



**Report of Investigation**

**Conducted into the Circumstances Surrounding  
Procurement activities undertaken in the  
Renovation of the Spanish Town High School**

**Integrity Commission  
April 2023**



This Publication until tabled in Parliament shall be confidential.

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

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

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

Section 56 of the Integrity Commission Act states:

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

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

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

(a) other than a person to whom he is authorized under this Act to communicate it; or

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

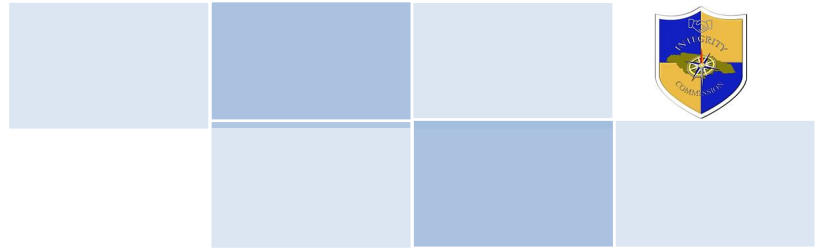
commits an offence and shall be liable on summary conviction in a Parish Court to a fine not exceeding one million dollars or to a term of imprisonment not exceeding one year.

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## Table of Contents

<b>Chapter 1 – Executive Summary</b> .....	4
<b>Chapter 2 – Background</b> .....	5
Jurisdiction .....	5
Methodology .....	5
Allegations .....	6
Individuals pertinent to the Investigation.....	6
<b>Chapter 3 – Terms of Reference</b> .....	8
<b>Chapter 4 - The Investigation</b> .....	10
<b>Chapter 5 –Law/Policies, Evidence and Discussion of Findings</b> .....	12
<b>Particulars of the Construction and Renovation Activities that were Undertaken at the Spanish Town High School</b> .....	12
<b>Allegations Surrounding the Board Chairman Assuming the Role of Contractor in the Renovation and Construction Activities at the Spanish Town High School</b> .....	15
<b>Allegation that Joy Douglas, Maxine Gibson and Patrick Reece are Affiliated and Influenced their Engagement for Services Provided for the Construction and Renovation Activities at the Spanish Town High School</b> .....	22
<b>The Procurement Process Utilized by the Spanish Town High School in relation to the Award of Contract to Maxine Gibson for Construction and Renovation Activities</b> .....	25
<b>Irregularities Observed in the Accounting and Approval Processes Employed in the Renovation and Construction Activities at the Spanish Town High School</b> .....	31
<b><i>Allegations Surrounding Concerns in relation to the Frequency of the Selection of Deans Hardware for the Provision of Materials</i></b> .....	37
<b>Determining Whether Value for Money was Obtained in the Expenditure of Funds for the Construction and Renovation Activities at the Spanish Town High School</b> .....	38
<b>Chapter 6– Conclusion</b> .....	47
<b>Chapter 7– Recommendations</b> .....	51



## Chapter 1 – Executive Summary

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This investigation report concerns allegations of impropriety and irregularity surrounding the expenditure of funds and the procurement of goods, works and services in respect of renovation and construction activities undertaken at the Spanish Town High School in the year 2014.

The investigation commenced on November 27, 2014. During the course of the referenced investigation, breaches of the Government Procurement and Financial Management Guidelines were found. Recommendations towards preventing recurrence of the referenced breaches are herein contained.



## Chapter 2 – Background

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2.1 This chapter outlines the background information concerning the investigation.

### Jurisdiction

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

2.1.2 Further, and pursuant to Section 63 of the Integrity Commission Act, the Director of Investigation (DI) continued the investigation.

### Methodology

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

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



## Allegations

2.1.5 The OCG commenced an Investigation into the subject matter subsequent to receiving a complaint on November 12, 2014.

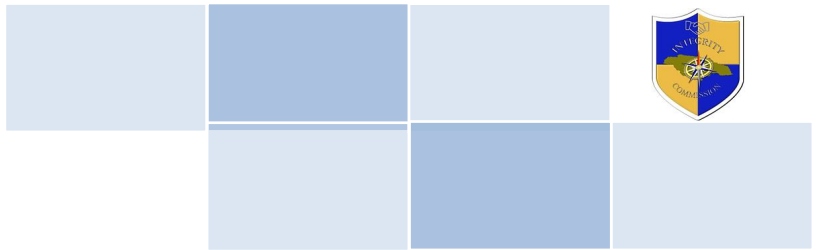
2.1.6 The referenced complaint alleged that the Board Chairperson, Spanish Town High School, had engaged the services of certain contractors and labourers as well as the hireage of equipment, goods and materials without proper records and without the knowledge and involvement of the other Board members.

The complainant further alleged that the project was expected to be completed in January 2015, and that Ms. Maxine Gibson was being paid J\$100,000.00 per month and J\$30,000.00 for travelling. It was further alleged that notwithstanding the excess in funds expended, there appeared to be no value for money.

2.1.7 Allegations were further made that Maxine Gibson and Joy Douglas were “friends” and that Mr. Patrick Reece was an old associate of hers.

## Individuals pertinent to the Investigation

- i) Ms. Joy Douglas, Chairman of the Board, Spanish Town High School;
- ii) Mr. Patrick Reece, Civil/ Structural Engineer;
- iii) Ms. Maxine Gibson, Architect/Fine Artist;



- iv) Mr. Clayton Hall, former Principal; and
- v) Mrs. Deranica Williams, Bursar, Spanish Town High School



## Chapter 3 – Terms of Reference

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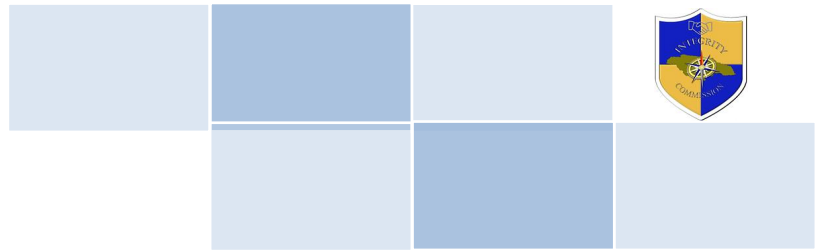
3.0 This chapter sets out the scope of the investigation and the issues that were explored.

3.1 The primary objective of the Investigation into the subject matter was to determine, *inter alia*, whether there was compliance with the provisions of the Government of Jamaica (GOJ) Handbook of Public Sector Procurement Procedures (GPPPH 2014), the Contractor-General Act (hereinafter referred to as the CG Act), the Public Sector Procurement Regulations (hereinafter referred to as the Regulations) and the Financial Administration and Audit Act (FAAA).

More specifically, the investigation sought to determine the following:

1. The veracity of the allegation that Ms. Joy Douglas, then Chairman of the Spanish Town High School Board, acted in the capacity of ‘contractor’ for the works conducted in the renovation of the Spanish Town High School, and whether same gave rise to a conflict of interest and/or impropriety.
2. Whether there were contractual arrangements which were entered into by the Spanish Town High School, for the referenced construction and renovation activities;
3. The procurement process (es), if any, which was/were utilized by the Spanish Town High School and/or any individual acting on its behalf in the





award of contracts in relation to the construction and renovation of the school;

4. Whether the procedures utilized, by the Spanish Town High School and/or any individual acting on its behalf, in the award of contracts for construction and renovation activities, were consistent with the Contractor General Act, and the GOJ Handbook of Public Sector Procurement Procedures (2014);
5. The circumstances surrounding the award of a contract to Ms. Maxine Gibson for the provision of architectural services in relation to the renovation and construction of the Spanish Town High School;
6. The circumstances under which Mr. Patrick Reese was engaged by the Spanish Town High School for the provision of engineering services in relation to the referenced construction and renovation activities; and
7. Whether recommendations ought to be made herein.



## Chapter 4 - The Investigation

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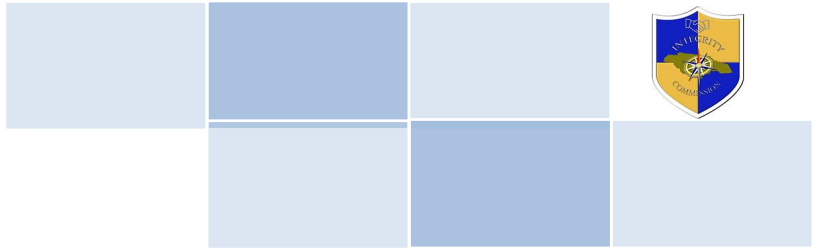
4.1.0 A commencement letter addressed to Mrs. Elaine Foster-Allen, then Permanent Secretary, Ministry of Education, dated November 27, 2014 was dispatched notifying the Permanent Secretary of the commencement of the Investigation.

4.1.1. The following Investigative actions were taken:

- i) Requisition was dispatched to Mrs. Elaine Foster-Allen, Permanent Secretary, Ministry of Education;
- ii) Requisition was dispatched to Mr. Paul Abrahams- Managing Director, Jamaica Urban Transit Company Limited; and
- iii) Requisition was dispatched to The Hon. Ms. Olivia Grange, MP, St. Catherine Central;

Judicial Hearings were held involving the following persons:

- i) Ms. Joy Douglas, Chairman, Board of Spanish Town High School;
- ii) Ms. Maxine Gibson, Architect/ Fine Artist;
- iii) Mr. Clayton Hall, then Principal, Spanish Town High School;
- iv) Mr. Patrick Reece, Civil/ Structural Engineer;
- v) Mrs. Elaine Foster-Allen, Permanent Secretary, Ministry of Education;
- vi) Mrs. Deranica Allen – Williams, Bursar, Spanish Town High School; and
- vii) Mr. Morris Hinds, Regional Building Officer, Ministry of Education, Old Harbour Regional Office.



4.1.2 Responses were received in each instance and the same reviewed, analyzed and documented herein.



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

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

### **Particulars of the Construction and Renovation Activities that were Undertaken at the Spanish Town High School**

5.1.1 During the course of the investigation, a copy of a contract which outlined the terms of an agreement between the Spanish Town High School, and Miss Maxine Gibson was reviewed. The contract is dated August 5, 2014, and was entered into for a period of 6 months at a rate of \$100,000.00 per month, in addition to an agreed \$20,000.00 per month to cover the cost of travelling.

5.1.2 Having regard to the abovementioned contract for the provision of architectural/fine artist services, the DI highlights hereunder the specific details of the scope of works which were to be performed:

*“1. Prepare a Physical Master Plan for the School to include the Old Military Barracks Building*

*2. Scope, measure and develop design briefs for all the architectural works required by the school, to include:*

*a. Restoration of the Old Military Barracks Building;*

*b. Additional perimeter fencing for Old Military Barracks Building compound;*

*c. .;*



- d. *Repair of structural defects that pose safety issue on the main building;*
  - e. *Expand canteen/tuck shop and increase external seating;*
  - f. *Provide additional access point into the quadrangle in addition to the 'tunnel';...*
  - g. *Three (3) staff rooms to be upgraded and made secure;*
  - h. *Rationalization of Administrative area;*
  - i. *Improve facilities for Ancillary staff;*
  - j. *Relocation of the counseling area;*
  - k. *Extension of existing partitions to create separate class rooms and creation of doors that open onto the corridor between the Annex and the Playfield;*
  - l. *Partitioning of the General Purpose Room;*
  - m. *...; and*
  - n. *Building the base for the trailer to be used as the bookroom*
3. *Incorporate Fine art and public art into the architectural solutions*
  4. *Teach techniques and skills in various media to staff and students*
  5. *Train teachers and students to execute the Fine art and public art elements of the work*
  6. *Supervising teachers and students in the execution of the Fine art and public art works to be undertaken*
  7. *Train and supervise teachers and students in the implementation of the hard and soft landscaping required*
  8. *Prepare budgets for the works to be undertaken by the school community for the approval by the Board of Management*
  9. *Prepare RFPs and pre tender estimates for works to be undertaken by external professionals*



10. *Liaise with the Chief Architect, the Education Planning Unit, Project Management and Procurement arms of the Ministry of Education*
11. *Manage the procurement process related to the works to be tendered and make necessary submissions to the Chairman of the Board of Management and the Contract Award and Contract Monitoring Committee of the Board of Management*
12. *Draft contracts for works as required*
13. *Monitor contracts and certifying works”<sup>1</sup>*

5.1.3 The nature of the works to be performed under the contract was the provision of architectural and Fine Artist services, and specifically included the preparation of a physical Master Plan for the school and the management of the procurement process relating to the works to be executed.

5.1.4 The justification for the construction and renovation activities at the Spanish Town High School was outlined in an Inspection Report dated October 17, 2012, which was prepared by the National Education Inspectorate (NEI).

5.1.5 The referenced report stated that “*some parts of the buildings or equipment are unsafe.*” and that “*there are significant deficiencies in premises and/or resources*”. The report also highlighted that “*the present*

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<sup>1</sup> Contract for Services between Spanish Town High School (the Contractor) and Ms. Maxine Gibson (the Consultant) signed on August 5, 2014



*horizontal shift division ... results in most practical areas being overcrowded.”<sup>2</sup>*

5.1.6 With respect to the foregoing issues, a proposal was made by the Board of Directors, to restore “*the Old Military Barracks Building to ensure that the school can be taken off the shift system and long term physical needs can be met*”<sup>3</sup>.

### **Allegations Surrounding the Board Chairman Assuming the Role of Contractor in the Renovation and Construction Activities at the Spanish Town High School.**

5.2.0 Having regard to the allegation that Ms. Joy Douglas, Board Chairman, Spanish Town High School, assumed the role of contractor in the activities for the renovation and construction of the School, the DI highlights that a contractor is defined as **“a provider or prospective provider of goods (under a goods contract), works (a contractor under a works contract) or services (under a services contract).”**<sup>4</sup>

5.2.1 Having regard to the foregoing allegation and definition, the DI sought to ascertain the circumstances surrounding Ms. Joy Douglas being named the ‘contractor’ for the referenced works.

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<sup>2</sup> Spanish Town High School Inspection Report from National Education Inspectorate dated October 17, 2012 pgs. 39,35 and 13

<sup>3</sup> Letter from Ms. Joy Douglas dated May 20, 2014 and addressed to Mrs. Elaine Foster Allen, Permanent Secretary, Ministry of Education

<sup>4</sup> Handbook of Public Sector Procurement Procedures Volume 2 vi



5.2.2 In this regard, Ms. Joy Douglas, stated that she was not the “contracted contractor”, but that she was performing the functions that would normally be performed by the contractor and that she would only be required to be NCC registered “if there was need for tendering because the contractor would have to be competent to undertake a project”. She further stated that her function on the project was not the “...full suite of or the full bundle that would constitute a contractor<sup>5</sup>”.

5.2.3 The DI further examined representations made by Mrs. Elaine Foster- Allen, then Permanent Secretary, in relation to Ms. Douglas' dual role as the School's Board Chairman and the presumed Contractor in this instance. In this regard, Mrs. Foster –Allen stated, *inter alia*, that “It is not the expected practice, but I have noted in this instance she is... Yes, CG, it is unusual for the Board Chairman to be a contractor whether pro bono or paid. It is unusual, it is out of all processes and procedures that I am aware of ...<sup>6</sup>”

5.2.4 The foregoing representations by Ms. Douglas and Mrs. Foster-Allen raised conflict of interest concerns. In that regard, the DI outlines hereunder the definition and circumstances which may give rise to a conflict of interest.

5.2.5 A conflict of interest, as defined by the law dictionary, is a situation in which a person has a duty to more than one person or organization, but cannot do justice to the actual or potentially adverse interests of both parties. Instructively, this includes circumstances where an individual's personal

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<sup>5</sup> Transcript of Hearing convened on December 18, 2014 involving Joy Douglas Pg 184-185

<sup>6</sup> Transcript of Hearing convened on December 18, 2014 involving Mrs. Elaine Foster-Allen, Permanent Secretary Minister of Education Pgs. 48-49





interests or concerns are inconsistent with the best for a customer, or when a public official's personal interests are contrary to his/her loyalty to public business.<sup>7</sup>

5.2.6 Having regard to the above, the DI finds it necessary to examine the circumstances which may give rise to a conflict of Interest as outlined in Section 4.2.9 of the Staff Orders for the Public Service, which provides, *inter alia*, the following:

*"i. A conflict of interest may be deemed to exist under any of the following circumstances:*

- a) Engagement in private activity similar to official functions;*
- b) Using information and/or any material gained from official position for private gain;*
- c) Exploiting the status and privilege of one's position for private gain;*
- d) Soliciting and/or accepting payment and/or any other consideration relating to the performance of or neglect of official duties;*
- e) Conducting private business during work hours and/or on government property;*
- f) Engaging in transactions with relatives or family members, or an organization in which relatives or family members have interest;*
- g) Ownership of investment or shares in any company or undertaking; and*
- h) Acting as auditors or creditors of companies or societies.*

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<sup>7</sup> Accessed at <https://dictionary.law.com/Default.aspx?selected=292>, on September 9, 2021



- ii) *In order to address the potential for conflict of interest, officers should in all instances inform the appropriate authority of any such undertaking, seek clarification and get permission...*

5.2.7 The DI deemed it necessary to highlight here, the provision of Section 4.2 of the GoJ Handbook of Public Sector Procurement Procedures. The referenced procedures outline the recommended actions to be taken by all persons involved in the procurement process and provides, *inter alia*, as follows:

**“4.2 CONFLICT OF INTEREST**

....

*They are expected to be free of interests or relationships that are actually or potentially detrimental to the best interests of the Government, and shall not engage or participate in any transaction involving a company, its affiliates, divisions or subsidiaries, in which they have even minor interests.*

...

***Note: Public Officers shall declare any personal interest that may affect or might reasonably be deemed by others to affect impartiality in any matter relevant to their duties.***

***A conflict of interest exists when GoJ employees involved in the procurement process:***

***(a) Have an outside interest that materially encroaches on time or attention that should be devoted to the affairs of GoJ;***

***(b) Have a direct or indirect interest in, or relationship with an outsider that is inherently unethical, or who it might be implied or construed could***



**make possible personal gain due to his/ her ability to influence dealings or otherwise inhibit the impartiality of the employee's judgment;**

**(c) ...**

**(d) Take personal advantage of an opportunity that properly belongs to GoJ; ..."**

5.2.8 It is also instructive to note the following responsibilities and expectations which are ascribed to Chairperson as outlined in the Corporate Governance Framework:

*"1. Chairing the meetings of the Board, maintaining the orderly conduct of meetings, affording participants a reasonable opportunity to speak and that minutes of meetings accurately record decisions taken;*

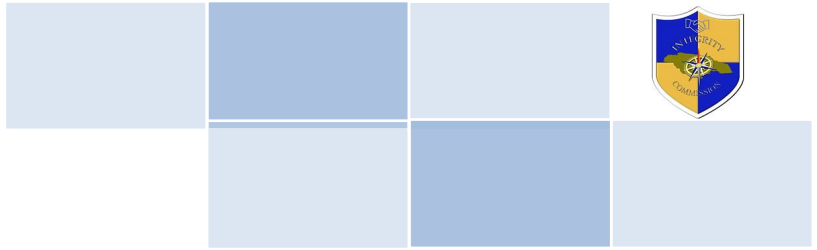
*2. Engaging all Board members and ensuring that they are fully informed of any business issue on which a decision has to be taken;*

*3. Exercising impartial judgement, acting objectively and ensuring all relevant matters are placed on the agenda and prioritized properly; and*

*...*

*Ensuring that a formal process for orientation, sensitisation and ongoing professional development, to improve the competency and level of performance of Board members is effected in keeping with the related guidelines of the Ministry of Finance & [the Public Service] Planning."*

5.2.9 During the course of the investigation, it was found that in addition to her role as the Board Chairperson, Ms. Joy Douglas was also the Chairperson of



the Planning and Building Committee and the Finance Committee at the Spanish Town High School. Having regard to the foregoing, the following representations were made by Ms. Douglas in response to questions posed by the Contractor General:

*"...MR DIRK HARRISON: Is there any conflict being Chairman of the Finance Committee and the Chairman of the Board?"*

*MRS. JOY DOUGLAS: No, the entire Board is the Finance Committee.*

*MR DIRK HARRISON: What is the jurisdiction to do that to have the entire Board being the Finance Committee?"*

*MRS. JOY DOUGLAS: The Board took that decision*

*...*

*MR DIRK HARRISON: Who is the Contractor, ... You. Who is the Chairman of the Finance Committee that is going to authorize the payments? You. Is there anything wrong with that, conflict of ...interest?"*

*...*

*MRS. JOY DOUGLAS: No, I don't see a conflict of interest, because I am not profiting from anything going on.<sup>8</sup>"*

5.2.10 The DI Highlights Section 4.2.1 (b) of the GPPH which states that all persons involved in the procurement process are expected to be free from interests or relationships that are actually or potentially detrimental to the best interests of the Government. It is particularly important to preclude conflict

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<sup>8</sup> Transcript of Hearing convened on December 18, 2014 involving Ms. Joy Douglas pgs. 186 -187  
**INTEGRITY COMMISSION Investigation Into the Allegations Concerning Circumstances Surrounding Procurement Activities Undertaken in the Renovation of the Spanish Town High School**



of interest of anyone involved in the evaluation, selection and contract monitoring processes<sup>9</sup>.

5.2.11 Having regard to Ms. Joy Douglas' involvement in the renovation and construction at the Spanish Town High School and her presumed role as a contractor for the referenced activities, the DI notes, hereunder Section 1.3 of the GoJ Handbook of Public Sector Procurement Procedures which outlines, *inter alia*, the Eligibility and Qualification Requirements for the consideration of a contractor for the award of a government contract:

*“Eligibility requirements are those which by policy, the Bidder must satisfy in order to participate in the procurement process, such as, TRN, NIS Number, NCC registration, Tax Compliance and any other, as determined by the Procuring Entity from time to time.”*<sup>10</sup>

5.2.12 Based on a review of expenditure records in relation to the renovation works which were executed at the Spanish Town High School, it was found that Ms. Douglas was not paid for her services as “contractor”. Furthermore, Ms. Douglas does not satisfy the definition provided in the GPPH as “A provider or prospective provider of goods (under a goods contract), works (a contractor under a works contract) or services (under a services contract).” Consequently, she could not properly be considered a contractor in the present circumstances.

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<sup>9</sup> The Procurement Classroom, Jorge Lynch, <https://www.procurementclassroom.com/conflict-of-interest-in-public-procurement/> accessed on October 26, 2021

<sup>10</sup> GoJ Handbook of Public Sector Procurement Procedures Volume 2 page 10



**Allegation that Joy Douglas, Maxine Gibson and Patrick Reece are Affiliated and Influenced their Engagement for Services Provided for the Construction and Renovation Activities at the Spanish Town High School**

5.2.13 Having regard to the allegations that Maxine Gibson and Joy Douglas were “*friends*” and that Mr. Patrick Reece was an old associate of hers, the OCG deemed it necessary to ascertain the extent of the affiliation, if any, between the mentioned individuals.

5.2.14 During the course of a Judicial Hearing, held on December 18, 2014, involving Ms. Joy Douglas, the Contractor General enquired as to the justification for the selection of Miss Gibson. In her response, Ms. Douglas advised that Miss Gibson was retained, not solely for her architectural services but also for the provision of her Fine Artist services. Ms. Douglas proffered that the Fine Artist component of her services satisfied the requirements for exemption on the basis of being a ‘creative’ under the GoJ Handbook of Public procurement and Procedure.

5.2.15 Having regard to Ms. Douglas’ statements that Ms. Gibson’s services as a Fine Artist would satisfy the referenced requirements for exemption, which are outlined in section 1.2.1, Volume 1 of the GPPPH, the DI outlines hereunder, the relevant portion of the GPPPH:



“This section addresses issues which are outside the scope of coverage of the procedures contained in this Handbook. These issues will be governed by other guidelines or where no guidelines exist, Procuring Entities may refer to industry practice or utilize their own procedures. The following are not subject to the procedures contained in this Handbook:

...

- (c) procurement of works of art; artistic and cultural performances; creative products and services associated with the staging of cultural productions and services in support of, and associated with the staging of cultural events, which shall include but not be limited to: (i) artistic co-ordination, direction and management; (ii) management of artistic works and events; (iii) management of Intellectual Property Rights; (iv) health and medical services; (v) venue rental; (vi) infrastructure and technical effects; (vii) design, technical direction, artistes and performers...”.<sup>11</sup>

5.2.16 The DI notes here, that the services provided by Ms. Gibson concerning the construction and renovation at the Spanish Town High School, are not consistent with those outlined under section 1.2.1 Volume 1 of the GoJ Handbook of Public Sector Procurement Procedures.

5.2.17 Ms. Douglas further went on to advise that *“Miss Gibson is the only professional known to me and I think I know my profession in the field of architect/fine artist, so she falls within a unique subset*

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<sup>11</sup> Government of Jamaica Handbook of Public Procurement Procedures 2014  
INTEGRITY COMMISSION Investigation Into the Allegations Concerning Circumstances Surrounding Procurement Activities Undertaken in the Renovation of the Spanish Town High School



*...I would have been influenced that the fact that Miss Gibson was put forward there was no objection to her being proposed*

*...I feel pretty much, that I pretty much know the members of the profession on that level and I know who is available and who is not and who falls in that subset, it is not [that] large<sup>12</sup>*

5.2.18 In relation to the selection of Mr. Patrick Reece for the provision of engineering services, Ms. Joy Douglas, in a Judicial Hearing convened on January 8, 2015, stated that she *“prefers to get [sign] off on matters ...from persons who I know to be competent which is why I went in search of a colleague who is a Registered Engineer who I know is bound by law to operate in a certain way...<sup>13</sup>”*

5.2.19 Additionally, the CG posed certain questions to Ms. Joy Douglas in relation to the selection of Mr. Reece and Ms. Gibson. In that regard, the OCG found no evidence of personal affiliation among the concerned individuals. Based on a review of representations made herein, the DI finds that Ms. Douglas knew Ms. Gibson and Mr. Reece in a professional capacity.

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<sup>12</sup> Transcript of Hearing convened on January 8, 2015 involving Joy Douglas Pgs 195-202

<sup>13</sup> Transcript of Hearing convened on January 8, 2015 involving Joy Douglas Pg. 94





## **The Procurement Process Utilized by the Spanish Town High School in relation to the Award of Contract to Maxine Gibson for Construction and Renovation Activities**

5.3.0 During the course of the investigation, the OCG sought to determine whether the procurement process utilized by the Spanish Town High School in relation to the award of contract to Maxine Gibson for the provision of architectural/fine artist services for the construction and renovation activities at the Spanish Town High School was irregular and/or improper.

5.3.1 The DI's analysis of the circumstances surrounding the engagement of Ms. Maxine Gibson was informed by the provisions of the Government of Jamaica Handbook of Public Sector Procurement Procedures (GPPPH 2014). Section 1.1.5, Appendix 1 of the referenced handbook outlines the specific conditions under which the Direct Contracting procurement methodology, under emergency circumstances, may be utilized. The relevant portion is as follows:

*“Emergency Contracting is permitted in any of the following circumstances:*

*(a) for the repairs or remedial action necessary to preserve public safety or property; or to avoid great social harm or significant public inconvenience;*

*(b) for the procurement of goods, services or works in any extenuating circumstances in which the Procuring Entity is likely to incur or suffer financial loss if the procurement is not executed immediately;*



*(c) for the procurement of goods, services or works in any circumstance in which the national interest and/ or national security considerations demand that the procurement be undertaken immediately; or*

*(d) for business- sensitive procurement of goods, services or works in any extenuating circumstances in which the operating functions or business objectives of a Procuring Entity are likely to be significantly impeded, or placed in jeopardy if the procurement is not executed in a limited timeframe.<sup>14</sup>*

5.3.2 In relation to the referenced contract, a copy of the Minutes of a meeting of the Board of Directors of the Spanish Town High School, held on August 13, 2014 was reviewed.

5.3.3 The referenced Minutes, indicated that Ms. Joy Douglas, Board Chairperson stated, that the “...building works are being carried out as an emergency project” which allows for “sole sourcing if necessary<sup>15</sup>”. The Minutes further indicated that the works were being carried out under the supervision of professionals, namely, Ms. Maxine Gibson, Architect and Mr. Patrick Reece, Engineer. Thus, removing “...the need for a hired contractor ... saving the school money. The Chairman further indicated that she would be performing the functions of the contractor.”<sup>16</sup>

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<sup>14</sup> GoJ Handbook of Public Sector Procurement Procedures (2014) Volume 2 Section 1.pg. 6-7.

<sup>15</sup> Spanish Town High School Special Board Meeting held on August 13, 2014. pg. 8.

<sup>16</sup> Ibid.



5.3.4 During the course of a Judicial Hearing held on December 18, 2014, involving Mrs. Elaine Foster-Allen, then Permanent Secretary, Ministry of Education, reference was made to a letter dated June 10, 2014, addressed to Mr. Garth Gooden, Director of Procurement, Ministry of Education, from Ms. Joy Douglas. The referenced letter sought permission to utilize the Direct Contracting Procurement Methodology. In this regard the following representations were made:

*“Advice is being sought from Mr. Garth Gooden from the Ministry in respect of the procurement and he assures in all the circumstances should be possible Spanish Town High School to request your authorization for direct contracting due to emergency occasioned by the speed now needed to execute necessary works, (a) re-purposing 12 JUTC buses for use as classrooms and sick bays, in addition repair disused bathrooms on annex buildings.”<sup>17</sup>*

5.3.5 Having regard to the foregoing, Mrs. Elaine Foster Allen, during the course of Judicial Hearing, made the following representations concerning the referenced request:

*“MRS ELAINE FOSTER-ALLEN: She may be using the term emergency work, but, I mean, this is not how we would normally use the term. The work may be critical and important for the things to be done in a particular time, but usually emergency work refers to work that has to*

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<sup>17</sup> Transcript of hearing convened on December 18, 2014, involving Mrs. Elaine Foster – Allen. Pg. 30



*take place when there is something like a hurricane or a disaster, that's how we would normally use it.”<sup>18</sup>*

5.3.6 Ms. Joy Douglas, appeared before the Contractor General on December 18, 2014, and was asked to respond to questions relating to the utilization of the Direct Contracting procurement methodology in the award of contract to Ms. Maxine Gibson, for the provision of Architectural and Fine Artist services.

5.3.7 In the foregoing regard, Ms. Douglas indicated that she was in consultation with the Ministry of Education who advised that the Direct Contracting procurement methodology was the “thing to do”; Ms. Douglas further stated that the advice from the Ministry was ultimately what she relied on.

5.3.8 Ms. Douglas further indicated that Miss Gibson would fall under the exception as a contractor with exclusive proprietary rights in respect of goods services or work, *“because she is an architect/ fine artist. She was being retained not just as architect, but also as fine artist which is the creative...”*<sup>19</sup>

5.3.9 The DI notes that Section 1.1.4 of the GPPH highlights that the Direct Contracting Procurement methodology may be permitted for contracts above the \$500,000.00 threshold and where the *“... particular contractor has exclusive/proprietary rights in respect of goods, services or works;”*

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<sup>18</sup> Ibid 30 - 31

<sup>19</sup> Transcript of Judicial Hearing convened on December 18, 2017, involving Mrs. Joy Douglas Pgs. 190- 196  
**INTEGRITY COMMISSION Investigation Into the Allegations Concerning Circumstances Surrounding Procurement Activities Undertaken in the Renovation of the Spanish Town High School**



5.3.10 Further, Section 1.2.1 indicates that the procurement of “works of art, artistic and... creative products and services” are excluded from the scope of coverage of the procedures contained in the GPPH.

5.3.11 Having regard to the aforementioned provision, Ms. Joy Douglas further outlined her rationale for the engagement of Ms. Gibson as Architect/Fine Artist, for the construction and renovation activities at the Spanish Town High School. Ms. Joy Douglas indicated that Ms. Gibson was retained primarily for creative and technical purposes<sup>20</sup>.

5.3.12 The Contractor General sought to ascertain the justification for the selection of Ms. Gibson. In this regard, Ms. Douglas in her response during the referenced Hearing stated that she knows “members of the profession on that level and I know who is available and who is not and who falls in that subset...”<sup>21</sup>

5.3.13 In relation to the nature of the permission granted by the then Permanent Secretary in the Ministry of Education, to utilize the Direct Contracting procurement methodology, in the award of contract to Ms. Maxine Gibson for the provision of Architectural and Fine Artist services, Ms. Joy Douglas explained that it was her interpretation that the authorization granted by the Ministry of Education was in relation to engagement of Ms. Gibson for the provision of Architect/Fine Artist services<sup>22</sup>.

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<sup>20</sup> Ibid pg. 197

<sup>21</sup> Ibid Pg. 196-201

<sup>22</sup> Transcript of Hearing convened on December 18, 2014, involving Ms. Joy Douglas. Pg. 201-207.



5.3.14 In an attempt to corroborate the assertions made by Ms. Joy Douglas, the OCG sought responses from Mrs. Elaine Foster-Allen in relation to the scope of the contract and the extent of the permission granted.

5.3.15 Mrs. Elaine Foster-Allen expressed that the Ministry of Education had a request for approval from the Chairman of the Board to utilize the Direct Contracting methodology for the procurement of the services of the architect.<sup>23</sup>

5.3.16 As it relates to whether approval was granted for the utilization of the Direct Contracting procurement methodology under emergency circumstances, Mrs. Elaine Foster-Allen during the course of a judicial hearing convened on December 18, 2014, stated, *inter alia*, that “*I have not given any permission for emergency work to be carried out at the school. The works that are being carried out, or some of them, may have become chronic because over time things may have deteriorated, but I am not sure that will be seen as emergency work. It may come under what we call critical repairs...*”<sup>24</sup>

5.3.17 During the course of the investigation the Contractor General reviewed a letter dated July 10, 2014 from Mrs. Elaine Foster-Allen, which indicated that the request to “*utilize the Direct Contracting Methodology for the provision of service for the School’s Physical Development Programme was approved.*”<sup>25</sup>

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<sup>23</sup> Transcript of Hearing convened on December 18, 2014, involving Mrs. Elaine Foster-Allen Pgs. 9

<sup>24</sup> Transcript of Hearing convened on December 18, 2014, involving Mrs. Elaine Foster-Allen Pg. 29

<sup>25</sup> Letter dated July 10, 2014 from Mrs. Elaine Foster –Allen, former Permanent Secretary, Ministry of Education.



5.3.18 Having regard to the concern of whether the works being carried out were emergency work, it was observed in a June 10, 2014, letter which was addressed to Mrs. Elaine Foster – Allen from Mrs. Joy Douglas, that “advice was sought from ...the Ministry in respect of the procurement” and that she was assured that “under the circumstanced it would be possible ...to request ...authorization for direct contracting due to the emergency occasioned by the speed now needed to execute the necessary works.”<sup>26</sup>

**Irregularities Observed in the Accounting and Approval Processes Employed in the Renovation and Construction Activities at the Spanish Town High School.**

5.3.19 As it relates to the allegations involving the general expenditure of the funds allocated for the renovation and construction work at the Spanish Town High School, the DI sought to enquire of the relevant parties, the processes employed concerning the approval of payment and purchases made on behalf of the School.

5.3.20 Further, the transcript of a hearing which involved Mrs. Deranica Allen-Williams was reviewed wherein, Mrs. Williams advised the Contractor General that the school had never undertaken an expenditure of this magnitude, and that the normal day – to –day purchases would involve the acquisition of three quotations and then a decision is made based on

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<sup>26</sup> Letter dated June 10, 2014 from Ms. Joy Douglas, Chairman, Spanish Town High School.



the submission<sup>27</sup>. Mrs. Allen- Williams further advised the CG that she was unaware of any quotations that were received for the engagement of labourers and/or hireage of equipment in relation to the project. Note, Mrs. Williams advised that she was only aware of a quotation for the purchase of a cash register and for “... *the others, they were actually ordered, purchased and then we became aware of them.*”<sup>28</sup>”

5.3.21 Mr. Clayton Hall, Principal, Spanish Town High School and Accountable/Accounting Officer by virtue of Section 2 of the FAA Act, when asked by the CG who was primarily accountable for the payments made in the subject regard advised, *inter alia*, that “*The buck stops with me*”. He further stated that he had full and direct supervision of the Bursar and that the protocol for payment was that the Chairman, as the contractor, would indicate on the invoices the works that had been completed and he would thereafter follow the necessary accounting processes.<sup>29</sup>”

5.3.22 In relation to the source of funds which were utilized for the construction and renovation works, the DI highlights here, the representations of Mr. Clayton Hall, Principal Spanish Town High School, “... funds that the school would have amassed over time. It would have been what we would loosely call cost-sharing, cost-sharing account so it is actually school fees that we have collected from students and also donation from the Ministry of

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<sup>27</sup> Transcript of Hearing convened on January 14, 2014, involving Mrs. Deranica Allen-Williams

<sup>28</sup> Transcript of Hearing convened on January 14, 2015 involving Mrs. Deranica Williams Pg. 8

<sup>29</sup> Transcript of Hearing convened on December 18, 2014, involving Mr. Clayton Hall Pgs. 112- 124





Education, not donations but allotment from the Ministry that dates back from the time when cost-sharing was involved.”<sup>30</sup>

5.3.23 Mr. Hall further indicated that there was a decision to “transfer monies from our capital market account into our cash flow into our checking account for purposes of commencing the work ...”<sup>31</sup>

5.3.24 The DI highlights here **Section 19C subsection (1)** of the Financial Administration and Audit Act (**FAA Act**), which states, *inter alia*, as follows:

**“(1) No payment shall be made from any Consolidated Fund Bank Account or any other official bank account unless the voucher for that payment is certified and the payment is approved and the accountable officer-**

**a) who gives such certification or approval, as the case may be, is properly authorized to do so and acts within the limits of that authority;**

*b) has taken the necessary steps to ensure that the payment may properly be made in respect of goods and services delivered or rendered in conformity with a valid agreement.*

*(2) An accountable officer who approves or certifies any payment in contravention of subsection (1) shall be personally liable for any impropriety to such payment.”*

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<sup>30</sup> Transcript of Hearing convened on December 18, 2014, involving Mr. Clayton Hall Pgs. 116-117

<sup>31</sup> Ibid. Pg. 133



5.3.25 In relation to the approval process implemented, Mr. Hall stated, *inter alia*, that the usual approval process would require requisitions pertaining to the works and an invoice would be generated. It would then be signed by the Chairman acting as the Contractor and sent to the Principal for processing; the Principal would then authorize payment, relying on the signature of the Chairman as proof that the work has been carried out satisfactorily, and this authorization would be forwarded to *the bursary for preparation*<sup>32</sup>.

5.3.26 Additionally, the DI observed several payment vouchers in relation to the construction and renovation at the Spanish Town High School, and that they were all authorized by the Principal.

5.3.27 Further, Mrs. Elaine Foster-Allen, Permanent Secretary, Ministry of Education, advised the OCG that the "*Principal of a school is to assume oversight responsibility in collaboration with the Regional Building Officer who...monitor and recommends payment for works satisfactorily completed*" and that this was a general principle and practice within the education sector<sup>33</sup>.

5.3.28 During the course of the referenced Hearing, the Contractor General sought to determine the roles, and responsibilities of the Principal as the Accounting/Accountable Officer for the Spanish Town High School. In his response, Mr. Hall stated that he was aware of his responsibilities, however not all accounting practices were adhered to during the referenced

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<sup>32</sup> Transcript of Hearing convened on December 18, 2014 involving Mr. Clayton Hall, Principal, Spanish Town High School, Pgs. 157-160

<sup>33</sup> Response dated January 5, 2014 from the Ministry of Education, response #4



project. He further stated that there could have been greater diligence on his part as the Accountable Officer<sup>34</sup>.

5.3.29 The OCG also sought to ascertain the rates which were used to make payments to the labourers who performed works under the subject project. Mr. Hall indicated that the labourers worked on a daily rate which was provided to him by Ms. Joy Douglas. Mr. Hall further indicated that no clarification or advice was sought from the Ministry of Education.<sup>35</sup>

5.3.30 In relation to whether there were any discrepancies in the accounting and procurement practices that were undertaken by the School in respect of the referenced project, Mrs. Allen-Williams stated, *inter alia*, that, “...For one, the Bursar as the Purchasing Officer, was totally left out.”<sup>36</sup>

5.3.31 Further and as it relates to the responsibilities of the Bursar, Ms. Williams stated that as the Purchasing Officer of the school she was not asked to make purchases in relation to the renovation and construction of the Spanish Town High School<sup>37</sup>.

5.3.32 With regard to whether the expenditure for the referenced project was subject to the requisite approval process, Ms. Williams *inter alia* made the following representations:

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<sup>34</sup> Transcript of Hearing convened on December 18, 2014 involving Mr. Clayton Hall, Principal, Spanish Town High School, Pg. 166- 170.

<sup>35</sup> Transcript of Hearing convened on December 18, 2014 involving Mr. Clayton Hall, Principal, Spanish Town High School, Pg. 157-160; 161; 165- 171.

<sup>36</sup> Transcript of Hearing convened on January 14, 2015 involving Mrs. Deranica Williams Pg. 11

<sup>37</sup> *Ibid* Pg. 45



*"...In all instances where this 21.9 Million which was spent was approval granted by the principal?*

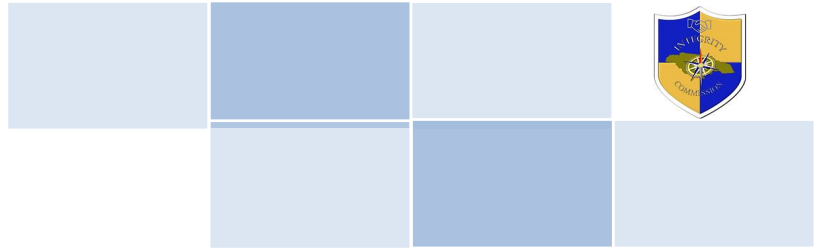
*A: Yes sir. But in most cases it was approved by the Chair and then it comes to me."*

5.3.33 Having regard to the foregoing, a review of the payment vouchers was conducted which revealed that the payments were authorized by the Principal and approved by the Chairman in each instance.

5.3.34 Having regard to the representations made by Mrs. Deranica Allen-Williams, Bursar, Spanish Town High School, specifically as it relates to, not being appropriately included in the processing of payments which were made to labourers as well as other payments in relation to the renovation works, the following provisions of the Financial Administration and Audit Act are noted:

***"16. (2) An accounting officer shall be responsible for the financial administration of the department specified in a designation under subsection (1) and shall be accountable to the Minister for- the assessment and collection of, and accounting for, all moneys lawfully receivable by his department;"***

5.3.35 The DI notes here that the FAA Act by virtue of Section 2 defines the Accounting Officer as *"...any person designated as such by the Minister Pursuant to section 16 and charged with the duty of accounting for expenditure on any service in respect of which moneys have been appropriated under this Act or any other enactment..."* In this regard, the



Principal would therefore be considered the Accounting Officer at the Spanish Town High School.

5.3.36 On December 18, 2014, the Ministry of Education, addressed a Cease and Desist letter to Ms. Joy Douglas, Chairman, Spanish Town High School, for failure to acquire the requisite approvals from the Ministry. The letter further advised that all activities should cease with immediate effect<sup>38</sup>.

**Allegations Surrounding Concerns in relation to the Frequency of the Selection of Deans Hardware for the Provision of Materials**

5.4.0 Concerning the allegations received on January 2, 2015, which outlined the concerns in respect of the change in the hardware store previously utilized as well as the frequency with which Deans Hardware was used to procure building material, the CG sought to ascertain the veracity of the allegation by posing certain questions to Ms. Joy Douglas.

5.4.1 In the foregoing regard, during a Judicial Hearing convened on January 8, 2015, Ms. Joy Douglas advised the Contractor General that she was not involved in the selection of Dean's Hardware and that "*once Miss Gibson or Mr. Reece or both provide a schedule then it is the internal people; Mr. Morrison...Maintenance Supervisor or Miss Malcolm. Those were the two*

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<sup>38</sup> Letter dated December 18, 2014, addressed to Ms. Joy Douglas, from the Ministry of Education.



*playing the most important role*<sup>39</sup> Ms. Joy Douglas also provided the following justification for the frequency of purchases made from Dean's Hardware "Mrs. Dean's I can tell you, that ...hardware was far more responsive so they may have fallen back on them a few occasions because they were open Saturday, Sunday, ..." <sup>40</sup>

5.4.2 A review of the payment vouchers and invoices which were received from the Spanish Town High School indicated that there were at least 39 invoices germane to Dean's Hardware as opposed to 19 invoices concerning four (4) other Hardware stores.

### **Determining Whether Value for Money was Achieved in the Expenditure of Funds for the Construction and Renovation Activities at the Spanish Town High School**

5.5.0 The DI finds it necessary to state here that the concept of value for money is, amongst other things, determined by the extent to which the procurement activity satisfies the need which was identified. In that regard, the National Education Inspectorate Report<sup>41</sup>, which served as the impetus for the referenced works noted in particular that "some parts of the buildings or equipment are unsafe", significant deficiencies in premises and/or resources" and the restoration of "...the Old Military Barracks

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<sup>39</sup> Transcript of Hearing convened on January 8, 2015 involving Mrs. Joy Douglas, Chairman of the Board, Spanish Town High School. Pg 85

<sup>40</sup> Transcript of Hearing convened on January 8, 2015 involving Mrs. Joy Douglas, Chairman of the Board, Spanish Town High School. Pgs 85-86

<sup>41</sup> National Education Inspectorate Report dated October 17, 2012

**INTEGRITY COMMISSION Investigation Into the Allegations Concerning Circumstances Surrounding Procurement Activities Undertaken in the Renovation of the Spanish Town High School**



*Building to ensure that the school can be taken off the shift system and long term physical needs can be met”.*

5.5.1 The Ministry of Finance and the Public Service in their Procurement Policy Statement provides that Value for Money is measured and defined, *inter alia*, as follows:

*“A measure of economy and efficiency with which the financial resources of the Government are converted. Value for money is represented by a number of factors and not only the price paid for goods. Typically, these factors are:*

- *The suitability of the goods/equipment/services purchased;*
- *The useful life of the goods/equipment/services;*
- *Operating maintenance and servicing costs;*
- *The administrative cost of the selected purchasing method;*
- *The delivery/construction period;*
- *Onwards transportation costs;*
- *Storage costs;*
- *The time taken to complete procurement; and*
- *Any other factor that is related to the procurement.<sup>42</sup>”*

5.5.2 The abovementioned statement also stipulates that *“Value for Money is primary, with particular attention to efficiency, effectiveness, quality and sustainable development for the long term.<sup>43</sup>”*

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<sup>42</sup> Taken from <http://www.mof.gov.jm/procurement/procurement-policy-statement.html> on January 12, 2018

<sup>43</sup> Ibid.



5.5.3 Based on the scope of works outlined in the contract between the Spanish Town High School and Ms. Maxine Gibson, Architect/Fine Artist, the OCG found that the works were not completed up to the date of cessation of the project.

5.5.4 On December 8, 2014, the OCG, through its Construction Inspectorate Unit, conducted a site visit to the school. During the course of the visit, *inter alia*, following observations were made in relation to the renovation works which were projected for completion:

*“1. Modification to the Cafeteria, which included;*

- *The extension to the rear made of wooden lattice work and shed type zinc roof...*
- *Demolition of walls in the dining area,*
- *Construction of a new service counter with avonite, cobalt glass countertop*
- *Installation of a twenty foot (20ft) cold storage container and back- up generator,*
- *The Purchase of a new oven,*
- *New dining tables and chairs,*
- *Installation of doors and a window,*
- *Painting throughout the cafeteria, bathrooms, classrooms and other affected areas,*
- *Purchase of metal tables (for prep work),*
- *Installation of wooden enclosures (for shelving & storage)*





2. *Excavation works to facilitate laying additional sewage pipes and construction of a manhole...*
  3. *Demolition of walls to classroom [block], installation of wooden partitions for classrooms and circulation improvement;*
  4. *Removal of decorative blocks in classrooms;*
  5. *Installation of new toilets in three (3) bathrooms;*
  6. *Unfinished excavation works for new concrete pavement along classrooms;*
  7. *The bushing of the Old Military Barracks (a historic Site) premises adjacent to the school...;*
  8. *Land surveying and landscaping works to playfield for drainage improvement;*
  9. *Modifications to a white JUTC bus to be retrofitted to provide addition classroom space for the school;*
  10. *Demolition of perimeter wall that is between the school and the Old Military Barrack as a means of access between properties; and*
  11. *Removal of roofing over existing covered walkway area"*
- 5.5.5 Having regard to the foregoing and based on a review of the scope of works, the DI notes that Mr. Clayton Hall, then Principal, during his appearance before the Contractor General indicated that "we have no new classrooms" and that a majority of the funds went to the renovation of the canteen and the sewage.<sup>44</sup>"

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<sup>44</sup> Transcript of Hearing convened on January 8, 2015 involving Mr. Clayton Hall Pgs. 61-62  
INTEGRITY COMMISSION Investigation Into the Allegations Concerning Circumstances Surrounding Procurement Activities Undertaken in the Renovation of the Spanish Town High School



5.5.6 With particular reference to the representation highlighted above, that the majority of the funds were expended on sewage, as well as allegations that “...The good toilet bowls were replaced”<sup>45</sup> the OCG sought to determine the extent of works undertaken in relation to the bathroom facilities. Mr. Clayton Hall, during the course of a Judicial Hearing convened with him indicated that the toilet bowls which were in the bathroom facilities, prior to the renovation, were not defective but that there was a deficiency with the sewerage system which caused the facilities to become disused.<sup>46</sup>

5.5.7 Notwithstanding the fact that there was a detailed scope of works included in the contract between Ms. Maxine Gibson and the Spanish Town High School, it is important to note that no Bill of Quantities was prepared itemising material, labour, rates and specifically pricing the works that were to be executed.

5.5.8 The DI highlights here, Appendix 3, Section 2 of the GPPH which outlines the pre-procurement Assessment which ought to take place. More specifically, A3.2 which outlines the factors that the Procuring Entity should consider prior to the procurement process, requires, *inter alia*, that the assessment should include:

1. Detailed list of items to be supplied
2. Brief technical specification- literature/material
3. Substitution of items

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<sup>45</sup> Complaint received on January 5, 2014 from anonymous person

<sup>46</sup> Transcript of Hearing convened on January 8, 2015 involving Mr. Clayton Hall Pgs. 32-33



4. Indication of use and purpose of material
5. Special requirements, instructions or notes
6. Availability of Items – Locally or overseas<sup>47</sup>

5.5.9 The DI notes here, that specific questions were posed to Ms. Joy Douglas and Mr. Patrick Reece during the course of a Judicial Hearing convened on December 18, 2014, in relation to the absence of the Bill of Quantities. In this regard the following discourse ensued:

*“Q... Are you aware Miss Douglas that there is a requirement that whatever plans whatever estimations whatever things are to be undertaken it must be settled and submitted for some approval process before you start?”*

*A: I was not informed by anybody.*

*...*

*A: ...there is a methodological approach where Miss Gibson wouldn't be the person who prepare the BQ.*

*Q: Who prepares it?*

*A: ... the engineer. Mr. Reece .... He is the person who, once is [his] design is done deals with the design for the structural standpoint and I mean as a volunteer, he wasn't being paid and he is the person designated under this project to deal with the quantities.*

*Q: So, Mr. Reece, have you prepared BQs for the sanitation work?*

*A: I have a bill of quantities for the annex section, the rest of it as it goes along we provide the materials needed.*

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<sup>47</sup> GoJ Handbook of Public Procurement Procedures Volume 2 Section 2 Appendix 3 A3.2



...

A: ... when I commenced overseeing what was there, I was provided with a bill of quantities, complete works for the annex. Now, as when we got there and surveyed the works, some of it fell there and we have to do additional things and some we don't do...I indicated sketches, what was required and we prepared a list of material that is pointed out required and asked them to be provided...

...

Q: ... You have only one BQ in respect of the annex, that is correct?

A: ... yes.

Q: In respect of sanitation, you have a BQ for that?

A: No, I just have lengths and sizes and would prepare a material list.

...

Q: There was no BQ for the canteen?

A: No, no, no, not at all.

...<sup>48</sup>"

5.5.10 Notwithstanding, the assertions made by Mr. Reece in relation to the Bill of Quantities, the DI is in possession of a document entitled, "PROPOSED EMERGENCY REPAIRS TO STUDENTS' SANITARY FACILITIES AT SPANISH TOWN HIGH" which outlined the description, quantity, unit rate and dollar value in relation to the material, labour, and transportation, for the execution of the work at the Spanish Town High School. A schedule of activities and a drawing of the sanitary facilities were also observed.

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5.5.11 The CG further sought to ascertain from Mr. Clayton Hall, whether he was aware of a Bill of Quantities which was prepared for the other areas of construction and renovation project. In this regard, Mr. Hall, during the course of a Judicial Hearing convened on December 18, 2014, indicated that he was unaware of a Bill of Quantities prepared in relation to the renovation works at the Spanish Town High School<sup>49</sup>

5.5.12 By way of a definition, a Bill of Quantities refers to a list of descriptions and quantities that are required to complete a construction project<sup>50</sup>; and the prime purpose of the Bill of Quantities should accurately describe the work activity and the quantity that has to occur for that work to be completed, which would take into consideration the material scheduling; construction planning; cost analysis; and cost planning in relation to the project<sup>51</sup>.

5.5.13 Further, the DI notes that up to December 2014, the total funds expended by the Spanish Town High School was \$21,970,725.20. The funds expended were for *“materials, labour with heavy equipment, equipment, transportation, phone card, security, sewage removal and labour and other”*<sup>52</sup>

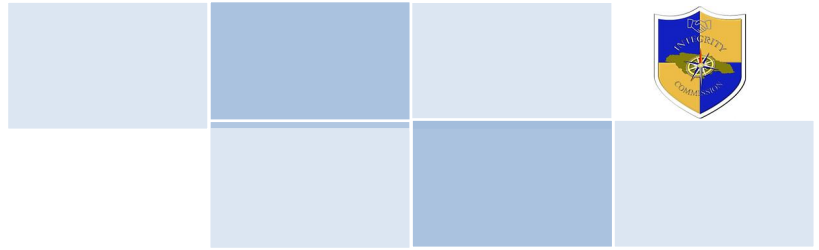
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<sup>49</sup> Transcript of Hearing convened on December 18, 2014 involving Mr. Clayton Hall, Principal, Spanish Town High School Pgs. 120-122

<sup>50</sup> What is the purpose of the Bill of Quantities?, Measure Manage Construction Services accessed at <https://medium.com/@shirleynielsen305/what-is-the-purpose-of-the-bill-of-quantities-6ab02f13726b> on October 7, 2021

<sup>51</sup>The use of Bills of Quantities in building contractor organizations, 2006, by G.W. Kodikara, A. Thorpe and R. McCaffer, Taylor and Francis online accessed at <https://www.tandfonline.com/doi/abs/10.1080/01446199300000026#:~:text=The%20prime%20purpose%20of%20the,cost%20analysis%3B%20and%20cost%20planning> on October 7, 2021

<sup>52</sup> Spanish Town High School document entitled “Spanish Town High Renovation Project 2014 Expenditure Breakdown – Dec 04 2014” Attached at Appendix 1



5.5.14 During the referenced OCG's site visit, the following observations and assessment of the works performed were made:

**Table 1**

<b>Quality of Work Building/Infrastructure</b>	Poor
<b>Quality of Work : Finishes</b>	Poor – works seemed to not be done up to standard, poorly organized, secured and implemented
<b>Scope of works:</b>	(a) no scope of works could be determined and there was no evidence at the time of the site visit of contract documents, drawings or planning approval for the works being done at the school. <sup>53</sup>

5.5.15 The DI highlights here, that the contract period indicated in the contract signed between Ms. Gibson and Ms. Douglas was six (6) months (July 28, 2014 – January 30, 2015). Up to the date of cessation on December 18, 2014, the works were not completed as mentioned above.

<sup>53</sup> The OCG Site Visit Report conducted at the Spanish Town High School dated December 8, 2014



## Chapter 6– Conclusion

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6.0 This chapter outlines the conclusions determined by the DI.

### **Award of Contract to Maxine Gibson**

6.1.1 As it relates to whether a contract was awarded during the course of the renovation works at the Spanish Town High School, the DI concludes that a contract was executed between Ms. Joy Douglas on behalf of the Spanish Town High School and Ms. Maxine Gibson for the provision of Architectural/ Fine Artist services. The contract was dated August 5, 2014, for a period of 6 months at a rate of \$100,000.00 per month. The DI further concludes, that the total contract sum exceeded the then applicable threshold of \$500,000.00 for the procurement methodology employed.

### **The Procurement Methodology Utilized and the Justification Provided for the Execution of Works at the Spanish Town High School**

6.1.2 The DI concludes that the Ministry of Education granted its approval to utilize the Direct Contracting Procurement Methodology under emergency circumstances for the provision of goods, works and services in respect of the School's Development Programme.



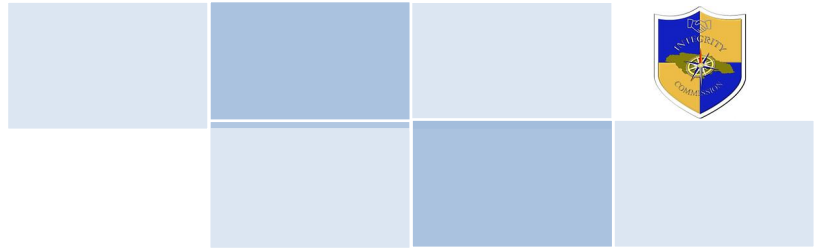
6.1.3 As it relates to the utilization of the Direct Contracting Procurement Methodology under emergency circumstances, the DI concludes that the justification provided by the school's administration and the prevailing circumstances at the material time necessitated the employment of the referenced methodology. The DI's conclusion is supported by findings of the National Education Inspectorate's report which indicates that there were several deficiencies and safety concerns which needed to be addressed immediately.

Notwithstanding the foregoing, the DI finds that the utilization of the aforementioned methodology in this particular instance could have been avoided with better procurement planning on the part of the Procuring Entity.

6.1.4 The DI concludes that there was no contractual agreement entered into between Mr. Patrick Reece and the Spanish Town High School; the DI further concludes that Mr. Reece's involvement in the renovation and construction activities at the Spanish town High School was voluntary.

6.1.5 The DI concludes that Mr. Clayton Hall in his capacity as Accounting Officer and particularly as it relates to his dereliction of duty touching and concerning the procurement process, breached Section 19 of the FAA Act. The DI conclusion is premised on the Principal's failure to ensure that applicable procurement, financial, and accounting policies and procedures were followed.



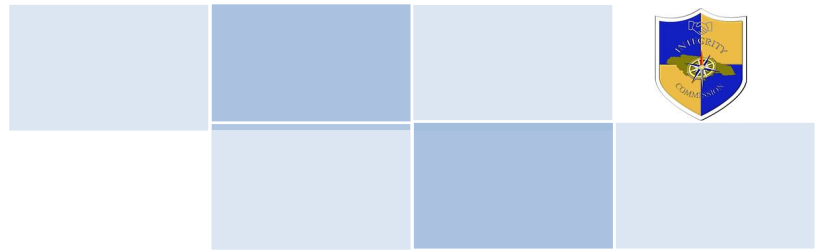


### **Value for Money**

6.1.6 The DI concludes that value for money could not be adequately determined in relation to the execution of the construction and renovation activities at the Spanish Town High School. The DI's conclusion is premised on the following observations:

- a. Up to the date of cessation of the project, the items outlined in the scope of work were not completed;
- b. Based on the assessment undertaken by the OCG's Construction Inspectorate Unit, by way of a site visit conducted on December 8, 2014, there were several deficiencies in the standard of work, organization and security, with the result that the works which were observed were reportedly not completed satisfactorily; and
- c. The admitted absence of a Bill of Quantities for several areas of the renovations and construction activities at the Spanish Town High School.

The compendium of facts had the effect of undermining the objectives of value for money, accountability and transparency which impaired the DI's ability to determine whether the total amount of \$21,970,725.20 which was expended up to the date of the Cessation Order reflected value for money.



## **Conflict of Interest**

6.1.7 As it relates to the allegation and/or claims that Ms. Douglas assumed the role of Contractor, the DI concludes that Ms. Douglas could not be considered to be a contractor within the meaning of the GoJ Handbook of Public Sector Procurement Procedures. No evidence of compensation was observed to be paid to Ms. Douglas for her services in the foregoing regard. It therefore follows, that Ms. Douglas' involvement in the referenced contract could not be strictly considered a conflict of interest.

Notwithstanding the foregoing, the DI concludes that the intervention on the part of Ms. Douglas in the project was inappropriate and operated to circumvent and undermine the authority of the Principal and the Bursar. Furthermore, the foregoing actions on the part of Ms. Douglas, however noble her intentions, must be deemed ultra vires and contrary to the principles of transparency, accountability and good governance.



## Chapter 7– Recommendations

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

### **Recommendations to the Financial Secretary and the Permanent Secretary in the Ministry of Education and Youth**

7.1.1 The DI recommends that the Permanent Secretary in consultation with the Financial Secretary conduct an audit of the financial transactions in relation to the renovation works conducted at the Spanish Town High School to determine the extent of any loss which may have been occasioned by the breach of Section 19 of the FAA Act and cause such funds to be recovered from the Accounting/Accountable Officer and any other officer(s) responsible, consistent with Section 20 of the referenced Act.

Connectedly, the DI recommends that the Permanent Secretary in the Ministry of Education and Youth cause the necessary disciplinary actions to be taken against the former Principal and the Bursar, if they are still in the Public Service, having regard to all the circumstances of this case.



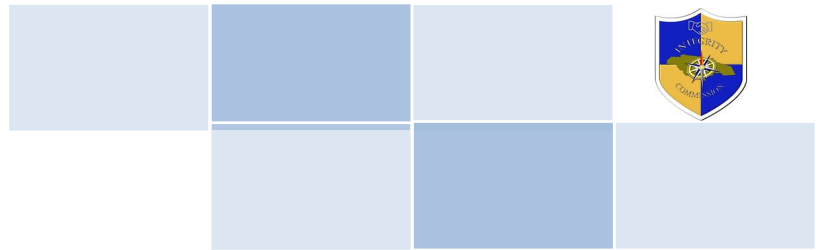
## **Recommendations to the Spanish Town High School**

7.1.2 The DI recommends that the respective Public Officers at the Spanish Town High School, who are charged with the responsibility of administering the award of government contracts, become familiar with, and strictly adhere to, the Public Procurement Act, and the Government of Jamaica Handbook of Public Sector Procurement Procedures; specifically, in relation to the following:

- a. The management of conflict of interest, specifically as it concerns the overlapping of roles and duties in various Committees; and
- b. The importance of the preparation of a Procurement Plan consistent with Section A1.6 of the GPPH which requires all procuring entities to have in place a Procurement Plan.

7.1.3 The DI recommends that all Officers concerned with the administration of the procurement process at the Spanish Town High School undergo intensive training in public procurement and contract administration.

7.1.4 The DI recommends that the Spanish Town High School take reasonable steps to ensure that mechanisms are implemented to guard against persons acting in overlapping roles which may give rise to inappropriate conduct. Further and more specifically, the DI recommends that the Spanish Town High School immediately desists from facilitating

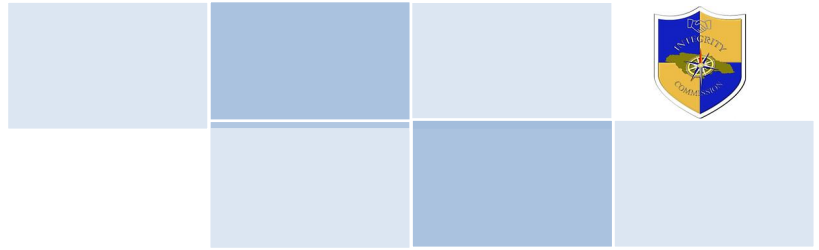


circumstances where a Board member intervenes inappropriately in the Procurement and Financial administration process irrespective of whether the services provided are voluntary or otherwise.

### **The Minister of Education and Youth**

The DI recommends that, if not yet done, the Minister of Education and Youth considers the tenure of Miss Joy Douglas, Board Chairperson of the Spanish Town High School. The DI's recommendation is supported by inter alia the finding at paragraph 6.1.7 above.

The DI also recommends that training be facilitated for all Board Members of the Spanish Town High School to apprise them of their roles, responsibilities and the scope and limitations of their respective authority, so as to prevent a reoccurrence of the breaches and irregularities highlighted herein.



## **The Chief Public Procurement Officer in the Ministry of Finance and the Public Service**

7.1.5 In an effort to ensure that value for money is achieved in public sector procurement, the DI recommends that the Chief Public Procurement Officer in the Ministry of Finance and the Public Service give due consideration to the development of standardized Value for Money criteria geared at aiding Public Bodies in, amongst other things, ensuring compliance with this objective.

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

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Kevon A. Stephenson, J.P  
Director of Investigation  
April 20, 2023