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## **Report of Investigation**

**Conducted into the Circumstances Surrounding the Award of  
Government of Jamaica Contracts to Westcon Construction  
Limited during the Period 2006 to 2009**

**Integrity Commission  
October 2022**



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“(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.

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(b) otherwise than for the purpose of this Act,

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



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## 1.0 Summary of Investigation

- 1.1 This investigation by the Director of Investigation concerns the allegations that contracts were awarded to the entity Weston Construction and that there is a connection and/or relationship between the proprietors of the named entity and the Most Hon. Andrew Holness, Prime Minister of Jamaica and then Minister of Education Youth and Information.
- 1.2 The investigation commenced under the Office of the Contractor General pursuant to Section 4 (1) of the Contractor General Act and the provisions and requirements of the GOJ Public Sector Procurement Handbooks (2001 and 2008).
- 1.3 The investigation sought to ascertain, *inter alia*, (a) the nature and particulars of GoJ contracts that were awarded to Westcon Construction Limited during the relevant period; (b) the nature and extent of the relationship between the Most Hon. Andrew Holness and the Directors/Principals of Westcon Construction Limited, (c) the extent of the involvement, if any, of the Most Hon. Andrew Holness in the award of GoJ contracts to Westcon Construction Limited (d) whether the circumstances surrounding the award of contracts and/or the process(es) utilized by (i) the Ministry of Education, Youth and Information (ii) the National Works Agency (iii) the Social Development Commission was devoid of irregularity and impropriety and was fair and transparent.



1.4 The Findings of the Investigation are premised primarily upon an analysis of the statements and documentary evidence which were provided by the Respondents, who were requisitioned by the OCG, during the course of the Investigation.

1.5 **Summary of Key Findings**

1.5.1 Contracts Awarded by the Ministry of Education Youth and Information to Westcon Construction Limited:

1.5.2 A total of ten (10) contracts were awarded by the Ministry of Education Youth and Information (MOEYI) to Westcon Construction Limited during the period February 14, 2007 and November 10, 2009.

1.5.3 Of the ten (10) contracts, only five (5) were reported to the OCG by way of the MOEYI's Quarterly Contract Award (QCA) Reports for the period.

1.5.4 The Direct Contracting procurement methodology was utilised in one (1) instance and it was disclosed by the MOEYI that the criteria for the "*Lowest Responsive Tender*" was utilised in the remaining nine (9) instances.

1.5.5 The ten (10) contracts awarded by the MOEYI were between the contract values of \$1,413,439.00 and \$3,360,650.00 and had a cumulative value of \$21,882,491.00.

1.5.6 It was disclosed by the MOEYI that the specifications to be met by Bidders, in respect of the contracts which were awarded by the Ministry,



was the submission of a valid Tax Compliance Certificate (TCC) and National Contracts Commission (NCC) Certificate in the required category.

1.5.7 Contracts Awarded by the National Works Agency to Westcon Construction Limited:

1.5.8 A total of thirty four (34) contracts were awarded by the National Works Agency (NWA) to Westcon Construction Limited during the period July, 16 2009 to June 6, 2016.

1.5.9 Of the thirty four (34) contracts awarded by the NWA to Westcon Construction Limited, twenty-six (26) fell within the value threshold which required the NWA to submit particulars of the contracts to the then Contractor General by way of its QCA Reports. Importantly, of the twenty-six (26) contracts, only six (6) were reported to the OCG by way of the NWA's QCA Reports for the period.

1.5.10 Of the six (6) instances in which the NWA reported the award of contract, by way of its QCA Reports for the referenced period, the Sole Source procurement methodology was utilized on four (4) occasions and the Limited Tender procurement methodology utilized for the remaining three (3).

1.5.11 Mr. Everton Hunter, Chief Executive Officer, NWA, advised the OCG that  
*"...there are no records to indicate the method of procurement that*



*was utilized for the award of the referenced contracts". Further that "... the Procurement records do not show where any of the referenced awards listed went before the Committee for approval".*

1.5.12 The thirty four (34) contracts which were awarded by the NWA to Westcon Construction Limited were between the contract values of \$60,000.00 and \$11,993,123.32 and had a cumulative value of \$33,787,368.32.

1.5.13 It was disclosed by Mr. Everton Hunter that no records were found *"...that outlined the selection process that was undertaken for the award of these contracts"*.

1.5.14 Of the thirty four (34) payment records which were reviewed, the certification that the *"... goods/services [were] satisfactorily provided and that the rates / prices [were] fair and reasonable and that the relevant financial instructions have been followed"* was noted in thirty one (31) instances.

1.5.15 Contracts Awarded by the Social Development Commission to Westcon Construction Limited:

1.5.16 A total of two (2) contracts were awarded by the Social Development Commission (SDC) to Westcon Construction Limited during the period December 20, 2007 and September 10, 2009.



1.5.17 Both contracts were reported to the OCG by way of the SDC's QCA submission, where it was indicated that the Limited Tender procurement methodology was utilised for the award of contract in the amount of \$375,000.00 and the Sole Source procurement methodology for the award of contract in the amount of \$1,450,000.00.

1.5.18 Notwithstanding the aforementioned disclosures concerning the procurement methodologies which were utilised by the SDC, by way of its QCA Reports for the period, it was subsequently disclosed by the Dr. Dwayne Vernon, Executive Director, SDC, that *"there is no evidence of the SDC utilizing formal tender procedures for the procurement for the works and services executed by Westcon Construction Limited"*.

1.5.19 The OCG was also advised by Dr. Vernon that the records indicated that *"...Westcon Construction was introduced to the SDC by way of letter from the MP"*. Also, the OCG was advised by Dr. Vernon that *"...there is no evidence available to the SDC detailing how Westcon Construction was selected to provide services as the SDC did not procure such services. This was done at the level of the Constituency."*

#### 1.5.20 Particulars of the Entity – Westcon Construction Limited

1.5.21 The entity Westcon Construction Limited was incorporated on October 11, 2004 and was registered by the Companies Office of Jamaica (COJ) with the following Directors and Shareholders:



- i. Robert Garvin – Director/Shareholder;
- ii. Donovan Simpson- Director/Shareholder; and
- iii. Jerome Green - Secretary.

1.5.22 Westcon Construction Limited held registration with the National Contracts Commission (NCC) during the following periods:

- i. July 11, 2008 – July 10, 2009;
- ii. May 21, 2007 – May 20, 2008; and
- iii. April 11, 2006 – April 10, 2007.

1.5.23 Nature and Extent of the Relationship between the Most Hon. Andrew Holness and the Directors and/or Principals of Westcon Construction Limited

1.5.24 Messers Robert Garvin and Donovan Simpson, both Directors and Shareholders of Westcon Construction Limited, are known to the Most Hon. Andrew Holness for a period of over twenty (20) years.

1.5.25 Based upon the disclosure which was made by the Most Hon. Andrew Holness, Mr. Robert Garvin is personally known to him and had been employed both in the Prime Minister's West Central constituency and his personal business. It was also disclosed by the Prime Minister that Mr. Donovan Simpson is known to him "casually" and was introduced to him by Mr. Garvin and that Mr. Simpson was engaged by him "privately" to undertake "land surveying work".



1.5.26 Records obtained from the COJ revealed, *inter alia*, the following:

- i. That “*Andrew Holness*” is a Director of the company, Positive Jamaica Foundation Limited, which was listed as providing charitable services. The other Directors of the company recorded were: “*Mark Azan*”, “*Kedasha Campbell*” and “*Kent Gammon*”. “*Nigel Clarke*”, “*Warren Vernon*” and “*Robert Garvin*” were noted as a ceased Directors as at November 1, 2016.
- ii. Both “*Andrew Holness*” and “*Robert Garvin*” were listed Directors of the company, Sunshine Mobile Company for which the core business activity was the provision of transportation consultancy.
- iii. “*Robert Garvin*” was listed as a ceased Director as at November 1, 2016 in the company West Central Saint Andrew Trust for which the “*Andrew Holness*” was listed as a Director. The company which was incorporated on December 20, 2000, detailed “*Charitable Services*” as its core business activity

The other Directors listed were: “*Kedasha Campbell*”, “*Mark Azan*”, “*Delroy Williams*”, “*Kent Gammon*” and “*Glendon Salmon*”.

- iv. Both “*Robert Garvin* and “*Juliet Holness*” were listed as Directors of the company Omega Bridge Finance, for which the core



business activity recorded was “*Investments*”. Of note, “*Andrew Holness*” was listed as a ceased Director in the company as at September 7, 2007 and is listed as a Shareholder together with “*Robert Garvin*”.

1.5.27 Extent of the Involvement of the Most Hon. Andrew Holness in the Award of GOJ Contracts to Westcon Construction Limited

1.5.28 Westcon Construction Limited was recommended by way of a letter which was dated December 20, 2007, authored by the Most Hon. Andrew Holness for the award of contract in the amount of \$1,450,000.00 for works in the West Central St. Andrew Constituency relating to the 2007 “*Christmas Work Programme*”.

1.5.29 In relation to the contract which was awarded by the SDC to Westcon Construction Limited in the amount of \$375,000.00, the Most Hon. Andrew Holness wrote to the SDC, by way of letter dated September 23, 2009, and advised that Mr. Robert Garvin was employed as the Project Manager under the Constituency Development Fund in West Central St. Andrew. Subsequent invoices were provided to the SDC requiring that payment be made to Mr. Garvin c/o Westcon Construction Limited.



## 2.0 Chapter 1 – Background

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2.1 This chapter outlines the background information concerning the investigation.

### 2.1.1 Initiation of Investigation

2.1.2 On June 9, 2016, the Office of the Contractor General (OCG), acting on behalf of the Contractor General, and pursuant to the provisions which are contained in Sections 15(1) and 16 of the then applicable Contractor General Act, initiated an Investigation into the circumstances surrounding the award of Government of Jamaica contracts to Westcon Construction Limited during the period 2006 to 2009.

2.1.3 The OCG's decision to commence a formal Investigation was prompted by allegations and representations which were made in the media concerning the award of contracts to the entity Westcon Construction Limited. The specific media report which triggered the OCG's Investigation was the broadcast of an episode of the television programme '18 Degrees North', which aired on Television Jamaica, on Monday, May 30, 2016 at 8:30 p.m. The broadcast, which was hosted by Ms. Zahra Burton, made allegations concerning (a) the award of contracts to the entity Weston Construction and (b) the connection and relationship between the proprietors of the named entity and the Most Hon. Andrew Holness, Prime Minister of Jamaica and then Minister of Education Youth and Information.



2.1.4 The aforementioned allegations raised several concerns for the OCG, especially in light of the requirements of the GOJ Public Sector Procurement Handbooks (2001 and 2008) and the Contractor General Act. Specifically, Section 4 (1) of the Act requires, *inter alia*, that GoJ contracts should be awarded “...*impartially and on merit*” and that the circumstances of the award should “...*not involve impropriety or irregularity*”.

#### 2.1.5 Jurisdiction

2.1.6 The investigation commenced under Sections 4, 15 and 16 of the then applicable Contractor General Act, which enabled the Office to enquire into the referenced matter. The award of a Government of Jamaica (GoJ) contract fell within the realm of the OCG's jurisdiction and accordingly, Section 4 (1) of the Contractor General Act required, *inter alia*, that GoJ contracts must be awarded “*impartially and on merit*” and that the circumstances of award must “*not involve impropriety or irregularity*”.

2.1.7 Section 2 of the Contractor-General Act provides the following interpretations:

*“government contract” includes any licence, permit or other concession or authority issued by a public body or agreement entered into by a public body for the carrying out of building or other works or for the supply of any goods or services;”...*

*“public body” means –*

*(a) a Ministry, department or agency of government;*



- (b) a statutory body or authority;
- (c) any company registered under the Companies Act, being a company in which the Government or an agency of Government, whether by the holding of shares or by other financial input, is in a position to influence the policy of the company."

2.1.8 For the purposes of Section 2 (a) of the then applicable Contractor-General Act, the Ministry of Education, Youth and Information, the National Works Agency and the Social Development Commission are public bodies within the meaning of the law and therefore the circumstances surrounding the award of contracts by the entities fell within the remit of the Contractor General Act.

#### 2.1.9 The Investigation

2.1.10 The Requisitions/Questionnaires, which formed a part of the OCG's investigative methodology, were directed by the OCG to the following persons:

- i. The Most Honourable Andrew Holness, Prime Minister of Jamaica;
- ii. Mr. Everton G. Hunter, Chief Executive Officer, National Works Agency;
- iii. Dr. Maurice Smith, Permanent Secretary, Ministry of Education Youth and Information; and
- iv. Dr. Dwayne Vernon, Executive Director, Social Development Commission.



2.1.11 During the course of the investigation a detailed review and cross-referencing of the statements, and supporting documentation that were submitted by the aforementioned persons was conducted.

2.1.12 A review of the applicable Government of Jamaica Handbooks of Public Sector Procurement Procedures (2001 and 2008), Ministry of Finance Circulars and other attendant Regulations and Policies was also undertaken.

2.1.13 Subject(s) of the Investigation

2.1.14 The Most. Hon. Andrew Holness- Prime Minister of Jamaica, Member of Parliament for the West Central St. Andrew Constituency, and former Minister of Education in the Ministry of Education and a public servant within the meaning of Section 2(1) of the Corruption Prevention Act.

2.1.15 The National Works Agency – a public body within the meaning of Section 2 of the then applicable Contractor General Act.

2.1.16 The Social Development Commission- a public body within the meaning of Section 2 of the then applicable Contractor General Act.

2.1.17 The Ministry of Education/ Ministry of Education Youth and Information- a public body within the meaning of Section 2 of the then applicable Contractor General Act.



## 3.0 Chapter 2 – Terms of Reference

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3.1 This chapter sets out the scope of the investigation and the issues that were explored.

3.1.1 The primary objectives of the OCG's Investigation into the circumstances surrounding the award of Government of Jamaica (GOJ) contracts to Westcon Construction Limited during the period 2006 to 2009 were to determine the following:

- i. The nature and particulars of certain GOJ contracts that were awarded to Westcon Construction Limited during the period 2006 to 2009.
- ii. The nature and extent of the relationship, if any, between the Most Hon. Andrew Holness and the Directors and/or Principals of Westcon Construction Limited.
- iii. The extent of the involvement, if any, of the Most Hon. Andrew Holness in the award of GOJ contracts to Westcon Construction Limited.
- iv. The formal tender procedures that were utilized in the award of contracts to Westcon Construction Limited by (a) the Ministry of Education Youth and Information, (b) the National Works Agency and (c) the Social Development Commission, during the period 2006 to 2009.



- v. Whether the circumstances surrounding the award of contracts and/or the process (es) utilized by (a) the Ministry of Education Youth and Information, (b) the National Works Agency and (c) the Social Development Commission was devoid of irregularity and impropriety and was fair and transparent.
- vi. Whether the award of contract to Westcon Construction Limited by (a) the Ministry of Education, Youth and Information, (b) the National Works Agency and (c) the Social Development Commission, during the referenced period, gave rise to a conflict of interest.
- vii. The veracity of the allegation that “*Andrew Holness signed off on taxpayer’s money for a contract payment to his associate, Mr. Robert Garvin*”.



## 4.0 Chapter 3 –Law, Evidence, Findings and Discussion

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

### 4.1.1 Nature and Particulars of the GOJ Contracts Awarded to Westcon Construction Limited

4.1.2 A review of the OCG’s Quarterly Contracts Award (QCA) Database was undertaken, with a view to ascertain the total GOJ contracts which were reported by public bodies to have been awarded to Westcon Construction Limited during the relevant period. The OCG, pursuant to Section 4 (3) of the then applicable Contractor General Act (1983), required that all Public Bodies, submit in the form of Quarterly Contracts Award (QCA) Reports, the particulars of all contracts which are awarded, above Five Hundred Thousand and One Dollars (J\$500,001.00). The requirement of the OCG for the submission of QCA Reports remains in effect pursuant to Section 63 of the ICA.

4.1.3 Section 4(3) of the Contractor-General Act provided as follows:

*“... the Contractor-General shall have power to require any public body to furnish in such manner and at such times as may be specified by the Contractor-General, information with regard to the award of any contract and such other information in*



*relation thereto as the Contractor-General considers desirable.”*

4.1.4 The following are the contracts which were reported by way of the QCA reporting regime as being awarded to Westcon Construction Limited by GOJ Public Bodies:

**Table No.1**

Rec. No.	Public Body	Contract Award Date	Contract Description	Principal Site	Contract Value	Contractor
1.	Ministry of Education	2009-11-10	Re-sheeting of roof, electrical & Plumbing	Brown's Town Infant School	\$3,360,650.00	Westcon Construction
2.	Ministry of Education	2008-11-10	Roof repairs	Warsop All Age School	\$1,951,600.00	Westcon Construction
3.	Ministry of Education	2008-04-01	Renovation of Teachers' Cottage	Port Maria Infant School	\$2,126,540.00	Westcon Construction
4.	Ministry of Education and Youth	2007-09-21	Hurricane Dean roof repairs	Priory Primary School	\$1,413,439.00	Westcon Construction
5.	Ministry of Education and Youth	2007-06-26	Construction of classroom prototype	Priory Primary & Infant School	\$2,150,910.00	Westcon Construction
6.	Social Development Commission	2009-09-10	Consultancy Services	Overseeing work and projects in the constituency of West Central St. Andrew	\$375,000.00	Westcon Construction
7.	Social Development Commission	2007-12-20	Cleaning, bushing and trimming of Constituency	West Central St. Andrew	\$1,450,000.00	Westcon Construction



8.	National Works Agency	2009-06-04	Flood Damage Mitigation Programme 2009-2010	Chelsea Gully – Barnett-Adelphi	\$299,600.00	Westcon Construction
9.	National Works Agency	2008-07-31	Drainage Mitigation Programme	Sign-Virgin Valley and Long Bay	\$700,000.00	Westcon Construction
10.	National Works Agency	2008-08-29	Hireage of Equipment	Virgin Valley-Content Mountain	\$429,800.00	Westcon Construction
11.	National Works Agency	2008-02-20	Drain Cleaning	Josmin Ave, Joshua Hemming Way	\$450,000.00	Westcon Construction
12.	National Works Agency	2008-03-25	Road Repairs	Cockburn Gardens	\$1,357,500.00	Westcon Construction
13.	National Works Agency	2006-06-14	Mitigation Drain Cleaning	East Central St. James	\$500,000.00	Westcon Construction
Total					\$16,565,039.00	

4.1.5 The aforementioned table indicates that a total of five (5) contracts were awarded by the Ministry of Education (MOE) to Westcon Construction totaling \$11,003,139.00 for the period June 2007 to November 2009. Two (2) contracts were awarded during the period December 2007 to September 2009 by the Social Development Commission (SDC) totaling \$1,825,000.00, and six (6) contracts were awarded during the period June 2006 to June 2009, by the NWA, totaling \$3,736,900.00.

#### 4.1.6 Additional Contracts Awarded by the MOEYL to Westcon Construction Limited



4.1.7 Pursuant to the OCG's Requisition which was dated June 9, 2016 and addressed to Dr. Maurice Smith, then Permanent Secretary in the then Ministry of Education Youth and Information (MOEYI), Mr. Carey Brown, Technical Services Director, MOEYI, on the instructions of the Permanent Secretary, responded to the OCG's requisition stating, *inter alia*, as follows:

**"The OCG's Quarterly Contracts Award (QCA) database indicates that there are a total of five (5) contracts reported to have been awarded by the Ministry' to Westcon, as identified at sub-paragraph 3.1 to 3.5. However, further search reveals five (5) additional contracts identified at sub-paragraphs 3.6 to 3.10 below."**<sup>1</sup>(DI Emphasis)

4.1.8 Mr. Brown further advised the OCG that the "...chronological details of the total number of contracts awarded by the Ministry to Westcon during the period 2006-2009" were as follows:

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<sup>1</sup> Response which was received from Mr. Carey Brown, Technical Services Director, MOEYI, dated August 5, 2016. Response No.3.



**Table No.2**

<b>No.</b>	<b>(a) Contract Award Date</b>	<b>(b) Contract Description</b>	<b>(c) Contract</b>	<b>(d) Principal site/location of words[sic]</b>
2.1	2009-11-10*	Re-sheeting of roof, electrical and plumbing	3,360,650.00	Brown's Town Infant - St Ann
2.2	2009-09-08	Re-Sheeting of Roof, Electrical Installation and Painting	1,609,250.00	Prickly Pole All Age - St. Ann
2.3	2008-11-10*	Roof repairs	1,951,600.00	Warsop All Age - Trelawny
2.4	2008-07-09	Hurricane Dean Repairs	2,574,800.00	Madras All Age - St. Ann
2.5	2008-04-01*	Renovation of Teachers' Cottage	2,126,540.00	Port Maria Infant - St. Mary
2.6	2007-12-11	Hurricane Dean Rehabilitation Repairs	2,509,450.00	Falmouth All Age - Trelawny
2.7	2007-12-11	Hurricane Dean Rehabilitation Repairs	2,550,507.00	Exchange All Age - St. Ann
2.8	2007-09-21*	Hurricane Dean Roof Repairs	1,413,439.00	Priory Primary & Infant - St. Ann
2.9	2007-06-26*	Construction of classroom prototype	2,150,910.00	Priory Primary & Infant - St. Ann
2.10	2007-02-14	Re-Roofing, Water Tank and General Repairs	1,635,345.00	Derry Primary - St. Mary

\* included in QCA"<sup>2</sup>

4.1.9 In respect of the additional five (5) contracts which were indicated by the MOEYI to have been awarded to Westcon Construction Limited and which were not reported to the OCG, by way of the MOEYI's QCA submission, Sections 4 (2) and 4(3) of the Contractor General Act are being highlighted.

<sup>2</sup> Response which was received from Mr. Carey Brown, Technical Services Director, MOEYI, dated August 5, 2016. Response No.2



4.1.10 Section 4(2) of the Act provides as follows:

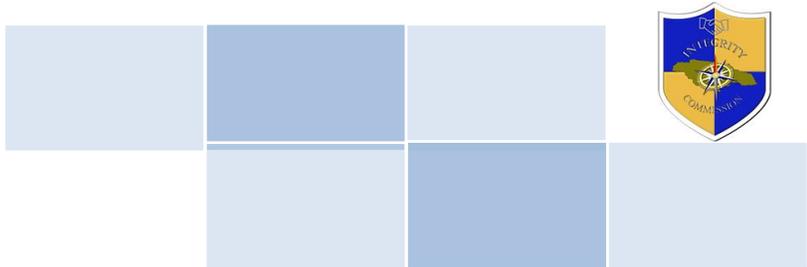
**“For the purpose of the discharge of his functions under this Act a Contractor General shall be entitled- (a) to be advised of the award ... of any government contract by the public body responsible for such contract”.** (DI Emphasis)

4.1.11 Section 4(3) of the Act provides as follows:

**“For the purposes of subsection (2), the Contractor-General shall have the power to require any public body to furnish in such manner and at such times as may be specified by the Contractor-General, information with regard to the award of any contract and such other information in relation thereto as the Contractor-General considers desirable.”** (DI Emphasis)

4.1.12 Of note, the OCG required, pursuant to requisition dated July 11, 2006, that all procuring public bodies submit to its office, Quarterly Contract Award (QCA) Reports of the particulars of contracts which are awarded within the value threshold of J\$250,000.00 to J\$3,999,999.99. This requirement was applicable to all classification of Government contracts awarded as of May 1, 2006.

4.1.13 Having regard to the referenced Sections of the Contractor-General Act, it is important to note that a perusal of the QCA Consolidated Database, as



well as the certified hardcopy submissions which were prepared by the MOEYI, revealed no reports of the five (5) contracts, outlined in Table No.2 above, which were awarded to Westcon Construction Limited.



#### 4.2.0 Circumstances Surrounding the Award of Contracts by the Ministry of Education Youth and Information to Westcon Construction Limited

4.2.1 The OCG, by way of its requisition which was dated June 9, 2016, required that Dr. Maurice Smith, Permanent Secretary in the Ministry of Education Youth and Information (MOEYI) provide, *inter alia*, details of the formal tender procedures which were utilized by the MOEYI in the procurement of the works executed by Westcon Construction Limited. Specifically, the OCG's requisition required that the MOEYI detail (a) the criteria for selection; (b) the evaluation methodology (ies); (c) the specifications for the works in each instance; and (d) the specifications which were to be met by all Bidders who submitted proposals to the MOEYI.

4.2.2 On August 5, 2016, on the instructions of the Permanent Secretary, Mr. Carey Brown, Technical Services Director, MOEYI responded to the OCG's requisition by providing, *inter alia*, the following:

1. Contract awarded by the MOEYI to Westcon Construction Limited dated 2009-11-10 for the Re-sheeting of Roof, Electrical and Plumbing at the Brown's Town Infant School, Region 3, in the amount of \$3,360,650.00

**Table No.3**

<b>Criteria for Selection</b>	"Criteria for the Lowest Responsive Tender"	
<b>Evaluation Methodology</b>	"Selection of the three (3) Lowest Responsive/Competitive Bids and then select the lowest"	
<b>Comparable Estimate</b>	\$3,989,500.00	
<b>Bids Submitted</b>	<b>Entity</b>	<b>Bid Amount</b>
	1. M.C. Associates	\$1,800,000.00
	2. Westcon Construction	\$3,360,650.00
	3. Seivwright Building Supplies	\$3,512,060.00
	4. Tropical Metal Products	\$3,557,322.00



	5. D&G Arscott Construction \$3,694,553.00 6. Joewells Construction \$3,778,950.00 7. H.M. Associates \$4,067,430.00 8. Nunes Welding Works \$4,210,470.00 9. South's Woodcraft and Construction \$4,243,630.00 10. Modern Waterproofing and Construction \$5,227,850.00
<b>Specifications to be met by Bidders</b>	"Submission of a copy of valid TCC and NCC in the required category"
<b>Approvals</b>	"Central Procurement Committee by way of Memorandum dated June 10, 2009"

### Chronology of the Procurement Process Employed by the MOEYI

Table No.4

Item	Chronology of Procurement Processes	Date
1	Preparation of Estimate (P.T.E.)	-
2	Prepare Tender Documents	-
3	Invite Bidders	-
4	Return of Bids	May 4, 2009
5	Evaluation of Bids	May 19, 2009
6	Submission of Bid Evaluation Report to the Central Procurement Committee	-
7	Approval to award Contract	June 10, 2009
8	Signing of Contract	September 8, 2009
9	Awarding of Site to Contractor	August 8, 2009

2. Contract Awarded by the MOEYI to Westcon Construction Limited dated 2008-11-10 for roof repairs at the Warsop All Age School, Region 3 in the amount of \$1,951,600.00

Table No.5

<b>Criteria for Selection</b>	<i>"Criteria for the Lowest Responsive Tender"</i>	
<b>Evaluation Methodology</b>	<i>"Selection of the three (3) Lowest Responsive/Competitive Bids and then select the lowest"</i>	
<b>Comparable Estimate</b>	\$2,289,465.00	
<b>Bids Submitted</b>	<b>Entity</b>	<b>Bid Amount</b>
	1. Westcon Construction	\$1,951,600.00



	2. Vindel Fullerton Construction \$2,050,976.00 3. Modern Waterproofing and Construction \$2,452,150.00 4. Lascar Fencing and Construction \$2,859,800.00 5. Hillmarks Construction \$2,949,725.00
<b>Specifications to be met by Bidders</b>	<i>"Submission of a copy of valid TCC and NCC in the required category"</i>
<b>Approvals</b>	<i>"Central Procurement Committee by way of Memorandum dated November 5, 2008"</i>

### Chronology of the Procurement Process Employed by the MOEYI

Table No. 6

Item	Chronology of Procurement Processes	Date
1	Preparation of Estimate (P.T.E.)	-
2	Prepare Tender Documents	-
3	Invite Bidders	August 29, 2008
4	Return of Bids	September 10, 2008
5	Evaluation of Bids	-
6	Submission of Bid Evaluation Report to the Central Procurement Committee	-
7	Approval to award Contract	November 4, 2008
8	Signing of Contract	November 10, 2008
9	Awarding of Site to Contractor	November 24, 2008

3. Contract Awarded by the MOEYI to Westcon Construction Limited dated 2008-04-01 for the Renovation of Teachers' Cottage at the Port Maria Infant School, Region 2 in the amount of \$2,126,540.00

Table No.7

<b>Criteria for Selection</b>	<i>"Criteria for the Lowest Responsive Tender"</i>
<b>Evaluation Methodology</b>	<i>"Selection of the three (3) Lowest Responsive/Competitive Bids and then select the lowest"</i>



<b>Comparable Estimate</b>	\$2,515,450.00	
<b>Bids Submitted</b>	<b>Entity</b>	<b>Bid Amount</b>
	1. Westcon Construction	\$2,126,540.00
	2. Melody Heavy Equipment and Construction	\$2,333,485.00
	3. South's Woodcraft and Construction	\$2,406,630.00
	4. Marshall Construction	\$2,499,470.00
	5. D&G Arscott	\$2,520,476.70
	6. Modern Waterproofing and Construction	Not stated Invalid TCC
<b>Specifications to be met by Bidders</b>	<i>"Submission of a copy of valid TCC and NCC in the required category"</i>	
<b>Approvals</b>	<i>"Central Procurement Committee by way of Memorandum dated February 20, 2008"</i>	

### Chronology of the Procurement Process Employed by the MOEYI

Table No.8

Item	Chronology of Procurement Processes	Date
1	Preparation of Estimate (P.T.E.)	-
2	Prepare Tender Documents	-
3	Invite Bidders	January 15 & 28, 2008
4	Return of Bids	January 28, 2008
5	Evaluation of Bids	-
6	Submission of Bid Evaluation Report to the Central Procurement Committee	-
7	Approval to award Contract	February 19, 2008
8	Signing of Contract	March 5, 2008
9	Awarding of Site to Contractor	March 20, 2008

4. Contract Awarded by the Ministry to Westcon Construction Limited dated 2007-09-21 for the Hurricane Dean Roof Repairs at the Priory Primary & Infant School, Region 3 in the amount of \$1,413,439.00



**Table No.9**

<b>Criteria for Selection</b>	<i>"The Direct Contracting Methodology was used to engage the Contractor. The Contractor was already on site hence, the Direct Contracting procurement methodology was used to engage the contractor."</i>
<b>Evaluation Methodology</b>	Direct Contracting
<b>Specifications to be met by Bidder(s)</b>	<i>"Submission of a copy of valid TCC and NCC in the required category"</i>
<b>Approvals</b>	<i>"Memorandum from the Procurement Committee could not be located"</i>

In respect of the procurement for the aforementioned works which were undertaken concerning the Hurricane Dean Roof Repairs at the Priory Primary & Infant School, the OCG was not provided with a copy of the Tender Report which was prepared by the MOEYI.

**Chronology of Procurement Process Employed by the MOEYI**

**Table No.10**

<b>Item</b>	<b>Chronology of Procurement Processes</b>	<b>Date</b>
1	Preparation of Estimate (P.T.E.)	-
2	Prepare Tender Document	-
3	Invite Bidder	-
4	Return of Bid	-
5	Evaluation of Bid	-
6	Submission of Bid Evaluation Report to the Central Procurement Committee	-
7	Approval to award Contract	-
8	Signing of Contract	-
9	Awarding of Site to Contractor	-



5. Contract Awarded by the Ministry to Westcon Construction Limited dated 2007-06-26 for the Construction of Classroom Prototype at the Priory Primary & Infant School, Region 3 in the amount of \$2,150,910.00

**Table No.11**

<b>Criteria for Selection</b>	"Criteria for the Lowest Responsive Tender"														
<b>Evaluation Methodology</b>	"Selection of the three (3) Lowest Responsive/Competitive Bids and then select the lowest"														
<b>Comparable Estimate</b>	\$2,458,742.00														
<b>Bids Submitted</b>	<table border="1"> <thead> <tr> <th>Entity</th> <th>Amount</th> </tr> </thead> <tbody> <tr> <td>1. Westcon Construction Limited</td> <td>\$2,150,910.00</td> </tr> <tr> <td>2. W.A. Reid Construction</td> <td>\$2,650,515.00</td> </tr> <tr> <td>3. Modern Waterproofing and Construction</td> <td>\$2,667,515.00</td> </tr> <tr> <td>4. Melody Heavy Equipment and Construction</td> <td>\$2,819,613.00</td> </tr> <tr> <td>5. Nunes Welding Works</td> <td>\$2,863,595.00</td> </tr> <tr> <td>6. Marshall Construction</td> <td>\$2,904,505.00</td> </tr> </tbody> </table>	Entity	Amount	1. Westcon Construction Limited	\$2,150,910.00	2. W.A. Reid Construction	\$2,650,515.00	3. Modern Waterproofing and Construction	\$2,667,515.00	4. Melody Heavy Equipment and Construction	\$2,819,613.00	5. Nunes Welding Works	\$2,863,595.00	6. Marshall Construction	\$2,904,505.00
Entity	Amount														
1. Westcon Construction Limited	\$2,150,910.00														
2. W.A. Reid Construction	\$2,650,515.00														
3. Modern Waterproofing and Construction	\$2,667,515.00														
4. Melody Heavy Equipment and Construction	\$2,819,613.00														
5. Nunes Welding Works	\$2,863,595.00														
6. Marshall Construction	\$2,904,505.00														
<b>Specifications to be met by Bidders</b>	"Submission of a copy of valid TCC and NCC in the required category"														
<b>Approvals</b>	"Central Procurement Committee by way of Memorandum dated June 21, 2007"														

**Chronology of Procurement Process Employed by the MOEYI**

**Table No. 12**

Item	Chronology of Procurement Processes	Date
1	Preparation of Estimate (P.T.E.)	-
2	Prepare Tender Documents	-
3	Invite Bidders	June 4, 2007
4	Return of Bids	June 12,2007
5	Evaluation of Bids	-
6	Submission of Bid Evaluation Report to the Central Procurement Committee	-
7	Approval to award Contract	June 19,2007
8	Signing of Contract	June 26, 2007
9	Awarding of Site to Contractor	July 2, 2007



6. Contract Awarded by the Ministry to Westcon Construction Limited dated 2007-02-14 for Re-Roofing, Water Tank and General Repairs at the Derry Primary School, Region 2 in the amount of \$1,635,345.00

**Table No.13**

<b>Criteria for Selection</b>	<i>"Criteria for the Lowest Responsive Tender"</i>	
<b>Evaluation Methodology</b>	<i>"Selection of the three (3) Lowest Responsive/Competitive Bids and then select the lowest"</i>	
<b>Comparable Estimate</b>	\$2,102,925.00	
<b>Bids Submitted</b>	<b>Entity</b>	<b>Amount</b>
	Westcon Construction Limited	\$1,635,345.00
	Eagle Construction	\$1,669,520.00
	D. Bissao & Associates Limited	\$1,674,035.00
	Nunes Welding Works	\$1,679,752.00
	XYZ Construction	\$1,710,865.00
	Melody Heavy Equipment	\$1,727,131.68
	Modern Waterproofing & Construction	\$1,951,025.00
	H.M. Associates	\$1,956,405.00
	Rebar Construction	\$2,194,525.00
<b>Specifications to be met by Bidders</b>	<i>"Submission of a copy of valid TCC and NCC in the required category"</i>	
<b>Approvals</b>	<i>"Memorandum from the Procurement Committee could not be located".</i>	



## Chronology of Procurement Process Employed by the MOEYI

Table No.14

Item	Chronology of Procurement Processes	Date
1	Preparation of Estimate (P.T.E.)	-
2	Prepare Tender Documents	-
3	Invite Bidders	December 3 and 6, 2006
4	Return of Bids	January 10, 2007
5	Evaluation of Bids	
6	Submission of Bid Evaluation Report to the Central Procurement Committee	-
7	Approval to award Contract	-
8	Signing of Contract	February 14, 2007
9	Awarding of Site to Contractor	February 19, 2007

7. Contract Awarded by the Ministry to Westcon Construction Limited dated 2007-12-11 for Hurricane Dean Rehabilitation Repairs at the Falmouth All Age School, Region 3 in the amount of \$2,509,450.00

Table No.15

<b>Criteria for Selection</b>	<i>"Criteria for the Lowest Responsive Tender"</i>	
<b>Evaluation Methodology</b>	<i>"selection of the three (3) Lowest Responsive/Competitive Bids and then select the lowest"</i>	
<b>Comparable Estimate</b>	\$2,737,465.00	
<b>Bids Submitted</b>	<b>Entity</b>	<b>Amount</b>
	1. Westcon Construction Limited	\$2,509,450.00
	2. Nunes Welding Works	\$2,592,480.00
	3. D&G Arscott Construction	\$2,776,120.00
	4. Seivwright Building Supplies	\$2,966,175.00
	5. Modern Waterproofing & Construction	\$3,008,420.00
	6. Marshall Construction	\$3,033,315.00
	7. W.A. Reid Construction	\$3,214,026.00
<b>Specifications to be met by Bidders</b>	<i>"Submission of a copy of valid TCC and NCC in the required category"</i>	
<b>Approvals</b>	<i>"Memorandum from the Procurement Committee could not be located".</i>	



## Chronology of Procurement Process Employed by the MOEYI

**Table No. 16**

Item	Chronology of Procurement Processes	Date
1	Preparation of Estimate (P.T.E.)	-
2	Prepare Tender Documents	-
	Invite Bidders	November 5, 2007
4	Return of Bids	November 14, 2007
5	Evaluation of Bids	
6	Submission of Bid Evaluation Report to the Central Procurement Committee	-
7	Approval to award Contract	December 4, 2007
8	Signing of Contract	December 11, 2007
9	Awarding of Site to Contractor	December 17, 2007

8. Contract Awarded by the Ministry to Westcon Construction Limited dated 2007-12-11 for Hurricane Dean Rehabilitation Repairs at Exchange All Age School, Region 3, in the amount of \$2,550,507.00

**Table No.17**

<b>Criteria for Selection</b>	<i>"Criteria for the Lowest Responsive Tender"</i>	
<b>Evaluation Methodology</b>	<i>"Selection of the three (3) Lowest Responsive/Competitive Bids and then select the lowest"</i>	
<b>Comparable Estimate</b>	\$2,850,068.00	
<b>Bids Submitted</b>	<b>Entity</b>	<b>Amount</b>
	1. Westcon Construction Limited	\$2,550,507.00
	2. Modern Waterproofing & Construction	\$2,950,565.00
	3. Marshall Construction	\$3,256,596.00
<b>Specifications to be met by Bidders</b>	<i>"Submission of a copy of valid TCC and NCC in the required category"</i>	
<b>Approvals</b>	<i>"Central Procurement Committee by way of Memorandum dated December 7, 2007"</i>	



## Chronology of Procurement Process Employed by the MOEYI

Table No. 18

Item	Chronology of Procurement Processes	Date
1	Preparation of Estimate (P.T.E.)	-
2	Prepare Tender Documents	-
3	Invite Bidders	November 5, 2007
4	Return of Bids	November 14, 2007
5	Evaluation of Bids	-
6	Submission of Bid Evaluation Report to the Central Procurement Committee	-
7	Approval to award Contract	December 4, 2007
8	Signing of Contract	December 11, 2007
9	Awarding of Site to Contractor	December 17, 2007

9. Contract Awarded by the Ministry to Westcon Construction Limited dated 2008-07-07 for Hurricane Dean Repairs at the Madras Age School, Region 3, in the amount of \$2,574,800.00

Table No.19

<b>Criteria for Selection</b>	<i>"Criteria for the Lowest Responsive Tender"</i>												
<b>Evaluation Methodology</b>	<i>"Selection of the three (3) Lowest Responsive/Competitive Bids and then select the lowest"</i>												
<b>Comparable Estimate</b>	\$3,165,964.00												
<b>Bids Submitted</b>	<table border="0"> <thead> <tr> <th>Entity</th> <th>Amount</th> </tr> </thead> <tbody> <tr> <td>1. Westcon Construction Limited</td> <td>\$2,574,800.00</td> </tr> <tr> <td>2. D&amp;G Arcscott Construction</td> <td>\$2,724,840.00</td> </tr> <tr> <td>3. Marshall Construction</td> <td>\$2,945,222.00</td> </tr> <tr> <td>4. Modern Waterproofing &amp; Construction</td> <td>\$3,087,520.00</td> </tr> <tr> <td>5. Seivwright Building Supplies</td> <td>Disqualified</td> </tr> </tbody> </table>	Entity	Amount	1. Westcon Construction Limited	\$2,574,800.00	2. D&G Arcscott Construction	\$2,724,840.00	3. Marshall Construction	\$2,945,222.00	4. Modern Waterproofing & Construction	\$3,087,520.00	5. Seivwright Building Supplies	Disqualified
Entity	Amount												
1. Westcon Construction Limited	\$2,574,800.00												
2. D&G Arcscott Construction	\$2,724,840.00												
3. Marshall Construction	\$2,945,222.00												
4. Modern Waterproofing & Construction	\$3,087,520.00												
5. Seivwright Building Supplies	Disqualified												
<b>Specifications to be met by Bidders</b>	<i>"Submission of a copy of valid TCC and NCC in the required category"</i>												
<b>Approvals</b>	<i>"Central Procurement Committee by way of memorandum dated July 4, 2008"</i>												



## Chronology of Procurement Process Employed by the MOEYI

**Table No. 20**

Item	Chronology of Procurement Processes	Date
1	Preparation of Estimate (P.T.E.)	-
2	Prepare Tender Documents	-
3	Invite Bidders	April 15, 2008
4	Return of Bids	April 23, 2008
5	Evaluation of Bids	-
6	Submission of Bid Evaluation Report to Central Procurement Committee	-
7	Approval to award Contract	July 2, 2008
8	Signing of Contract	July 9, 2008
9	Awarding of Site to Contractor	July 18, 2008

10. Contract Awarded by the Ministry to Westcon Construction Limited dated 2009-09-08 for Re-sheeting of Roof, Electrical Installation and Painting at the Prickly Pole All Age School, Region 3, in the amount of \$1,609,250.00

**Table No. 21**

<b>Criteria for Selection</b>	<i>"Criteria for the Lowest Responsive Tender"</i>	
<b>Evaluation Methodology</b>	<i>"Selection of the three (3) Lowest Responsive/Competitive Bids and then select the lowest"</i>	
<b>Comparative Estimate</b>	\$1,943,280.00	
<b>Bids Submitted</b>	<b>Entity</b>	<b>Amount</b>
	Westcon Construction	\$1,609,250.00
	Joewells Construction	\$1,769,590.00
	Nunes Welding Works	\$1,912,722.00
	Modern Waterproofing & Construction	\$2,052,750.00
	H.M. Associates	\$2,102,350.00
	Marshall Construction	\$2,323,900.00
	Skymar Building Construction	\$2,654,690.00
	M.C. Associates	\$3,600,000.00
<b>Specifications to be met by Bidders</b>	<i>"Submission of a copy of valid TCC and NCC in the required category"</i>	



<b>Approvals</b>	"Central Procurement Committee by way of memorandum dated June 15, 2009"

### Chronology of Procurement Process Employed by the MOEYI

Table No.22

Item	Chronology of Procurement Processes	Date
1	Preparation of Estimate (P.T.E.)	-
2	Prepare Tender Documents	-
3	Invite Bidders	May 4, 2009
4	Return of Bids	May 19, 2009
5	Evaluation of Bids	-
6	Submission of Bid Evaluation Report to the Central Procurement Committee	-
7	Approval to award Contract	June 15, 2009
8	Signing of Contract	September 8, 2009
9	Awarding of Site to Contractor	August 15, 2009

#### 4.2.3 Evaluation and Approval of Contracts Awarded by the MOEYI to Westcon Construction Limited

4.2.4 By way of Requisition dated June 9, 2016, the OCG sought to ascertain the evaluation and approval processes which were utilized by the Ministry of Education Youth and Information in the award of the aforementioned ten (10) contracts. Mr. Carey Brown advised the OCG of the following:

**"At the material time, the standard operating procedure was for the evaluation of bids to be documented by the Regional Building Officer and his Assistant Building Officer, from which a tender report was prepared and submitted through the office of the Chief Building Officer,**



**who would vet and record and sign out to the Central Procurement Committee for consideration...**

*Subsequently, the evaluation process is now being executed by an Evaluation Committee, which submits through the office of the Chief Building Officer to the Central Procurement Committee for approval.”<sup>3</sup>(DI Emphasis)*

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<sup>3</sup> Response dated August 5, 2016, which was received from Mr. Carey Brown, Director, Technical Services Unit, MOEYI. Response No. 6.



#### 4.3.0 Circumstances Surrounding the Award of Contracts by the National Works Agency to Westcon Construction Limited

4.3.1 The OCG, by way of its statutory requisition which was dated June 9, 2016, required that Mr. Everton Hunter, Chief Executive Officer, National Works Agency (NWA) advise of, *inter alia*, his knowledge of the award of contracts by the NWA to the entity 'Westcon Construction Limited'.

4.3.2 Mr. Everton Hunter, by way of his response of July 7, 2016 advised the OCG that:

**"The NWA's records indicate that a total of thirty-four (34) contracts were awarded to Westcon Construction Limited for the period commencing January 1, 2006 and ending December 31, 2009..."**

**The total value of all these works is Thirty-four Million Eighty-six Thousand Nine Hundred and Sixty-eight Dollars and Thirty-two cents (\$34,086,968.32)"**<sup>4</sup> (DI Emphasis)

4.3.3 Mr. Hunter further advised that:

**"There are no records to indicate the method of**

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<sup>4</sup> Response which was dated July 7, 2016, from Mr. Everton Hunter CEO, National Works Agency. Response No.2.



**procurement that was utilized for the award of the referenced contracts.**

*For the works awarded from January 2006 to December 2007, the Agency did not have a procurement committee. We have found no records to confirm the procurement process by which these contracts were awarded.*

**It should be noted that the Agency's Procurement Committee was established in January 2008. However, the Procurement records do not show where any of the referenced awards listed went before the Committee for approval.**<sup>5</sup>

4.3.4 Particulars of the thirty four (34) contracts which were awarded by the NWA to Westcon Construction Limited were provided by the NWA, by way of response which was dated July 7, 2016, and are detailed below:

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<sup>5</sup> Response which was dated July 7, 2016, from Mr. Everton Hunter CEO, National Works Agency. Response No.3.



**Table No. 23**

Items	Contract Award Date	Name of Contractor	Contract Description	Contract Value (JA\$)	Principal Site
1	14-Jun-06	Westcon Construction Ltd.	Provide labour to clean & clear blocked paved and unpaved relief drains, outlets, culverts and culvert basins.	\$500,000.00	Barnett - Adelphi and PC road at Paisley
2	01-Nov-06	Westcon Construction Ltd.	Clean and repair drainage channels	\$943,500.00	Spot Valley Drains, St. James
3	27-Nov-06	Westcon Construction Ltd.	Bushing of Roadway	\$875,000.00	Barnett-Adelphi, Adelphi-Hampden, Canaan-Dumfries & Adelphi-Kent, St. James
4	02-Dec-06 <sup>6</sup>	Westcon Construction Ltd.	Bushing of Roadway	\$300,000.00	Hurlock (Over River) Hampton and Springmount PC Roads , St. James
5	15-Nov-07	Westcon Construction Ltd.	Cleaning of drain	\$1,150,000.00	Adelphi-Hampden, Adelphi-Kent, Sign-Virgin Valley, Amity Hall- Sunderland, Guilsbro-Kensington and Johns Hall-Stapleton, St. James
6	19-Nov-07	Westcon Construction Ltd.	Temporary Restoration of Roadway	\$499,850.00	Canaan-Dumfries, St. James
7	23-Nov-07	Westcon Construction Ltd.	Bushing of Roadway	\$903,000.00	Barnett-Adelphi, Adelphi-Kent, Fairfield-Point, Cornwall Courts Road, Camrose Road and Barrett Town, St. James
8	26-Nov-07	Westcon Construction Ltd.	Temporary Restoration of Roadway	\$449,995.00	Guilsbro-Kensington
9	29-Nov-07	Westcon Construction Ltd.	Bushing of Roadway	\$2,262,500.00	Paisley-Palmyra, Sign-Virgin Valley, Barnett-Adelphi, Johns Hall- Stapleton, Mount Industry Barrett Town Road,

<sup>6</sup> Contract Agreement indicates a contract date of "04.12.2006"



Items	Contract Award Date	Name of Contractor	Contract Description	Contract Value (JA\$)	Principal Site
10	20-Feb-08	Westcon Construction Ltd.	Drain Cleaning	\$450,000.00	Josmin Ave, Joshua Hemming Way, St. Andrew
11	25-Mar-08	Westcon Construction Ltd.	Road Repairs	\$1,357,500.00	Cockburn Gardens, St. Andrew
12	2-Jun-08	Westcon Construction Ltd.	To Clean Critical Drains	\$450,400.00	Barnett-Adelphi (Chelsea Gully), St. James
13	10-Jun-08	Westcon Construction Ltd.	To clean critical drains	\$350,000.00	Barnett-Adelphi (Paisley Gully), St. James
14	31-Jul-08	Westcon Construction Ltd.	To Clean Critical Drains	\$700,000.00	Sign-Virgin Valley & Long Bay, St. James
15	15-Aug-08	Westcon Construction Ltd.	Bushing of Roadway and critical drains	\$203,000.00	Sign-Virgin Valley, St James
16	17-Aug-08	Westcon Construction Ltd.	To clean critical drains	\$850,000.00	Barnett-Adelphi-Chelsea Gully and Moore Park drain, St. James
17	25-Aug-08	Westcon Construction Ltd.	Drain Cleaning	\$181,000.00	Second Street, Bell Rock, St. Andrew
18	29-Aug-08	Westcon Construction Ltd.	Hireage of Equipment	\$429,800.00	Virgin Valley-Content Mountain, Sign Virgin Valley, St. James
19	29-Aug-08	Westcon Construction Ltd.	Provision of Labour	\$60,000.00	Virgin Valley-Content Mountain, Sign Virgin Valley, St. James
20	16-Sep-08	Westcon Construction Ltd.	RMF Bushing and Drain Cleaning	\$262,500.00	Johns Hall-Stapleton, St. James



Items	Contract Award Date	Name of Contractor	Contract Description	Contract Value (JA\$)	Principal Site
21	16-Sep-08	Westcon Construction Ltd.	Bushing and Drainage	\$150,000.00	Guilbro-Mt. Industry, St. James
22	19-Sep-08 <sup>7</sup>	Westcon Construction Ltd.	Bushing and drainage	\$150,000.00	Amity Hall-Sunderland, St. James
23	19-Sep-08	Westcon Construction Ltd.	Bushing and drainage	\$220,000.00	Barnett-Adelphi, St. James
24	03-Oct-08	Westcon Construction Ltd.	Cleaning of blocked drains	\$122,500.00	Barnett-Adelphi, St. James
25	14-Oct-08	Westcon Construction Ltd.	Retaining Wall & Gully Invert	\$11,993,123.32	Bay Farm - Calaidium Crescent, St. Andrew
26	17-Nov-08	Westcon Construction Ltd.	Emergency Works Tropical Wave Nov 14-21	\$850,000.00	Barnett-Adelphi, Chelsea Gully, and Moore Park drains, St. James
27	8-Dec-08	Westcon Construction Ltd.	Special Routine Maintenance Programme 2008	\$905,000.00	Canaan -Dumfries, Banana Spring Road, Pillars -Montego Bay (Long Bay), St. James
28	19-Dec-08	Westcon Construction Ltd.	RMF US\$2M&3M Patching Programme	\$1,425,000.00	Cornwall Courts-Green Pond Road, St. James
29	29-Dec-08 <sup>8</sup>	Westcon Construction Ltd.	Bushing and Drain Cleaning	\$999,000.00	Bay Farm Gully, St. Andrew
30	14-Jan-09	Westcon Construction Ltd.	To construct RR Wall, concrete v drain, catch basins and patching of potholes etc.	\$2,182,700.00	Adelphi - Kent, St. James

<sup>7</sup> Contract Agreement between the NWA and Westcon Construction Limited indicates a contract date of September 17, 2008.

<sup>8</sup> The Contract Agreement between the NWA and Westcon Construction indicates a contract date of January 23, 2009.



Items	Contract Award Date	Name of Contractor	Contract Description	Contract Value (JA\$)	Principal Site
31	25-Mar-09	Westcon Construction Ltd.	Patching of potholes and other rutted areas	\$375,000.00	Cornwall Court-Green Pond
32	04-May-09	Westcon Construction Ltd.	Bushing and Drainage works	\$675,000.00	Guilsbro-Kensington
33	04-Jun-09	Westcon Construction Ltd.	To Clean Critical Drains	\$299,600.00	Chelsea Gully-Barnett-Adelphi
34	16-Jul-09	Westcon Construction Ltd.	Drain Cleaning	\$262,400.00	Sudbury Drain (Barnett-Adelphi)
<b>Total value of contracts</b>				<b>\$33,787,368.32</b>	

4.3.5 It is instructive to note that the OCG's calculation of the contract values, stated in the aforementioned table, indicated a total contract value of \$33,787,368.32, which differs from the total contract value of \$34,086,968.32, stated by the NWA in their response of July 7, 2016.

4.3.6 The NWA also provided the OCG with copies of the Contract documents which were executed in relation to thirty-one (31) of the thirty-four (34) contracts stated above. A review of the Contract Agreements revealed that the contract which was awarded in the amount of \$999,000.00 for bushing and drain cleaning works at the Bay Farm Road Gully was dated January 23, 2009, 17 days after the contract commencement date of January 6, 2009.

4.3.7 Of note, evidence of the formal Contracts which were entered into between the NWA and Westcon Construction Limited were not provided to the OCG as it relates to the following representations made in Table No.23 above:

**Table No: 24**

Items	Contract Award Date	Name of Contractor	Contract Description	Contract Value (JA\$)	Principal Site
1	17-Aug-08	Westcon Construction Ltd.	To clean critical drains	\$850,000.00	Barnett-Adelphi-Chelsea Gully and Moore Park drain, St. James
2	14-Oct-08	Westcon Construction Ltd.	Retaining Wall & Gully Invert	\$11,993,123.32	Bay Farm - Calaidium Crescent, St.Andrew
3	16-Jul-09	Westcon Construction Ltd.	Drain Cleaning	\$262,400.00	Sudbury Drain (Barnett-Adelphi)
Total				\$13,105,523.32	

4.3.8 As it regards the formal tender procedures which were utilised by the NWA, in the award of the thirty-four (34) contracts referenced in the above table, Mr. Everton Hunter advised the OCG of the following:

**“...we found no records that outlined the selection process that was undertaken for the award of these contracts”**<sup>9</sup> (DI Emphasis)

4.3.9 Mr. Everton Hunter, by way of his sworn response which was dated July

<sup>9</sup> Response which was provided by Mr. Everton Hunter, CEO, National Works Agency, dated July 7, 2016. Response No.5.



7, 2016, further advised the OCG that the NWA had found no records to account for neither the method of procurement nor the bid selection process which was utilised for the award of the thirty-four (34) contracts listed in Table No. 23 above.<sup>10</sup>

4.3.10 In respect of the names and titles of the NWA official(s), officer(s) and employee(s) who approved, recommended and/or influenced the award of the mentioned contracts to Westcon Construction Limited, Mr. Hunter, by way of his response which was dated July 7, 2016, advised as follows:

*“Based solely on the records found, awards of the contracts were approved by the relevant Accountable Officers assigned at the various times, namely:*

<b>Name</b>	<b>Position</b>	<b>Relevant Period</b>
Mr. Richard McHargh	Director, Regional Implementation	Nov 2006 – June 2009
Mr. Neville Clare	Parish Manager, St. James	Jan 2006 - Dec 2007
Mr. Desrick Litchmore	Project Manager	Jan 2006- Dec 2009
Mr. Milton Hodelin	Chief Executive Officer	Feb 2006- April 2009
Mr. Phillip Clarke	Project Manager, St. James	Jan 2008- Dec 2009
Mr. Gervais Lawrence	Regional Manager, KMR	Jan 2006- July 2009
Mr. Keith Russell	Parish Manager, Kingston	Jan 2006- Aug 2009

<sup>10</sup> Response which was received from Mr. Everton Hunter, CEO National Works Agency, dated July 7, 2016 Response Nos. 8 and 9.



Mr. Ernest Clarke	Assistant Parish Manager, Kingston	Jan 2006- Dec 2009
Mr. John Wright	Director, Major Projects	Feb 2006- Dec 2009
Mr. George Knight	Major Projects Manager	Jan 2006 - June 2009
	Director, Regional Implementation & Special Projects	July- Dec2009
Mr. Richard Clarke	Regional Manager, Western	Oct- Dec 2009
Mr. Carol Hines	Regional Manager, Western	July 2006- Aug 2009

4.3.11 In respect of the payments which were made to Westcon Construction Limited, relating to the contracts which were stated to have been awarded to the entity, the OCG was provided with evidence of payments made by the NWA to the contractor in the form of Payment Vouchers.

4.3.12 In thirty-one (31) instances of the thirty-four (34) the Payment Vouchers, prepared by the NWA, indicated the certification that the "...goods/services [were] satisfactorily provided and that the rates/prices [were] fair and reasonable and the relevant financial instructions have been followed", and was duly signed by the relevant officer(s) of the NWA. The following table represents the three (3) instances in which the Payment Voucher, prepared by the NWA, did not reflect such an attestation:



**Table No.25**

Items	Contract Award Date	Name of Contractor	Contract Description	Contract Value (JA\$)	Principal Site
1	20-Feb-08	Westcon Construction Ltd	Drain Cleaning	\$450,000.00	Josmin Ave, Joshua Hemming Way, St. Andrew
2	14-Oct-08	Westcon Construction Ltd.	Retaining Wall & Gully Invert	\$11,993,123.32	Bay Farm - Calaidium Crescent, St. Andrew
3	25-Mar-09	Westcon Construction Ltd.	Patching of potholes and other rutted areas	\$375,000.00	Cornwall Court-Green Pond

Breaches of the GOJ Public Sector Procurement Guidelines

4.3.13 Having regard to the inability of the NWA to locate and produce documents identifying the procurement process and/or procedures which were administered by the NWA in the award of 34 contracts to the entity Westcon Construction Limited, the following provisions of Section 2.10.1 of the GOJ Handbook of Public Sector Procurement Procedures, (May 2001):

*“Without prejudice to the method of storage and in accordance with the Financial Administration and Audit Act (FAA Act), **the procuring entity shall maintain records of each contract action for a minimum of ten (10) years.** Procurement process and expenditure records, although entrusted to the safeguard of accounting officers, are the property of the Ministry of*



*Finance and Planning and shall promptly be made available to the Ministry upon request in its carrying out of expenditure and/or compliance monitoring mandates. The minimum standards of recorded information are as follows:*

*...*

*Procurement procedure used and authorization reference;*

*...*

*Summary of the evaluation and comparison of quotations and/or tenders;*

*..."<sup>11</sup>*

4.3.14 Similarly, Sub Section S-2150 of the GOJ Handbook of Public Sector Procurement Procedures, (November 2008) references a similar requirement in respect of procurement record keeping for the procurement of goods, works and general services.

4.3.15 It is instructive to note that the minimum period for the retention of records of the award of GOJ contracts is ten (10) years, and that the dates of the contracts which form the subject of the OCG's Investigation were between the period of June 2006 to July 2009. The OCG's request for the procurement records was by way of its Requisition dated June 9, 2016.

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<sup>11</sup> Section 2.10.1 of the GOJ Handbook of Public Sector Procurement Procedures, May 2001. Pg 9



4.3.16 Further, and as it relates to the OCG's Requisition dated July 11, 2006, a perusal of the QCA Consolidated Database, as well as the certified hardcopy submissions which were prepared by the NWA, revealed no reports of twenty (20) contracts with values that fell within the stipulated value thresholds, outlined in Table No.23 above.

4.3.17 Of note, the OCG's Requisition dated July 11, 2006 required all procuring public bodies to submit to its office, Quarterly Contract Award (QCA) Reports of the particulars of contracts which are awarded within specific value thresholds. This requirement was applicable to all classification of Government contracts awarded as at May 1, 2006.



#### 4.4.0 Circumstances Surrounding the Award of Contracts by the Social Development Commission to Westcon Construction Limited

4.4.1 The OCG, by way of its statutory requisition which was dated June 9, 2016, sought to ascertain, *inter alia*, Dr. Dwayne Vernon, Executive Director, Social Development Commission (SDC) knowledge of the award of contracts by the SDC to the entity 'Westcon Construction Limited'. Further, the OCG required that Dr. Vernon detail the total number of contracts which were awarded by the SDC to 'Westcon Construction Limited' during the period 2006 to 2009 and in each instance, provide details of the contract, inclusive of the (a) contract award date, (b) contract description, (c) value of the contract, (d) principal site/ location where the works were executed, and a copy of the contract.

4.4.2 Dr. Vernon, by way of his response which was dated July 11, 2016, stated, *inter alia*, the following:

*"My Desk research into the matter has revealed that the Social Development Commission was chosen as the implementing agency for approved projects by the SESP and CDF units respectively;*

- **S.E.S.P contract for Cleaning, Bushing and Trimming of Constituency approved by the SESP Unit – funding received by the SDC was \$1,491,706.00. A letter dated December 20, 2007 to Mr. Daniel Wilson – Acting Executive Director from Member of Parliament Mr.**



**Andrew Holness, introduced Westcon Construction Limited as the payee for the Christmas Work Programme 2007” ...**

- **Consultancy contract approved by the CDF Management Unit – Contract value \$3,000,000.00. A letter dated September 23, 2009 to Mr. Daniel Wilson – Acting Executive Director from Member of Parliament Mr. Andrew Holness confirmed that effective June 1, 2008: “Mr. Robert Gavin is employed as project manager under the Constituency Development Fund in West Central St. Andrew”. Subsequent invoices for payment from Mr. Gavin came under the name Westcon Construction Limited ...”<sup>12</sup>**

4.4.3 Having regard to the foregoing, and by way of response which was dated June 22, 2016, Dr. Vernon furnished the OCG with a copy of the following documents:

1. Letter dated September 23, 2009 which was on the letterhead of the “Honourable Andrew M. Holness MP”, then Minister of Education and Leader of Government Business in the House of Representatives. The letter was addressed to Mr. Daniel Wilson, Director of Finance, SDC, and stated, *inter alia*, as follows:

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<sup>12</sup> Response which was received from Dr. Dwayne Vernon, Executive Director , Social Development Commission, on July 11, 2016. Response No.1



*"This serves to confirm that effective June 1, 2008; Mr. Robert Garvin is employed as the Project Manager under the Constituency Development Fund in West Central St. Andrew.*

*Please facilitate the payment of his salary."*

4.4.4 In point of fact, the referenced letter was signed by the Most Hon. Andrew Holness in his capacity as both the then Minister of Education and Member of Parliament for West Central St. Andrew;

2. Letter dated August 17, 2009 on the letterhead of "Westcon Construction Company", which stated, *inter alia*, as follows:

"To oversee project in West Central St. Andrew (Gully Repairs).

From August 1- 31, 2009	<u>\$125,000.00</u>
Total	\$125,000.00"

4.4.5 The letter was signed by Robert Garvin, in the capacity of Director, Westcon Construction Limited. The company seal of the referenced entity was also affixed.

3. Letter dated September 10, 2009 on the letterhead of "Westcon Construction Company", which stated, *inter alia*, as follows:

"To oversee project in West Central St. Andrew (Sanitary Conveniences).

From September 1- 31, 2009	<u>\$125,000.00</u>
Total	<u>\$125,000.00"</u>



4.4.6 The letter was signed by Robert Garvin, in the capacity of Director, Westcon Construction Limited. The company seal of the referenced entity was also affixed.

4. Letter dated July 8, 2009 on the letterhead of “Westcon Construction Company”, which stated, *inter alia*, as follows:

“To oversee project in West Central St. Andrew (Gully Repairs).

From July 1- 31, 2009	<u>\$125,000.00</u>
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Total	<u>\$125,000.00”</u>
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4.4.7 The letter was signed by Robert Garvin, in the capacity of Director, Westcon Construction Limited. The company seal of the referenced entity was also affixed.

5. Letter dated December 20, 2007 which was on the letterhead of the “Honourable Andrew M. Holness MP”, then Minister of Education. The letter was addressed to Mr. Daniel Wilson, Acting Executive Director, SDC, and stated, *inter alia*, as follows:

*“Enclosed is the “Christmas Work Programme 2007” for West Central St. Andrew along with the supporting work sheets of the individual jobs and beneficiaries. The payment instruction in this letter now replaces instructions previously issued. Please pay as outlined below.”*



<b><u>Summary West Central St. Andrew Christmas Work Programme Dec '06</u></b>			
<b><u>Divisions</u></b>	<b><u>Programme</u></b>	<b><u>Payee</u></b>	<b><u>Please Pay</u></b>
Molynes Gardens	J \$ 430,000.00	Westcon Construction Lt TCC # WE-2704/06-07/6-	J\$ \$430,000.00
Olympic Gardens	<u>J\$ 685,000.00</u>	TRN:*	J\$ 685,000.00
Sievwright Gardens	<u>J\$ 620,000.00</u>		<u>J\$335,000.00</u>
	<b><u>J\$ 1,735,000.00</u></b>		<b><u>J\$ 1,450,000.00</u></b>

6. Invoice attributed to Westcon Construction and billed to West Central St. Andrew for “WORK DONE TO INCLUDE TRIMMING, BUSHING & CLEANING OF ROADWAYS IN THE WEST ST. ANDREW AREA”, in the amount of \$1,450,000.00.

4.4.8 In relation to the formal tender procedures which were utilized by the SDC in the procurement of the works and services executed by ‘Westcon Construction Limited’ for the two (2) contracts which were awarded during the period under review, it is instructive to note that Dr. Vernon stated as follows:

**“there is no evidence of the SDC utilizing formal tender procedures for the procurement for the works and services executed by Westcon Construction Limited. Evidence shows that Westcon Construction was introduced to the SDC by way of letter from the MP.”**<sup>13</sup>(D)

<sup>13</sup> Ibid Response No.3



Emphasis)

4.4.9 As it relates to the process through which Westcon Construction Ltd. was selected for the award of the referenced contracts by the SDC, Dr. Vernon reiterated the following:

**“There is no evidence available to the SDC detailing how Westcon Construction was selected to provide services as the SDC did not procure such services. This was done at the level of the Constituency.”**<sup>14</sup> (DI Emphasis)

4.4.10 It is instructive to note, that the Most Hon. Andrew Holness advised the DI that the extent of Westcon’s involvement in the West Central St. Andrew Christmas Work Programme Dec ‘06 was:

**“Westcon received the payments, then would have subsequently paid the supervisors. Westcon was just a medium.”**

4.4.11 In addition, the OCG was advised that there was no evidence to indicate that:

- a. any SDC official, officer, employee, or anyone acting on its behalf, influenced the award of contracts to Westcon Construction Limited; and
- b. the SDC’s Procurement Committee played any role in the award of

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<sup>14</sup> Response which was received from Dr. Dwayne Vernon, Executive Director , Social Development Commission, on June 22, 2016. Response No.5.



contracts to Westcon Construction Limited.

4.4.12 In relation to the payments which were made by the SDC to Westcon Construction Limited, the OCG was furnished with a copy of the following documents:

1. SDC Capital Payment Voucher dated September 29, 2009, in the amount of \$375,000.00; and
2. SDC Capital Payment Voucher dated December 20, 2007, in the amount of \$1,450,000.00.

4.4.13 Details concerning the work programmes which were prepared in respect of the referenced contract which was awarded in the amount of \$1,450,000.00, was provided to the OCG by way of Dr. Vernon's response which was dated June 22, 2016. The work programmes also detailed, *inter alia*, the following:

1. The physical location where the works were executed;
2. The names of the Ground Supervisors engaged;
3. The number of Workers and Supervisors engaged;
4. The amount which was to be paid to Supervisors and Workers engaged; and
5. The total amount which was paid in relation to each physical location.

4.4.14 The OCG also observed that there were several instances in which the



signatures of the labourers engaged were not affixed to the work programmes which were prepared.

4.4.15 Notwithstanding the disclosure by Dr. Dwayne Vernon, Executive Director, SDC, concerning the absence of formal tender procedures, in the award of contracts to Westcon Construction Limited, it is instructive to note that the SDC, by way of its QCA Reports for the subject period reported that two (2) contracts were awarded to Westcon Construction Limited, noting, *inter alia*, the following particulars:

<b>Contractor</b>	<b>Contract Award Date</b>	<b>Contract Details</b>	<b>Contract Value</b>	<b>Procurement Methodology</b>
Westcon Construction Limited	2007-12-20	Cleaning, Bushing and Trimming of West Central, St. Andrew Constituency	\$1,450,000.00	Sole Source
Westcon Construction Limited	2009-09-10	Consultancy Services-Overseeing work and projects in West Central, St. Andrew Constituency	\$375,000.00	Limited Tender

4.4.16 Importantly, it must be noted that Section 2.1.3.3 of the GOJ Handbook of Public Sector Procurement Procedures (May 2001) indicates the following as it regards the Limited Tender procurement methodology:

*“Limited tender is a form of selective tender, whereby the procurement opportunity is open to a limited number of contractors included in the Register of*



*Approved Contractors. It includes the Request for Quotation (RFQ) and Sole Source procurement procedures. Procurement offered through limited tender is generally not advertised. Instead, procuring entities may contact appropriately qualified contractors on the register and invite them to participate. Criteria for selecting contractors from the register should include:*

- *Nature of the work required;*
- *Contractor's relevant experience;*
- *Contractor's past performance record; and*
- *Contractor's current financial and technical capacities."*<sup>15</sup>

4.4.17 In respect of the Sole Source procurement methodology, Section 2.1.3.4 of the GOJ Handbook of Public Sector Procurement Procedures (May 2001) indicates the following:

*"Sole Source or direct contracting is a form of limited tendering where only one contractor is invited to participate.*

*Use of this method may be justified when procurement is of a "sensitive" nature, when the procuring entity*

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<sup>15</sup> Section 2.1.3.3 of the GOJ handbook of Public Sector Procurement Procedures (May 2001)



*receives an unsolicited proposal that is considered to be meritorious, in the case of follow-on procurements, when there is unusual and compelling urgency, industrial mobilization, where there is need for highly specialized expert services, pursuant to external agency agreement or treaties, or where it is otherwise in the public interest.*

*Procurement effected through the use of sole source or direct contracting methods must contain justification for its use in the record of the procurement."*

#### Breaches of the GOJ Public Sector Procurement Guidelines

4.4.18 Having regard to the disclosure by Dr. Dwayne Vernon, Executive Director, SDC, that "...there is no evidence of the SDC utilizing formal tender procedures for the procurement for the works and services executed by Westcon Construction Limited..."<sup>16</sup>, it must be noted that Section 1.2 of the then applicable GOJ Handbook of Public Sector Procurement Procedures (May 2001) indicates the following:

*"The Handbook applies to all procurement carried out by procuring entities as defined in Section 1.4 "Definitions." Procuring entities shall, in carrying out procurement activities, follow the procedures as set out*

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<sup>16</sup> Response which was received from Dr. Dwayne Vernon, Executive Director, Social Development Commission, on June 22, 2016



herein. Exceptions include procurements of a “sensitive” nature for national defense and /or security purposes.”<sup>17</sup>

4.4.19 By way of Sub-section 1000, a similar provision was articulated in the GOJ Handbook of Public Sector Procurement Procedures (November 2008).

4.4.20 Further, and in relation to the representations which were made by the SDC in its QCA Reports to the OCG concerning the award of contracts to Westcon Construction Limited, utilizing the Limited Tender and Sole Source procurement methodologies, the following provisions of Section 29 of the then applicable Contractor General Act are highlighted, hereunder:

“Every person who-

- (a) **willfully makes any false statement to mislead** or **misleads** or **attempts to mislead** a Contractor-General or any other person in the execution of his functions under this Act; or
- (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

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<sup>17</sup> Section 1.2 GOJ Handbook of Public Sector Procurement Procedure (May 2001)



(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** and shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment."<sup>18</sup>

4.4.21 By virtue of Section 29(a) of the Contractor-General Act, there are three (3) offences for which a person may be liable for prosecution, i.e. where a person:

- i. **Willfully makes a false statement to mislead** a Contractor-General or any other person in the execution of their functions under the Contractor General Act.
- ii. **Misleads** a Contractor General or any other person in the execution of their functions under the Contractor-General Act ; or
- iii. **Attempts to mislead** a Contractor-General or any other person in the execution of their functions under the Contractor General Act.

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<sup>18</sup> Section 29 of the Contractor General Act.



#### 4.5.0 **Particulars of the Entity -Westcon Construction Limited**

4.5.1 Records retrieved from the Companies Office of Jamaica (COJ) revealed that the entity Westcon Construction Limited was incorporated on October 11, 2004, and has as its registered company address, "81 Harbour Street, Kingston". The COJ records further detailed the following particulars, as it concerns the Directors and Shareholders of the Company:

**Table No. 26**

Directors	Robert Garvin Donovan Simpson
Shareholders	Robert Garvin Donovan Simpson
Secretary	Jerome Green

4.5.2 A review of the application form which was submitted by the Westcon Construction Limited to the National Contracts Commission (NCC) on September 29, 2009, revealed that Mr. Robert Garvin was the Managing Director and Mr. Donovan Simpson, a Director of the referenced company. The company was also registered with the NCC for the period July 11, 2008 to July 10, 2009 in the following categories and grades:

**Table No.27**

<b>Category</b>	<b>Grade</b>
Building Construction	4
Painting and Decorative Finishes	3
Civil Engineering	4



Road Maintenance	4
Interior Construction Works	4
Electrical Works	4
Building Maintenance	3

4.5.3 The entity had also held previous registrations with the NCC, including, for the periods May 21, 2007 with expiration on May 20, 2008 and April 11, 2006 with expiration on April 10, 2007, in the respective categories and dates reflected below:

**Table No.28**

<b>Category</b>	<b>Grade</b>
Building Construction	4
Painting and Decorative Finishes	4
Civil Engineering	4
Road Maintenance Works	4 <sup>19</sup>
Interior Construction Works	4
Building Maintenance	4

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<sup>19</sup> Westcon Construction Limited was not registered in the category of Road Maintenance Works during the period April 11, 2006- April 10, 2007



#### **4.6.0 The Nature and Extent of the Relationship between the Most Hon. Andrew Holness and the Directors and/or Principals of Westcon Construction Limited**

4.6.1 Having regard to the allegations which were made concerning the connection and relationship between the proprietors of the named entity and the Most Hon. Andrew Holness, Prime Minister of Jamaica and then Minister of Education, the OCG deemed it prudent to direct the following questions to the Most Hon. Prime Minister by way of a statutory Requisition which was dated May 17, 2017:

*“Kindly state the full extent of your knowledge of the entity ‘Westcon Construction’. Your response should include: ...*

- (a) The date upon which you first became aware of the mentioned company;*
- (b) The circumstances and basis upon which you became aware of the named company;*
- (c) The full extent of your knowledge of the stated company; and*
- (d) Full particulars of the nature and extent of your involvement, if any, with the referenced company.”<sup>20</sup>*

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<sup>20</sup> OCG Requisition dated May 17, 2017 which was directed to the Most Hon. Andrew Holness , Prime Minister of Jamaica and then Minister of Education . Question No. 8



4.6.2 The Most Hon. Andrew Holness, by way of his response which was dated August 30, 2017, and received by the OCG on September 4, 2017, responded, *inter alia*, as follows:

“(a) *The date upon which you first became aware of the mentioned company;*

***Based on my recollection, I first became aware of Westcon Construction in late 2004***

*(b) The circumstances and basis upon which you became aware of the named company;*

***Mr. Garvin had left my employ and informed me that he was looking to branch out and had started his own business, Westcon Construction. He was a former employee and constituency worker.***

*(c) The full extent of your knowledge of the stated company; and*

***I am aware that the company was contractor involved in construction and civil works in both the public and private sectors.***

*(d) Full particulars of the nature and extent of your involvement, if any, with the referenced company.*



**I am not involved with the referenced company.**<sup>21</sup> (DI  
Emphasis)

4.6.3 In an attempt to ascertain the Most Hon. Andrew Holness' response as it relates to his knowledge of the proprietors of Westcon Construction Limited, the following question was posed by way of the above referenced statutory Requisition:

*"Based upon documents retrieved from the Companies Office of Jamaica, the entity Westcon Construction Limited was incorporated on October 11, 2004, and has listed as its Directors and Shareholders both 'Robert Garvin' and 'Donavan Simpson'.*

*Having regard to the foregoing, please indicate whether 'Robert Garvin' and 'Donavan Simpson' are known to you. In the event that your response is in the affirmative, kindly state the **full** extent of your relationship and/or affiliation with the stated persons. Your response should include:*

- (a) The date(s) upon which both 'Robert Garvin' and 'Donavan Simpson' became known to you;*
- (b) The circumstances upon which both 'Robert Garvin' and 'Donavan Simpson' became known to you; and*

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<sup>21</sup> Response which was received from the Most Hon. Andrew Holness dated August 30, 2017. Response No. 8.



(c) Full particulars of the nature and extent of your relationship and/or affiliation with both 'Robert Garvin' and 'Donavan Simpson', if any."<sup>22</sup>

4.6.4 In respect of the aforementioned question, the Most Hon. Andrew Holness' stated, *inter alia*, as follows:

" ...

**Yes both are known to me.**

...

**I have known both for more than 20 years**

...

**Robert Garvin is known personally to me and was employed to me in various capacities and at various times to support my work in the constituency. He also worked in my personal business. Before being employed to me, Mr. Garvin worked with Mr. Simpson's Land surveying firm as a trainee in the field. Mr. Garvin introduced me to Mr. Simpson as his former employer and a Commissioned land surveyor.**"<sup>23</sup>

4.6.5 The Most Hon. Prime Minister was also required to respond to the following question:

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<sup>22</sup> Requisition dated May 17, 2017 which was sent to the Most Hon. Andrew Holness. Question No.9

<sup>23</sup> Response which was submitted by the Most Hon. Andrew Holness, Prime Minister of Jamaica, and then Minister of Education, dated August 30, 2017. Response No. 9.



*“Do you know, or do you have, or have you had a personal, business or other relationship with, or are you in any way related to any of the principals, shareholders, directors, partners, officers and/or employees of the ‘Westcon Construction Limited’? If yes, please indicate:*

- (a) The full name(s) of the ‘Westcon Construction Limited’ Representative(s) and his/her relationship with ‘Westcon Construction Limited’;*
- (b) The length of time that you have known the ‘Westcon Construction Limited’ Representative(s); and*
- (c) A full description of the nature of the relationship between yourself and the ‘Westcon Construction Limited’ Representative.”<sup>24</sup>*

4.6.6 The Most Hon. Prime Minister responded as follows:

*“... ”*

- (a) The full name(s) of the ‘Westcon Construction Limited’ Representative(s) and his/her relationship with ‘Westcon Construction Limited’;*

**Robert Garvin and Donovan Simpson who are directors of Westcon Construction Limited.**

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<sup>24</sup> Requisition which was submitted to the Most Hon. Andrew Holness, Prime Minister of Jamaica, and then Minister of Education, dated May 16, 2017. Question No. 12.



(b) The length of time that you have known the 'Westcon Construction Limited' Representative(s); and

**I have known Robert Garvin and Donovan Simpson for over 20 years.**

(c) A full description of the nature of the relationship between yourself and the 'Westcon Construction Limited' Representative.

**Robert Garvin is known to me personally and is a former employee in both my constituency and personal business. He presently supports constituency organization and our social outreach programmes.**

**Donovan Simpson is known to me casually, however he has been engaged by me privately in his professional capacity to do land surveying work.**"<sup>25</sup> (DI Emphasis)

4.6.7 The OCG also sought to ascertain from the Most Hon. Andrew Holness, whether any of the principals, shareholders, directors, partners, officers and/or employees of 'Westcon Construction Limited', or anyone acting on their behalf, had approached him in soliciting assistance in getting approval for any contract, agreement and/or arrangement which was/is being contemplated by and/or consummated between (a) the

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<sup>25</sup> Response which was received from the Most Hon. Andrew Holness, Prime Minister of Jamaica and then Minister of Education dated August 30, 2017. Response No. 12.



Social Development Commission and 'Westcon Construction Limited' and (b) the MOEYI and 'Westcon Construction Limited'.

4.6.8 The Most Hon. Prime Minister, by way of his referenced response stated as follows:

**"No, no one approached me"**<sup>26</sup>

4.6.9 Having regard to the allegations which were made concerning the affiliations and/or associations between the Most Hon. Prime Minister and the Directors and Shareholders of Westcon Construction Ltd., the OCG deemed it necessary to review the incorporation and registration of the following companies/businesses which were alleged to have had connections with the Prime Minister:

1. Positive Jamaica Foundation Limited;
2. Sunshine Mobile Company Limited;
3. West Central Saint Andrew Trust;
4. Omega Bridge Finance Limited; and
5. Delido Taxi Service Limited.

4.6.10 A perusal of records obtained from the Companies Office of Jamaica indicated, *inter alia*, the following:

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<sup>26</sup> Response which was received from the Most Hon. Andrew Holness, Prime Minister of Jamaica and then Minister of Education dated August 30, 2017. Response Nos. 10 and 11.



#### 4.6.11 Positive Jamaica Foundation Limited

4.6.12 Positive Jamaica Foundation Limited was incorporated on November 15, 2011 and detailed its core business activity as “Charitable Services”. The Company held as its address, “Herb McKenley Drive, Kingston 6” and the Directors and Secretary listed were:

**Table No. 29**

Directors	<ol style="list-style-type: none"><li>1. Andrew Holness</li><li>2. Mark Azan</li><li>3. Kedesha Campbell</li><li>4. Kent Gammon</li></ol>
Ceased Directors as at November 1, 2016	<ol style="list-style-type: none"><li>1. Nigel Clarke</li><li>2. Robert Garvin</li><li>3. Warren Vernon</li></ol>
Secretary	<ol style="list-style-type: none"><li>1. Mark Azan</li></ol>

#### 4.6.13 Sunshine Mobile Company Limited

4.6.14 Sunshine Mobile Company Limited was incorporated on September 8, 1994, and detailed as its core business activity, “Transportation Consultants”. The Company held as its address, “157 Constant Spring Road, St. Andrew” and the Directors and Shareholders were listed as follows:

**Table No. 30**

Directors	<ol style="list-style-type: none"> <li>1. Andrew Holness</li> <li>2. Robert Garvin</li> </ol>
Shareholders	<ol style="list-style-type: none"> <li>1. Bob Buchanan</li> <li>2. Lorraine Buchanan</li> </ol>

4.6.15 West Central Saint Andrew Trust

4.6.16 West Central Saint Andrew Trust was incorporated on December 20, 2000, and detailed as its core business activity, “Charitable Services”. The Company held as its address, “Olympic Way, Kingston 11” and its Directors and Secretary the following:

**Table No. 31**

Directors	<ol style="list-style-type: none"> <li>1. Kedesha Campbell</li> <li>2. Mark Azan</li> <li>3. Delroy Williams</li> <li>4. Kent Gammon</li> <li>5. Andrew Holness</li> <li>6. Glendon Salmon</li> </ol>
Ceased Director	<ol style="list-style-type: none"> <li>1. Robert Garvin – Ceased Date –November 1, 2016</li> </ol>
Secretary	<ol style="list-style-type: none"> <li>1. Kedesha Campbell</li> </ol>

4.6.17 Omega Bridge Finance Limited

4.6.18 Omega Bridge Finance was incorporated on August 4, 1999, and detailed as its core business activity, "Investments". The Company held as its address, "25 Dominica Drive St. Andrew" and its Directors and Shareholders the following:

**Table No. 32**

Directors	<ol style="list-style-type: none"> <li>1. Robert Garvin</li> <li>2. Juliet Holness</li> </ol>
Ceased Director	<ol style="list-style-type: none"> <li>1. Andrew Holness- Ceased Date –September 7, 2007</li> </ol>
Shareholders	<ol style="list-style-type: none"> <li>1. Andrew Holness</li> <li>2. Robert Garvin</li> </ol>

4.6.19 Delido Taxi Service Limited

4.6.20 Delido Taxi Service Limited was incorporated on June, 18, 1999, and was struck from the register on January 28, 2011. The entity held as its Directors and Shareholders the following:

**Table No. 33**

Directors	<ol style="list-style-type: none"> <li>1. Robert Garvin</li> <li>2. Juliet Holness</li> <li>3. Uerona Banton</li> </ol>
Shareholders	<ol style="list-style-type: none"> <li>3. Juliet Holness</li> <li>4. Robert Garvin</li> </ol>



## **The Extent of the Involvement of the Most Hon. Andrew Holness in the Award of GOJ Contracts to Westcon Construction Limited**

4.6.21 Having regard to allegations concerning certain associations between the Most Hon. Andrew Holness and the Director(s) and Shareholder(s) of Westcon Construction Limited and especially given the fact that several contracts were awarded by the Ministry of Education, during the tenure of the Prime Minister serving in the capacity as Minister of Education, the OCG by way of its statutory Requisition dated June 9, 2016, directed the following Requisition to Dr. Maurice Smith, Permanent Secretary, Ministry of Education:

*“Are you aware of any roles and/ or functions which were executed by the Honourable Andrew Holness, Prime Minister of Jamaica, in his then capacity as Minister of Education, in relation to the process for the award of contracts to the entity ‘Westcon Construction Limited’ during the period 2006 to 2009 and as referenced ... above? In the event that your response is in the affirmative please detail the extent of the role(s) and functions, as known by you as it regards the stated matter.”<sup>27</sup>*

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<sup>27</sup> OCG Requisition dated June 9, 2016, which was sent to Dr. Maurice Smith, Permanent Secretary, Ministry of Education. Question No. 11



4.6.22 By way of a response dated August 5, 2016, which was submitted by Mr. Carey Brown, the OCG was advised as follows:

*"I am not aware of any roles and/or functions which were executed by the Honourable Andrew Holness, Prime Ministers (sic) of Jamaica, in his then capacity as Minister of Education, in relation to the process for the award of contracts to the entity 'Westcon Construction Limited' during the period 2006 to 2009."*<sup>28</sup>

4.6.23 The MOE was also required to respond to the following question:

*"Please indicate whether you are aware of any decision which was taken and/or any directive which was given by the Honourable Andrew Holness, Prime Minister of Jamaica, in his then capacity as Minister of Education, in relation to the process for the award of contracts to the entity 'Westcon Construction Limited' during the period 2006 to 2009 ... If your response to the foregoing is "Yes", please respond to the following:*

*(a) The extent of your knowledge of the circumstances surrounding this decision;*

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<sup>28</sup> Response dated August 5, 2016, which was received from Mr. Carey Brown, Director, Technical Services Unit, MOE. Response 11.



- (b) *The rationale and/or justification for such a decision;*
- (c) *Please provide full particulars of the substance of any discussion(s), negotiation(s), meeting(s), seminar(s), conference(s) and/or any other form of assembly with which you may have been involved and which pertained to the referenced decision;*
- (d) *Please provide a list of the name(s) and title(s) of all the person(s) who was/were a party to and/or involved in, attended and/or affiliated with, such discussion(s), negotiation(s), meeting(s), seminar(s), conference(s) and/or any other form of assembly in regards to the referenced decision; and*
- (e) *The date on which this decision was made.*"<sup>29</sup>

4.6.24 In relation to the above referenced question, the following response was provided by Mr. Carey Brown:

*"To the best of my knowledge, I am not aware of any decision made and/or directive given by the Honourable Andrew Holness, Prime Minister of Jamaica, in his then capacity as Minister of Education, in relation to the process for the award of contracts to Westcon during the period 2006/09..."*<sup>30</sup>

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<sup>29</sup> Requisition OCG Requisition dated June 9, 2016, which was sent to Dr. Maurice Smith, Permanent Secretary, Ministry of Education. Question No. 12

<sup>30</sup> Response dated August 5, 2016, which was received from Mr. Carey Brown, Director, Technical Services Unit, MOE. Response 12.



4.6.25 Having regard to the contracts which were awarded by the NWA, similar questions were posed to Mr. Everton Hunter, Chief Executive Officer, NWA, by way of a statutory Requisition which was dated June 9, 2016, to which the following responses were provided:

*“As the Chief Executive Officer of the NWA, I am not aware of any roles and/ or functions which were executed by the Honourable Andrew Holness, Prime Minister of Jamaica, in relation to the process for the award of contracts to the entity, Westcon Construction Limited, during the period 2006- 2009 ...*

*As the Chief Executive Officer of the NWA, I am not aware any decision that was taken and/or any directive which was given by the Honourable Andrew Holness, Prime Minister of Jamaica, in relation to the process for the award of contracts to the entity, Westcon Construction Limited, during the period 2006- 2009 ...”<sup>31</sup>*

4.6.26 Accordingly, a statutory Requisition dated June 9, 2016, was also dispatched to Dr. Dwayne Vernon, Executive Director, Social Development Commission, requiring responses to similar questions. Dr. Vernon, by way of his response dated June 22, 2016, responded in the following manner:

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<sup>31</sup> Response which was dated July 7, 2016 and which was received from Mr. Everton Hunter, Chief Executive Officer, NWA. Response Nos. 11 and 12.



*"I am not aware of any role and/or functions which were executed by the Honourable Andrew Holness, Prime Minister of Jamaica, in relation to the process for the award of contracts to the entity Westcon Construction Limited during the period 2006- 2009.*

...

*I am not aware of any decision which was taken and/or any directive which was given by the Honourable Andrew Holness, Prime Minister of Jamaica, in relation to the process for the award of contracts to the entity Westcon Construction Limited during the period 2006-2009."*<sup>32</sup>

4.6.27 Notwithstanding the aforementioned responses which were provided by Dr. Vernon in his previous responses and supporting documentation indicating the involvement of the Most Hon. Andrew Holness, Prime Minister of Jamaica and then Minister of Education. The following is of significant importance and is being reiterated:

*"My desk research into the matter has revealed that the Social Development Commission was chosen as the implementing agency for approved projects by the SESP and CDF units respectively;*

- **S.E.S.P contract for Cleaning, Bushing and Trimming of**

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<sup>32</sup> Response which was dated June 22, 2016 and which was received from Dr. Dwayne Vernon, Executive Director, SDC, Response Nos. 11 and 12.



Constituency approved by the SESP Unit – funding received by the SDC was \$1,491,706.00. A letter dated December 20, 2007 to Mr. Daniel Wilson – Acting Executive Director from Member of Parliament Mr. Andrew Holness, introduced Westcon Construction Limited as the payee for the “Christmas Work Programme 2007” ...

- Consultancy contract approved by the CDF Management Unit – Contract value \$3,000,000.00. A letter dated September 23, 2009 to Mr. Daniel Wilson – Acting Executive Director from Member of Parliament Mr. Andrew Holness confirmed that effective June 1, 2008; “Mr. Robert Gavin is employed as project manager under the Constituency Development Fund in West Central St. Andrew”. Subsequent invoices for payment from Mr. Gavin came under the name Westcon Construction Limited ...”<sup>33</sup>( DI Emphasis)

4.6.28 It is also being reiterated that Dr. Vernon advanced in his response that there was “... no evidence of the SDC utilizing formal tender procedures for the procurement for the works and services executed by Westcon Construction Limited. Evidence shows that Westcon Construction was introduced to the SDC by way of letter from the MP.”<sup>34</sup>(DI Emphasis)

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<sup>33</sup> Response which was received from Dr. Dwayne Vernon, Executive Director, Social Development Commission, on June 22, 2016. Response No.1

<sup>34</sup> Ibid Response No.3



4.6.29 It is instructive to note that the OCG, by way of a statutory Requisition which was dated May 17, 2017, sought to ascertain whether the Most Hon. Andrew Holness (a) had knowledge of the circumstances surrounding the award of contract to Westcon Construction by the Ministry of Education, (b) played any role or executed any functions in respect of the award of contracts to Westcon Construction and (c) made any decisions or gave any directives in relation to the process for the award of contracts to the referenced entity.

4.6.30 By way of his response which was dated August 30, 2017, the following representations were provided:

“... ”

**I am not aware of the circumstances surrounding the award of GOJ contracts to the entity ‘Westcon Construction Limited’, by the Ministry of Education, Youth and Information (MOEYI) during the period 2007 to 2009.**

...”<sup>35</sup>

**“As the then Minister of Education, I performed no role in the award of the contracts listed ...to Westcon Construction Limited...”**<sup>36</sup>

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<sup>35</sup> Response which was dated August 30, 2017, which was received from The Most Hon. Andrew Holness Response No. 1.

<sup>36</sup> Ibid Response No.2

“ ...

**There were no decisions and/or directives given by me in relation to the process for the award of contracts to the entity 'Westcon Construction Limited' during the period 2007 to 2009...**<sup>37</sup> (DI Emphasis)

4.6.31 However, it must be noted that in respect of the Most Hon. Prime Minister's response concerning his involvement in the award of contracts by the SDC to Westcon Construction Limited, the following, *inter alia*, was stated:

**"2007- Christmas Work Programme (Cleaning, bushing and beautification):**

***I was first elected Member of Parliament (MP) for West Central St. Andrew in December 1997. It was customary, even before then, for MPs to undertake the cleaning, 'de-bushing' and beautification of roadways, verges, sidewalk, medians, drains, culverts and gullies just before the Christmas Season. While these public works opportunely generate employment coinciding with the Christmas Season (hence Christmas Work), they are part of a logical cycle of civil infrastructure maintenance to: protect, mitigate and recover from cyclical weather events; such as Hurricane Season, or rainy season. These***

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<sup>37</sup> Ibid Response No. 3



*works are carried out primarily by the National Works Agency (NWA), the Municipal Authorities, and the National Solid Waste Management Authority (NSWMA). The Social Development Commission (SDC), though not a civil works agency, also undertook employment generation projects on behalf of MPs where the focus was on debushing, cleaning and beautification of civil infrastructure at a community level.*

*In our system of representation, great pressure is brought to bear on the political representative to address the infrastructure, social, economic and employment needs in their constituencies. This has evolved the role of the MP from being primarily a legislator/policymaker and an interface between constituents and the bureaucracy of the state. MPs are expected to perform integral development roles in their constituencies, whether it is developing welfare programmes, housing programmes, sporting programmes, overseeing civil works, or employment generation programmes. While MPs do not have the authority and cannot themselves spend public funds, execute public works or issue public contracts; it is customary and considered to be part of their responsibility for MPs to initiate projects, identify beneficiaries and direct benefits, and generally support the executing agencies in the implementation of*



**projects. Constituents expect that their MPs should be able to recommend to the executing agencies how various work programmes are realized within constituencies.**

**Over the years, in response to the demand from constituents, the political consensus has emerged that the elected representative should have greater ability to respond and direct resources to areas of demand in their constituency. The resources allocated to constituencies and directed by the MPs have increased in value, moving from the Local Development Programme (LDP) programme allocating JA \$150,000 per annum in the 1990s, to the Social and Economic Support Programme (SESP) which allocated up to \$2.5m per constituency yearly, during the 2000s until its end in 2008 when the current Constituency Development Programme (CDF) was introduced which allocated up to \$20m per constituency.**

**As stated above MPs have no authority per se to spend public funds, execute public works, or issue public contracts. To utilize the funds allocated to their constituency, MPs are required to develop and document a project, including identifying beneficiaries and engaging a suitable executing agency to receive**



*the funds and implement the projects. For employment generation projects conducted under the Social and Economic Support Programme (SESP) (which ended in 2007), MPs were required to submit to the implementing agency a list of areas where works will be undertaken accompanied by a list of persons to be employed to undertake the works. The implementing agency, is tasked with ensuring that Government's accountability procedures with respect to public funds are followed. They select the contractors, verify that work is done and prepare payments for the identified beneficiaries or workers. This, at times, may involve the preparation of hundreds of cheques and significant field work for verification. Given the time sensitive nature of the Christmas Work Programme; implementing agencies in order to make payments before the close of business for Christmas holidays, would often times require MPs to submit their projects with enough lead time, sometimes up to 4 weeks. The Social Development Commission was engaged as the implementing agency for employment generating programmes (Christmas Work) in 2007.*

*For West Central St. Andrew, the Christmas Work Programme would normally be distributed by Parish Council Division and then further broken down on a road by road basis and overseen by a supervisor for each*



*road. The work involves de-bushing, cleaning and beautifying each selected road for the Christmas season. The typical work programme for West Central St. Andrew would have an average of 130 roads, 150 Supervisors, and over 3,500 workers. Prior to commencement of the Christmas Work Programme, each project supervisor would be given a form on which each worker is required to fill out name, address, TRN or ID number and telephone number to clearly establish the identity of the worker. After the work is completed, workers and the supervisors then affix their signature and this process was done and the list submitted to the SDC for their verification and record. My recollection was that this process was done and the list submitted to the SDC. However, I also recall that the Christmas Work programme that year was late in starting due to a combination of issues, including the change of government two months before. The late start would have made it impossible to prepare all the payments for all the supervisors/workers employed on the 2007 West Central St. Andrew Christmas Work programme before the close of business. Failure to make payment in time for the holidays would have created a disaster for the Member of Parliament and great disappointment for thousands of people who depend on these funds. After consulting with the implementing agency, I was advised*



**that a practical solution would be to nominate a registered and compliant contractor who could undertake the entire 2007 Christmas Work Programme and see to the payment of the workers.**

**It is against this background, 5 days before Christmas Day and two days before the close of business for the season; that by way of letter dated December 20, 2007, I indicated to the SDC that Westcon Construction Limited undertake overall responsibility for the Christmas Work Programme 2007, instead of the initial process which was previously submitted.**

**2009- Constituency Liaison Officer:**

**The CDF was established in 2008 as a means of enabling Members of Parliament (MPs) to undertake greater social and economic interventions in their constituency. MPs were advised that they could dedicate a portion of the CDF for the management and coordination of projects. This would involve the hiring of a constituency Liaison Officer. My recollection is that MPs were advised by the CDF office to recommend whom they wished to be the Liaison Officer / Project Manager, and a contract of employment would be prepared for them. They were further advised that the person selected could either opt for a contract of employment or a contract of service. I**



**recommended Mr. Robert Garvin, who worked for me in various capacities, but essentially played the role of project manager/liason officer since 1997, long before this was a formally recognised position. The contracting process would have taken place between Mr. Garvin and the CDF/ SDC as it relates to the modality of payment. Mr. Garvin may have chosen to opt for a contract of service, using his company Westcon Construction as the vehicle of engagement. The amount dedicated for constituency management/ Liaison Officer was set at JA\$1.5m per year. The CDF started officially in 2008, however it was not fully funded and operationalized until 2009. By letter of September 23, 2009, I confirmed to the CDF that Mr. Garvin is the person I wished to be employed as Liaison Officer / Project Officer effective June 1, 2008. The contract value listed below would therefore cover two years September 2008, September 2009, and a quarter June to September 2008.**<sup>38</sup> (DI Emphasis)

4.6.32 The Most Hon. Andrew Holness also outlined the specific role which was played by him in the award of the two (2) contracts which were awarded by the SDC over the subject period as follows:

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<sup>38</sup> Response which was dated August 30, 2017, which was received from the Most Hon. Andrew Holness Response No. 4.



***“In relation to the 2007 contract, my role was to indicate to the implementing agency my recommendation for an entity/ person to faithfully execute the work programme and see to the payment of workers before the Christmas holidays.***

***In relation to the 2009 contract, my role was to also make recommendation for someone in whom I had confidence to perform the role of constituency project manager/liaison officer in the administration of constituency affairs, particularly those projects funded by the CDF.”<sup>39</sup>***

4.6.33 In relation to whether any directives were given by the Most Hon. Andrew Holness, as it regards the process for the award of contracts to the entity Westcon Construction Limited by the SDC during the mentioned period, the Prime Minister stated as follows:

***“I made recommendations in this regard. I gave no directives. MPs can only recommend. Ultimately it is the implementing agency that decides how projects are executed relative to the recommendations identified by the MPs and the GOJ procedures to which they must***

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<sup>39</sup> Ibid, Response No. 5.

***comply. Accordingly, I made no decisions regarding the award of any of the referenced contracts.”<sup>40</sup>***

4.6.34 It is instructive to note that the OCG required that the Most Hon. Andrew Holness respond directly to the allegation which was made by Dr. Dwayne Vernon, Executive Director, SDC, that there is no evidence of the SDC utilizing formal tender procedures for the procurement of works and services executed by Westcon Construction Limited and that evidence indicates that Westcon was introduced to the SDC by way of a letter from the Member of Parliament, “Mr. Andrew Holness”. In this regard, the Most Hon. Andrew Holness stated, *inter alia*, the following:

**“I made a recommendation in this regard. As MP, I am not in a position to speak to the procurement process that was adopted by the SDC. MPs cannot select contractors, neither can we enter into contractual arrangements on behalf of the Government. The implementing agency ultimately selects and engages contractors.”<sup>41</sup>** (D I Emphasis)

4.6.35 The Most Hon. Andrew Holness also furnished the OCG with a copy of letters dated September 23, 2009 and December 20, 2007, which were both signed and addressed by him to Mr. Daniel Wilson, Director of

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<sup>40</sup> Response which was dated August 30, 2017, which was received from the Most Hon. Andrew Holness Response No. 6.

<sup>41</sup> Response which was dated August 30, 2017, which was received from the Most Hon. Andrew Holness Response No. 7.



Finance and then acting Executive Director, SDC, for payment to be made to Mr. Robert Garvin and to Westcon Construction Limited in the amount of \$1,450,000.00 in separate instances.

### Unethical Conduct

4.6.36 In furtherance of the allegations which were levied against the Most Hon. Andrew Holness as it regards his affiliation and/or association with the entity Westcon Construction Limited, the following legal concepts are being outlined:

4.6.37 Cronyism is defined as “...*the practice of giving jobs and other advantages to friends, especially in politics.*”<sup>42</sup> It has also defined as “*the appointment of friends and associates to positions of authority, without proper regard to their qualifications.*”<sup>43</sup>

4.6.38 Favouritism is defined as a “*preference or selection, usu. invidious, based on factors other than merit.*”<sup>44</sup>

### ‘Ethical Principles Governing the Conduct of Members of Government’

4.6.39 MINISTRY PAPER No. 19/ 2002 entitled “CONDUCT OF MINISTERS”, establishes several principles by which “...*all Members of the*

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<sup>42</sup> Macmillan Dictionary, accessed on June 18, 2020. Accessed at: <http://www.macmillandictionary.com/dictionary/british/cronyism>

<sup>43</sup> Oxford Dictionaries, accessed on June 3, 2020. Accessed at: <https://www.lexico.com/definition/cronyism>

<sup>44</sup> Black’s Law Dictionary. 9th Edition. 2006. Pg. 683.



Government are expected to adhere” and which should “govern the activities of Members of the Government in their day-to-day business.”

These principles include:

**“Selflessness:** Holders of public Office should take decisions solely in terms of the public interest. **It is an offence to do so in order to gain financial or other material benefits for themselves, their families and friends.**

**Integrity:** Holders of public office not place themselves under a financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties.

**Objectivity:** **In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office, should make choices on merit.**

...

**Honesty:** **Holder of public office have a duty to declare any private interests relating to their public duties and take steps to resolve any conflicts arising in a way that protects the public interest.**

...



## **MINISTERS OF GOVERNMENT**

1. *Ministers of Government are expected to behave according to the highest standards of constitutional and personal conduct in the performance of their duties. In particular, they must observe the following principles of Ministerial conduct:*

...

vi. **Ministers must ensure that no conflict arises, or appears to arise, between their public duties and their private interests;**

...

*Ministers must also, of course, adhere at all times to the requirements of Parliament and protect the integrity of public life;"<sup>45</sup>*

4.6.40 Sub-Section S-1040 III of the then applicable GoJ Handbook of Public Sector Procurement Procedures (November, 2008) detail the requirements in respect of issues of conflict of interest and unethical conduct. Sub-Section S-1040 III states as follows:

**"All personnel involved in handling a procurement process are expected to observe the GOJ Code of Conduct for Civil Servants outlined in the Staff Orders and are to be free of interests or relationships that are**

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<sup>45</sup> MINISTRY PAPER No. 19/2002, CONDUCT OF MINISTERS. Pages 1, 2 and 4



**actually or potentially detrimental to the best interests of the GOJ, and shall not engage or participate in any transaction involving a company, its affiliates, divisions or subsidiaries, in which they have even minor interests.”**

(DI Emphasis)

4.6.41 The Guidelines further states that: —

*“Any GOJ personnel involved in a procurement process that has assumed, or is about to assume a financial or other outside business relationship that might involve a conflict of interest, must immediately inform their supervisors in writing of the circumstances involved. This information is to be reviewed at an appropriate level for a decision whether a conflict of interest is present, and if so, what course of action will be taken.*

**A conflict of interest exists when a GOJ personnel involved in a procurement process:**

...

**Has a direct or indirect interest in or relationship with an outsider that is inherently unethical or that might be implied or construed to be, or make possible personal gain due to the personnel’s ability to influence dealings, render the personnel partial toward the outsider for**



**personal reasons or otherwise inhibit the partiality of the personnel's judgement.** (DI Emphasis)

4.6.42 Importantly, Sections 36 and 40 of the Public Sector Procurement Regulations, 2008, stipulates the following as it regard the declaration of conflicts of interest:

*"It is the duty of any public officer directly or indirectly involved with the procurement process and particularly in the preparation of bidding documents, evaluation, contract negotiations, and contract management and payments to –*

- (a) declare to the head of his entity of chairman of the entity's procurement committee any potential conflict of interest in relation to a proposed Government contract;*
- (b) declare to the head or chairman, any relationship with a bidder, supplier, contractor or consultant and refrain from taking part in either the decision-making process or the implementation of any prospective Government contract where such a relationship exists."<sup>46</sup>*

*"A person who –*

- (a) contravened these Regulations; or*
- (b) aids, abets or otherwise knowingly facilitates or is an accessory to the contravention of these Regulations, commit an offence and is liable, on summary conviction in a Resident Magistrate's Court, to a fine*

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<sup>46</sup> Section 36, Public Sector Procurement Regulations, 2008.



*not exceeding three months or to both such fine and imprisonment”<sup>47</sup>*

4.6.43 It is necessary to state here that when the Most Hon. Andrew Holness was asked by the DI, whether he had made a disclosure regarding his relationship with Robert Garvin and/or Westcon Construction Limited, he responded:

**“No. I do not think there needed to be any disclosure. It would have been known by the SDC office, that Mr. Garvin worked in my constituency as a project officer and organiser and would have worked with the SDC on projects for my constituency”**

This representation by the Most Hon. Andrew Holness was confirmed by Dr Dwayne Vernon, Executive Director, SDC. He indicated in his statement to the DI, that:

**“There were absolutely no disclosures made to me by Mr. Andrew Holness, then Member of Parliament, in relation to contracts awarded to Westcon Construction Limited.”**

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<sup>47</sup> Section 40, Public Sector Procurement Regulations, 2008.

## Chapter 4 – Conclusions

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5.1 This chapter outlines the conclusions determined by the Director of Investigation (DI).

5.1.1 The DI concludes that the then accounting and accountable officers of the then Ministry of Education Youth and Information (MOEYI) breached Sections 29(a) and (b)(ii) of the Contractor General Act as a result of their failure to submit the requisite QCA Reports to the OCG, advising of the award of the following five (5) contracts to Westcon Construction Limited during the subject period:

**Table No. 33**

No.	Contract Award Date	Contract Description	Contract Value	Principal Site/Location of Works
1	2009-09-08	Re-Sheeting of Roof, Electrical Installation and Painting	\$1,609,250.00	Prickly Pole All Age - St. Ann
2	2008-07-09	Hurricane Dean Repairs	\$2,574,800.00	Madras All Age - St. Ann
3	2007-12-11	Hurricane Dean Rehabilitation Repairs	\$2,509,450.00	Falmouth All Age - Trelawny
4	2007-12-11	Hurricane Dean Rehabilitation Repairs	\$2,550,507.00	Exchange All Age - St. Ann
5	2007-02-14	Re-Roofing, Water Tank and General Repairs	\$1,635,345.00	Derry Primary - St. Mary

5.1.2 The DI concludes that the then accounting and accountable officers of the National Works Agency (NWA) breached Sections 29(a) and (b)(ii) of the Contractor General Act as a result of their failure to submit the



requisite QCA Reports to the OCG, advising of the award of the following twenty (20) contracts to Westcon Construction Limited during the subject period and which fell within the contract value threshold for reporting:

**Table No. 34**

Items	Contract Award Date	Name of Contractor	Contract Description	Contract Value (J\$)	Principal Site
1	01-Nov-06	Westcon Construction Ltd.	Clean and repair drainage channels	943,500.00	Spot Valley Drains, St James
2	27-Nov-06	Westcon Construction Ltd.	Bushing of Roadway	875,000.00	Barnett-Adelphi, Adelphi-Hampden, Canaan-
3	02-Dec-06 <sup>48</sup>	Westcon Construction Ltd.	Bushing of Roadway	300,000.00	Hurlock (Over River) Hampton and Springmount
4	15-Nov-07	Westcon Construction Ltd.	Cleaning of drain	1,150,000.00	Adelphi-Hampden, Adelphi-Kent, Sign-Virgin Valley, Amity Hall- Sunderalnd,
5	19-Nov-07	Westcon Construction Ltd.	Temporary Restoration of Roadway	499,850.00	Canaan-Dumfries, St James
6	23-Nov-07	Westcon Construction Ltd.	Bushing of Roadway	903,000.00	Barnett-Adelphi, Adelphi-Kent, Fairfield-Point, Road, Camrose Road and Barrett Town, St. James
7	26-Nov-07	Westcon Construction Ltd.	Temporary Restoration of Roadway	449,995.00	Guilbro-Kensington
8	29-Nov-07	Westcon Construction Ltd.	Bushing of Roadway	2,262,500.00	Paisley-Palmyra, Sign-Virgin Valley, Barnett-Adelphi, Johns Hall- Stapleton, Mount Industry Barrett Town Road,
9	2-Jun-08	Westcon Construction	To Clean Critical Drains	\$450,400.00	Barnett-Adelphi (Chelsea Gully), St James

<sup>48</sup> Contract Agreement indicates a contract date of



Items	Contract Award Date	Name of Contractor	Contract Description	Contract Value (JA\$)	Principal Site
10	10-Jun-08	Westcon Construction Ltd	To clean critical drains	\$350,000.00	Barnett-Adelphi (Paisley Gully), St James
11	17-Aug-08 <sup>49</sup>	Westcon Construction Ltd.	To clean critical drains	850,000.00	Barnett-Adelphi-Chelsea Gully and Moore park drain, St James
12	16-Sep-08	Westcon Construction Ltd	RMF Bushing and drain cleaning	\$262,500.00	Johns Hall-Stapleton, St. James
13	14-Oct-08	Westcon Construction Company Limited	Retaining Wall & Gully Invert	\$11,993,123.32	Bay Farm - Calaidium Crescent, St. Andrew
14	17-Nov-08	Westcon Construction	Emergency Works Tropical Wave Nov 14-21	\$850,000.00	Barnett-Adelphi, Chelsea Gully, and Moore Park drains, St. James
15	8-Dec-08	Westcon Construction	Special Routine Maintenance Programme 2008	\$905,000.00	Canaan -Dumfries, Banana Spring Road, Pillars - Montego Bay (Long Bay), St. James
16	19-Dec-08	Westcon Construction	RMF US\$2M&3M Patching Programme	\$1,425,000.00	Cornwall Courts-Green Pond Road, St. James
17	29-Dec-08 <sup>50</sup>	Westcon Construction	Bushing and Drain Cleaning	\$999,000.00	Bay Farm Gully, St. Andrew
18	14-Jan-09	Westcon Construction Company Ltd.	To construct RR Wall, concrete v drain, catch basins and patching of potholes etc.	\$2,182,700.00	Adelphi - Kent, St. James
19	25-Mar-09	Westcon Construction Ltd.	Patching of potholes and other rutted areas	375,000.00	Cornwall Court-Green Pond

<sup>49</sup> Contract Agreement indicates a contract date of November 17, 2008 and appears to be a duplicate.

<sup>50</sup> The Contract Agreement between the NWA and Westcon Construction indicates a contract date of January 23, 2009.



Items	Contract Award Date	Name of Contractor	Contract Description	Contract Value (JA\$)	Principal Site
20	04-May-09	Westcon Construction Ltd.	Bushing and Drainage works	675,000.00	Guilsbro-Kensington
<b>Total value of contracts</b>				<b>28,701,568.32</b>	

5.1.3 The DI concludes that the NWA failed to prepare and/or preserve documentation for thirty four (34) contracts which were awarded to Westcon Construction Limited during the subject period. This failure, on the part of the NWA, amounts to a breach of Section 2.10.1 and Sub-section 2150 of the then applicable GOJ Handbooks of Public Sector Procurement Procedures, (May 2001 and November 2008) which stipulates the mandatory minimum period of ten (10) for the retention of public procurement records.

This has had the effect of impairing the OCG's efforts in determining (a) whether all the contracts were awarded transparently and on merit, and (b) the basis upon which certain contractors were selected to undertake a multiplicity of works and (c) whether value for money was obtained by the GOJ.

5.1.4 Having regard to the foregoing, the DI has reasonable grounds to conclude that the NWA displayed scant regard for established standards of accountability and transparency stipulated by the GOJ Handbooks of Public Sector Procurement Procedures.



5.1.5 The DI concludes that the failure of the NWA to retain and furnish the procurement records relevant to the subject award of contracts is probative of its contempt for transparency and accountability and brings into question the Agency's commitment to principles of good governance and prudent financial management.

5.1.6 The DI concludes that a discrepancy exists between (a) the representations made by the SDC in its QCA Reports that the Sole Source procurement methodology was utilised in the award of contracts to Westcon Construction Limited and (b) the disclosure by Dr. Dwayne Vernon on June 22, 2016, that *"no formal procurement procedures were utilised"* in the same contract awards.

5.1.7 Having regard to the dichotomy which subsists, given the absence of documentation to the contrary and the sworn testimony of Dr. Dwayne Vernon, the DI accepts the testimony that *"no formal procurement procedures were utilised"* and therefore concludes that the SDC breached Section 29 of the then applicable Contractor General Act, by its representation in its QCA Reports concerning the procurement methodology utilized in the award of contracts to the referenced contractor.

5.1.8 The Director of Investigation has found evidence which provides grounds for forming the view that the SDC acted upon the instructions which were conveyed by the Most Hon. Andrew Holness, by way of letters dated December 20, 2007 and September 23, 2009, and made



payments to Westcon Construction Limited in the amounts of \$375,000.00 and \$1,450,000.00, without the utilisation of the mandatory formal GOJ procurement procedures. The payments were made by the SDC in respect of works which were stated to have been executed in the constituency of West Central, St. Andrew.

- 5.1.9 The foregoing actions of the SDC *prima facie* amount to a breach of Section 1.2 of the then applicable GOJ Handbook of Public Sector Procurement Guidelines (May 2001), which stipulates the applicability of the procedures to all procurements executed by all public bodies, with the exception of certain specified types of procurement such as those relating to national security.
- 5.1.10 The Director of Investigation on the evidence finds that the Most Hon. Andrew Holness has a personal affiliation with Mr. Robert Garvin, one of the Directors of the entity Westcon Construction Limited. By his own admission, the Most Hon. Prime Minister disclosed that Mr. Garvin was personally known to him for approximately 20 years.
- 5.1.11 Notwithstanding the fact that, the SDC was the implementing agency entrusted with the authority to effect the administration of GOJ contracts and thereby enforce the stipulated formal procurement procedures, the Director of Investigation concludes that the Most Hon. Andrew Holness, by his admitted recommendation of Westcon Construction Limited, may have influenced the award of the contracts to the mentioned contractor.



5.1.12 The issue is further compounded by the nature of the relationship between Mr. Robert Garvin, Director, Westcon Construction Limited and the Most Hon. Andrew Holness. In this regard, the Director of Investigation has reasonable grounds to believe that the apparent influence of the Most Hon. Andrew Holness, which was brought to bear upon the contracts which were awarded by the SDC to Westcon Construction Limited, *prima facie*, gave rise to a conflict of interest, on the part of the Most Hon. Andrew Holness.



## Chapter 5 – Recommendations

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

### 6.1.1 **Recommendations to the Director of Corruption Prosecutions**

6.1.2 Having regard to the provisions of Section 29 of the then applicable Contractor General Act and the MOEYI's failure to report to the OCG, five (5) contracts which were awarded to Westcon Construction Limited and which have been mentioned herein. The Director of Investigation refers a copy of this Investigation Report to the Director of Corruption Prosecution for such actions as the Director may deem to be appropriate.

6.1.3 Having regard to the provisions of Section 29 of the then applicable Contractor General Act and the NWA's failure to report to the OCG, twenty (20) contracts which were awarded to Westcon Construction Limited and which have been mentioned herein, the Director of Investigation refers a copy of this Investigation Report to the Director of Corruption Prosecution for such actions as the Director may deem to be appropriate.

6.1.4 In respect of the representations which were made by the SDC in its QCA Reports concerning the procurement methodology which was utilized in the award of contracts to Westcon Construction Limited, the



Director of Investigation refers a copy of this Investigation Report to the Director of Corruption for such actions as the Director may deem to be appropriate, in respect of the then accountable officers of the SDC, insofar as it relates to the provisions of Section 29 of the then applicable Contractor General Act.

6.1.5 The matter concerning the potential conflict of interest which arose in relation to the recommendation which was made by the Most Hon. Andrew Holness is being referred to the Director of Corruption Prosecution for consideration with respect to breaches of the Contractor General Act, the Public Sector Procurement Regulations 2008, the Corruption (Prevention) Act and/or any other applicable law.

6.1.6 **Recommendations to the Speaker of the House of Representatives**

6.1.7 In the aforementioned regard, and insofar as it relates to the provisions of Section 54(3)(a)(ii) of the Integrity Commission Act a copy of this report is also being referred to the Honourable Speaker of the House of Representatives, for such further action, as the Honourable Speaker deems appropriate.



### 6.1.8 **Anti-corruption Recommendations and Initiatives**

6.1.9 The DI recommends that the NWA implements an effective and efficient record keeping and/or filing system which will aid in maintaining proper documentation in accordance with the provisions of the applicable GOJ procurement procedures. This would further facilitate greater levels of transparency and accountability in the administration and management of entrusted public funds.

6.1.10 It is recommended that the Accounting and Accountable Officers of the Social Development Commission (SDC) pay keen attention to, and ensure compliance with the provisions of the applicable GOJ procurement procedures, as well as the provisions which are stipulated in the Procurement Policy guidelines, the FAA Act, Regulations and Instructions, in the implementation of contracts for which it serves as an Implementing Agency.

This recommendation is being proffered in an effort to ensure that the award and implementation of government contracts are awarded impartially and on merit and that the circumstances in which each contract is awarded does not involve any level of impropriety or irregularity. Further, that government contracts which are implemented by the SDC achieve the desired public procurement objectives of fairness, integrity and public confidence while maximizing economy and efficiency and fostering national growth and development.



6.1.11 In an effort to avoid even the slightest perception of political bias, conflict of interest and/or favouritism, the DI recommends that Members of Parliament refrain from making recommendations for the award of contracts to employees, political party affiliates and/or operatives, business associates and personal friends. The DI is of the considered view that where this practice remains unchecked, the stain of corruption, favouritism, and cronyism, whether real or perceived, will taint the integrity of public contracts, projects or programmes which would otherwise be legitimate.

6.1.12 In circumstances where, however, a GOJ Development Project permits the receipt of recommendations from a Member of Parliament and/or Minister of Government for the engagement of contractors, the suitability of the recommended contractors should be, at a minimum, independently vetted by the Procuring/Implementing Public Body.

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Kevon A. Stephenson, J.P  
Director of Investigation  
October 4, 2022