the provision of consultant services. Mr. Lowel Morgan, Chairman, Board of Management, BMC stated, *inter alia*, the following:

"...that Décor Spaces were contracted for consultation/Project Management Services only. The contract for measured works went to Maxwell Construction Limited in the sum of Nine Million, Seven Hundred and Seventy One Thousand, Nine Hundred Dollars (\$9,771,900.00)." ²⁸

The Procurement Procedure Undertaken in the Award of the Contract

- 5.3.1 Having regard to the allegation that *"...no bidding was done and as such it was not made public..."* the DI sought to determine the Procurement methodology which was utilized by the BMC.
- 5.3.2 Having regard to the foregoing, the DI observed Memorandum dated June 13, 2016, which sought approval for the utilization of the Direct Contracting procurement methodology for the award of contract to Décor Spaces. The referenced memorandum was addressed to Mrs. Yvonne Clarke, former Principal, BMC from Mr. Sheldon Farquharson, Operations Manager, and outlined the circumstances which gave rise to the request.
- 5.3.3 The referenced memorandum indicated that the University Council of Jamaica notified the BMC of its inadequate library facility and that the College would lose its accreditation status if immediate steps were not

²⁸ Response dated December 1, 2016, of Mr. Lowel G. Morgan, Chairman, Bethlehem Moravian College to the OCG. Response #13



taken to significantly improve the library. The approval for this request was granted by Mrs. Yvonne Clarke, former Principal BMC on June 22, 2016.

5.3.4 During the course of the Investigation, the DI sought to ascertain the awareness of the Ministry as it concerned the advancement of the Library Relocation Project. By way of response to the OCG's requisition, Mr. Lowell Morgan, Board Chairman, Bethlehem Moravian College stated that *"On September 5, 2016, a letter was sent to the Ministry advising that Bethlehem would be proceeding with the library relocation project."*²⁹

5.3.5 The DI notes that for the purposes of government procurement for the provision of consultation services Volume 3 Section 1.3 of the GPPPH provides that contracts which value more than \$500,000.00 should not be procured by utilizing the direct Procurement Methodology. The use of the referenced methodology is permitted above the threshold outlined in certain circumstances outlined in 1.1.4 GPPPH:

"a) where the procurement is of a confidential nature;(b) if a particular contractor has exclusive/proprietary rights in respect of goods, services or works; (c)where standardizing equipment is available only from a specific source, and the procuring entity has purchased goods, equipment or technology from a contractor, and additional supply is required for reasons of uniformity; (d) for the purposes of research, experiment, study or development; (e) follow-

²⁹ Response dated December 1, 2016, of Mr. Lowell G. Morgan, Chairman, Bethlehem Moravian College to the OCG. Response #9 (vii)



on procurement, where a contractor has already provided goods, services or work and additional goods, services or works of a similar nature are required to complete the procurement requirements; or (f) for reasons of extreme urgency brought about by events unforeseen by the Procuring Entity, the products or services could not be obtained in time by means of International Competitive Bidding, Local Competitive Bidding or Limited Tender procedures."

5.3.6 As it relates to the proposal made to BMC for the provision of the consulting services, the DI is in possession of Décor Spaces Fee Proposal which is dated September 21, 2016, to the Bethlehem Moravian College proposed a cumulative figure of \$1,963,025.00 to undertake the following services for the 'PROPOSED RETROFITTING OF COMPUTER LAB AND LIBRARY":

DESCRIPTION	RATE	TOTAL
Prepare pre Contract Documentation and Contract Offer Evaluation.	\$350,000.00	\$350,000.00
Contract Cost Management , monitoring and finalization in measuring price and negotiate cost of variations, assess and value work in progress and issue recommendations for interim payments on a monthly basis or other agreed period (DISCOUNTED)	\$200,000.00	\$200,000.00
Project Management Consultancy: Monitoring project prior to construction during construction and post phase including facilitating the exchange,	\$1,135,000.00	\$1,135,000.00

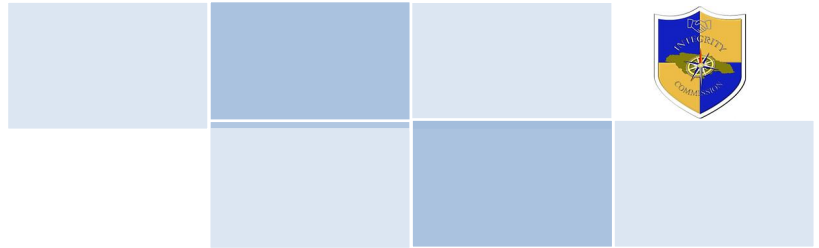


<p>keeping and maintenance of information and records between contractor and Employer. Ensuring successful delivery of the project objectives according to the specification and is on time within the agreed budget. To include the monitoring, procurement and installation of related furniture and equipment. To include transportation and facilitation cost.</p>																				
	<table border="1"> <tr> <td colspan="3">Subtotal</td> </tr> <tr> <td colspan="3">\$1,685,000.00</td> </tr> <tr> <td>Sales Tax</td> <td></td> <td>(\$16.5%)</td> </tr> <tr> <td colspan="3">\$278,025.00</td> </tr> <tr> <td colspan="3">Total</td> </tr> <tr> <td colspan="3">\$1,963,025.00</td> </tr> </table>		Subtotal			\$1,685,000.00			Sales Tax		(\$16.5%)	\$278,025.00			Total			\$1,963,025.00		
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5.3.7 Subsequent to the submission of the fee proposal by Décor Spaces, a contract was entered into between BMC and Décor Spaces on September 22, 2016 in the amount of \$1,685,000.00 for consultant services.

5.3.8 As it relates to the justification provided in respect of the utilization of the Direct Contracting Procurement Methodology by the BMC for the award of contract to Décor Spaces, Mr. Morgan, stated the following:

*“The recommendation for **Direct Contracting** is in keeping with the Government of Jamaica Handbook of Public Sector Procurement Procedures, **Section 1 – Clause 1.1.4 (f)** “for reasons of extreme*



*urgency brought about by events unforeseen by the Procuring Entity, the products or services could not be obtained in time by means of ...Local Competitive Bidding or Limited Tender procedures..." which permits procurement valued in excess of the Five Hundred Thousand Dollar (\$500,000.00) threshold by means of Direct Contracting."*³⁰

5.3.9 The DI reiterates here that the rationale for the retrofitting of the library facilities is that it was inadequate and that the College would stand to lose its University Council of Jamaica accreditation status if immediate steps were not taken to significantly improve the library.

³⁰ Response dated December 1, 2016, of Mr. Lowel G. Morgan, Chairman, Bethlehem Moravian College to the OCG. Response #10



Chapter 6 – Conclusions

6.0 This chapter outlines the conclusions determined by the DI.

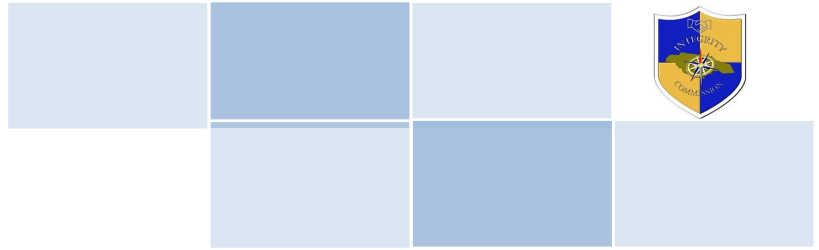
Allegation surrounding irregularity in the award of contract to Mr. Gayrol Smith for the Provision of Transportation Services

6.1.0 The DI concludes that the BMC awarded a contract to Mr. Gayrol Smith for the provision of transportation services on September 20, 2016 in the sum of \$7,452,000.00.

6.1.1 The DI concludes that the BMC utilized the Limited Tender procurement methodology for the award of contract to Mr. Gayrol Smith for the provision of transportation services. The DI further concludes the BMC having failed to obtain the required NCC Certificate from Mr. Smith, beached Section 1.3.1 of the GPPPH and therefore the procurement process undertaken by was irregular.

Allegation Surrounding Irregularity in the Award of Contract to Atlas Protection Limited

6.1.2 The DI concluded that an award of contract was made to Atlas Protection Limited on January 11, 2016 by the BMC for the provision of Security Services to College for a period of 2 years in the amount of \$9,660,690.00.



6.1.3 The DI concludes that there is no evidence to support that there was irregularity and/or impropriety in the award contract to Atlas Protection Limited for the provision of Security Services at the Bethlehem Moravian College.

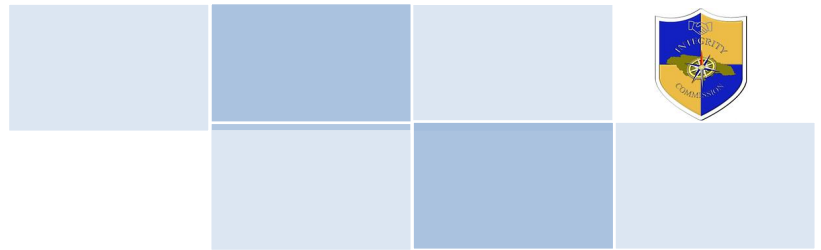
Allegation Surrounding Irregularity in the Utilization of the Direct Contracting Methodology for the award of Contract to Décor Spaces for the Provision of Consulting Services

6.1.4 The DI concludes that a contract was awarded by the BMC to Décor Spaces for the Provision of Consulting Services on September 22, 2016. The DI further concludes that the referenced contract was in the amount of \$1,685,000.00 and not \$10,000,000.00 as alleged.

6.1.5 The DI concludes that the BMC utilized the Direct Contracting procurement methodology under urgent circumstances for the award of contract to Décor Spaces was in keeping with the provision of section 1.1.4 of the GPPPH.

The DI's conclusion is premised on Section 1.1.4 (f) of the GPPPH which describes extreme urgency as "...events unforeseen by the Procuring Entity, the products or services could not be obtained in time by (sic) means of ...Local Competitive Bidding or Limited Tender procedures..."

In arriving at the foregoing conclusion, the DI considered that the inadequacy and deterioration of the library facilities at the BMC would have occurred overtime, therefore the need for upgrade and repairs were



foreseeable. Notwithstanding, the reality of the entity losing its University Council of Jamaica accreditation may not have been immediately obvious. It must be acknowledged however, that BMC is a degree granting institution, therefore, its University Council of Jamaica accreditation is a fundamental component of its offering as an institution. On the round, the threat of BMC losing its accreditation can be reasonably regarded as a sufficient basis to have utilised the Direct Contracting (under urgent circumstances) Procurement Methodology.



Chapter 7 – Recommendations

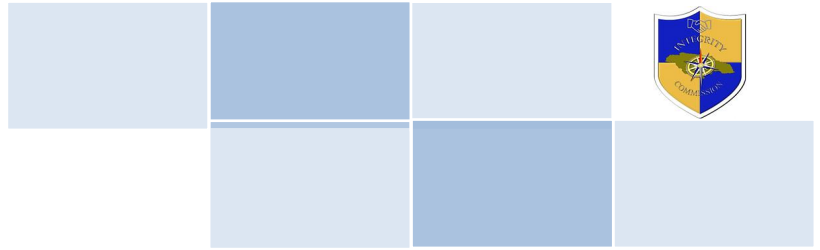
7.0 This chapter outlines the recommendations and corruption prevention initiatives identified by the DI.

Accounting Officer, Bethlehem Moravian College

Allegation surrounding irregularity in the award of contract to Mr. Gayrol Smith for the Provision of Transportation Services

7.1.0 The DI recommends that the Principal and the Procurement Committee of the Bethlehem Moravian College ensure that potential government contractors possess and present the requisite documentation which qualifies them to participate in procurement opportunities offered by the BMC as prescribed by the GoJ Handbook of Public Procurement Procedures.

The DI's recommendation is premised on the breach of procurement rules observed in relation to the award of contract to Mr. Gayrol Smith by Mrs. Yvonne Clarke, former Principal, on behalf of the Bethlehem Moravian College, wherein the bidder did not provide an NCC Certificate at the time of Bid Submission.



Allegation Surrounding Irregularity in the Utilization of the Direct Contracting Methodology for the award of Contract to Décor Spaces for the Provision of Consulting Services

7.1.1 The DI recommends that, the BMC pays keen attention to procurement planning aspect of the procurement cycle especially having regard to the need for infrastructure upgrade and maintenance, thereby ensuring that there is sufficient time to procure services, works and/or goods consistent with Appendix 1 Volume II of the Government of Jamaica Handbook of Public Procurement Procedures.

This recommendation is made to the Procuring Entity with a view to decreasing the perception of improper utilization of the Direct Contracting procurement methodology, thus promoting enhanced transparency in the procurement process at the BMC.

A handwritten signature in blue ink, appearing to read 'Kevon A. Stephenson'.

Kevon A. Stephenson, J.P
Director of Investigation

February 7, 2023
Date