



### **Report of Investigation**

**Conducted into the Allegations of Impropriety and Irregularity Surrounding the Award of a Contract Regarding the Provision of Quantity Surveying Services at a Property Located at 4 Windsor Road, St. Ann's Bay**

**Integrity Commission  
February 2023**



This Publication until tabled in Parliament shall be confidential.

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

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

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

Section 56 of the Integrity Commission Act states:

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

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

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

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

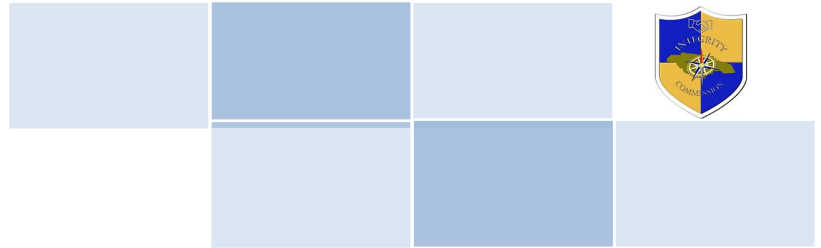
commits an offence and shall be liable on summary conviction in a Parish Court to a fine not exceeding one million dollars or to a term of imprisonment not exceeding one year.

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## **Chapter 1 – Executive Summary**

This investigation report concerns allegations of impropriety and irregularity surrounding the award of a contract by the National Insurance Fund (NIF) regarding the provision of quantity surveying services at a property located at 4 Windsor Road, St. Ann's Bay, St. Ann.

The investigation commenced on January 3, 2017, during the course of which breaches of the Government Procurement Guidelines were found. A number of recommendations are contained herein towards preventing reoccurrence of the referenced breaches.



## Chapter 2 – Background

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2.1 This chapter outlines the background information concerning the investigation.

### Jurisdiction

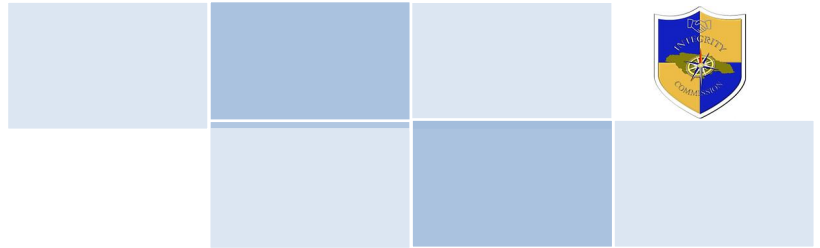
2.1.0 The investigation was conducted pursuant to Sections 4, 15 and 16 of the then applicable Contractor - General Act, which empowered the Office of the Contractor General (OCG) to investigate the referenced matter.

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

### Methodology

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

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



### Allegations

- 2.1.4 The OCG commenced an Investigation into the subject matters subsequent to receiving a complaint on April 5, 2016.
- 2.1.5 The referenced complaint outlined that there was irregularity regarding the bidding and tendering process concerning the Provision of Quantity Surveying services at the Property Located at 4 Windsor Road, St. Ann's Bay, St. Ann. The complaint specifically indicated that the National Insurance Fund awarded the referenced contract to an entity which was not the lowest Bidder.

### Individual pertinent to the Investigation

- 2.1.6 Mr. Ludlow Bowie, Property Manager, NIF and a public servant within the meaning of Section 2(1) of the Corruption Prevention Act was considered the sole person pertinent to the Investigation.



## Chapter 3 – Terms of Reference

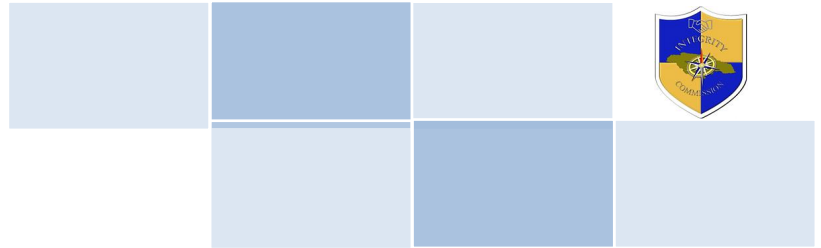
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3.0 This chapter sets out the scope of the investigation and the issues that were examined.

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) and the Contractor-General Act (hereinafter referred to as the CG Act), the Public Sector Procurement Regulations (hereinafter referred to as the Regulations) and the Public Bodies Management and Accountability Act, (hereafter referred to as the PBMA).

More specifically, the investigation sought to determine the following:

1. Whether a contract was awarded by the National Insurance Fund for Quantity Surveying services of a property located at 4 Windsor Road, St. Ann's Bay, St Ann;
2. Whether the procurement process utilized by the National Insurance Fund in the award of the referenced contract for Quantity Surveying services was in keeping with the provisions of the GoJ Handbook of Public Sector Procurement Procedure;



3. The veracity of the allegation that the National Insurance Fund awarded the referenced contract to an entity which was not the lowest Bidder and whether same gave rise to any irregularity(ies) contrary to the GoJ Procurement Guidelines, Circular(s)and/Policy(ies);
4. To ascertain the extent of the Procurement Committee's involvement in the award of contract to Michael Robinson Associates for the provision of Quantity Surveying services;
5. Whether the procurement process utilized by the National Insurance Fund in the award of the referenced contract was fair, impartial, and transparent; and
6. Whether recommendations ought to be made herein.





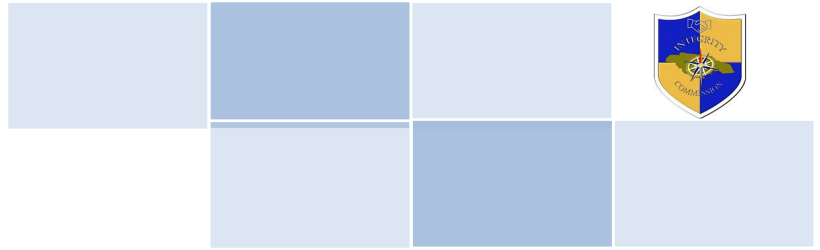
## Chapter 4 - The Investigation

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4.1.0 A commencement letter addressed to the late Shahine Robinson, then Minister of Labor and Social Security, dated January 3, 2017 was dispatched notifying the Minister of the commencement of the Investigation pursuant to Section 15 of the Contractor General Act (CGA).

4.1.1. The following Investigative actions were taken:

- i) Requisition was dispatched to Mr. Ludlow Bowie, Property Manager, NIF which was dated January 19, 2017;
- ii) Company search was conducted to ascertain the Directors of Michael Robinson Associates, Burrows and Wallace and Goldson Barrett Johnson;
- iii) QCA Search was conducted to ascertain whether a contract was awarded to Michael Robinson an Associates;
- iv) Requisition was dispatched to Mr. Brian Goldson, Partner and Director Goldson Barrett Johnson dated November 7, 2018;
- v) Requisition was dispatched to Mr. Ludlow Bowie, Director Real Estate, National Insurance Fund dated November 7, 2018;
- vi) Requisition was dispatched to Mr. Michael G. Robinson, Principal – Michael Robinson & Associates dated June 10, 2019;
- vii) Requisition was dispatched to Mr. Lauriston Jones, B.G.W. Cawston and Partners dated June 10, 2019;
- viii) Requisition was dispatched to Mr. Neville Mills, Managing Director, Neville A. Mills Associates Ltd.; and



ix) Requisition was dispatched to Mr. Dean Burrows, Partner, Burrows & Wallace Chartered Quantity Surveyors & Building Economists.

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 and the relevant legislation/policies in respect of the investigation.

### **The Procurement Procedures which were Utilized by the National Insurance Fund in Relation to the Award of Contract for the Provision of Quantity Surveying Services**

5.1.0 An award of contract was made by the NIF awarded to Michael Robinson Associates for the provision of Quantity Surveyor services on December 31, 2015, in the amount of J\$6,320,888.00<sup>1</sup>.

5.1.1 During the course of the investigation, the DI found it necessary to ascertain the procurement procedures which were utilized by the NIF in relation to the award of contract for the provision of quantity surveying services for the construction of an office building at 4 Windsor Road, St. Ann's Bay, St. Ann.

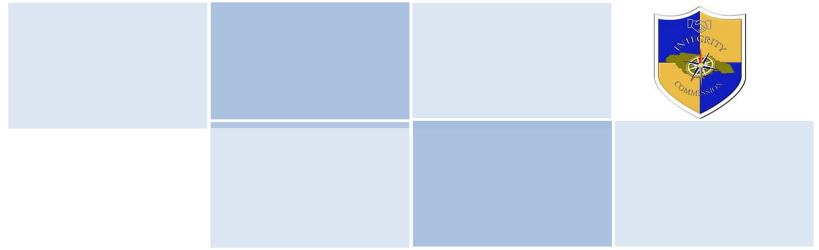
5.1.2 In the foregoing regard, the Tender Evaluation Report which was prepared by the NIF indicated that the Limited Tender procurement methodology was utilized for the procurement of Quantity Surveying services<sup>2</sup>.

5.1.3 The use of the Limited Tender Procurement Methodology means that a specific number of contractors are invited to participate in the tendering process. Section 1.1.3 of the GPPPH outline the following: “ Procuring Entities

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<sup>1</sup> Contract dated December 31, 2015 between the National Insurance Fund and Michael Robinson Associates for the provision of Quantity Surveying services

<sup>2</sup> Tender Evaluation Report contained in a Memorandum dated November 25, 2015 addressed to the Procurement Committee, Ministry of Labour and Social Security from Ms. Audrey Ellis –Lettman, Property Manager, NIF  
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may award their contracts by the limited tendering procedure, in the following cases:

- a) when no suitable tenders have been submitted in response to an open or Local Competitive Bidding procedure, on condition that the requirements of the initial tender are not substantially modified;
- (b) when, for technical reasons or for reasons connected with protection of exclusive rights, the contract may be performed only by a particular contractor and no reasonable alternative or substitute exists; and
- (c) for purchases made under exceptionally advantageous conditions, which only arise in the very short term in the case of unusual disposals, resulting for example, from liquidation, receivership or bankruptcy, and not for routine purchases from regular contractors.

**Note: The use of the Limited Tender procurement method for contracts outside of the established value thresholds shall be subject to the approval of the Head of the Procuring Entity.”**

5.1.4 The Tender Opening Form prepared by the NIF in relation to the mentioned procurement was reviewed and indicated that five (5) entities participated in the tender opportunity as follows:

- 1) BGW Cawston & Partners;
- 2) Michael Robinson & Associates;
- 3) Neville Mills & Associates;
- 4) Goldson Barrett Johnson; and



5) Burrows & Wallace<sup>3</sup>.

5.1.5 Mr. Ludlow Bowie in his November 30, 2018, response indicated that the NIF's rationale for the utilization of the Limited Tender procurement methodology in the award of the referenced contract "... was based on the expectation that the contract sum would have fallen within the range set out in the procurement guideline."<sup>4</sup>

5.1.6 The Tender Evaluation Report indicated that the submissions would be evaluated using the **Least Cost Basis**<sup>5</sup>. Section 1.2.4 of the GoJ Handbook of Public Sector Procurement Procedures outlines the Least – Cost Selection (LCS) as, *inter alia*, the following:

*"The LCS method is more appropriate for small assignments of a standard or routine nature. In these circumstances, well-established practices and standards exist, from which a specific and well-defined outcome, which can be achieved at different costs is expected...<sup>6</sup>".*

5.1.7 The NIF Tender Evaluation Report indicated the various submissions from the five (5) Quantity Surveyor firms. The lowest reflected quotation was submitted by Goldson Barrett Johnson in the amount of \$5,996,600.00<sup>7</sup>.

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<sup>3</sup> National Insurance Form, Tender Opening Form dated November 6, 2015.

<sup>4</sup> Response from Mr. Ludlow Bowie, Director, Real Estate, National Insurance Fund dated November 30, 2018 response #2

<sup>5</sup> National Insurance Fund Tender Evaluation Report Service: Quantity Surveying 4 Windsor Road St. Ann

<sup>6</sup> Government of Jamaica Handbook of Public Sector Procurement Procedures Section 1.2.4 Volume 3

<sup>7</sup> National Insurance Fund Tender Evaluation Report Service: Quantity Surveying 4 Windsor Road St. Ann



5.1.8 Michael Robinson Associates submitted a bid in the amount of \$6,320,888.00 which was the second lowest bid submitted. Michael Robinson Associates was subsequently awarded the contract for the provision of Quantity Surveyor services<sup>8</sup> on December 31, 2015, in the abovementioned amount. Table 1, hereunder, details the submissions of the five (5) Quantity Surveying entities which participated in the mentioned procurement opportunity.

**Table 1**

<b>No. of Tender</b>	<b>Name of Tenderer</b>	<b>Bid Price</b>
1	BGW Cawston and Partners	\$6,782,187.30
2	Michael Robinson Associates	\$6,320,888.00
3	Neville Mills and Associates	\$7,544,953.57
4	Goldson Barrett Johnson	\$5,996,660.00
5	Burrowes and Wallace	\$7,164,750.00

5.1.9 The DI notes the disclaimer provided in the Invitation to Bid which was received by both Goldson Barrett Johnson and Michael Robinson Associates which provided, *inter alia*, the following:

*"National Insurance fund reserves the right not to accept the lowest, or any other tender or to annul the tender process and reject all tenders at any time prior to award without incurring any liability<sup>9</sup>"*

<sup>8</sup> Ibid.

<sup>9</sup> NIF Invitation to Bid – Cost Proposal for Quantity Surveying Services dated October 26, 2015

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5.1.10 Based on the Tender Evaluation Report prepared by the NIF, all five firms responded to the invitation and submitted their respective bids, and all firms were compliant with the qualification requirements set out in the Request for Quotation (RFQ). Specifically, the entities were all Tax Compliant and had current registration with the Royal Institute of Chartered Surveyors (RICS) or the Jamaica Institute of Quantity Surveyors (JIQS)<sup>10</sup>.

5.1.11 Notwithstanding the foregoing, the DI sought to ascertain whether B.G.W Cawston and Partners, Burrowes and Wallace, and Neville Mills & Associates were invited to participate in the procurement opportunity for the provision of Quantity Surveying services. In this regard, Mr. Dean Burrowes, Partner, Burrowes and Wallace, in his June 20, 2019 response stated, *inter alia*, the following:

*"I am employed to Burrowes & Wallace and I have not been made aware of / or have I been in receipt of an invitation to submit a proposal to the National Insurance Fund regarding a contract for the provision of quantity surveying services at a property **4 Windsor Road, St. Ann's Bay, St. Ann.***

I am not aware that any other employee of Burrowes & Wallace has been in receipt of such invitation.<sup>11</sup> "

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<sup>10</sup> National Insurance Fund Tender Evaluation Report Service: Quantity Surveying 4 Windsor Road St. Ann

<sup>11</sup> Response dated June 21, 2019 from Burrowes and Wallace at Response 1



5.1.12 Mr. Lauriston Jones, B.G.W. Cawston and Partners, by way of his response dated June 25, 2019, stated, *inter alia*, the following:

*“With reference to your letter dated June 10, 2019 regarding the above we have searched our records and have found no evidence whatsoever of being asked to provide Quantity Surveying Services at the property located at **4 Windsor Road, St. Ann’s Bay, St. Ann.**”<sup>12</sup>*

5.1.13 Mr. Neville A. Mills, Neville A. Mills Associates Ltd., in his response dated July 5, 2019, indicated, *inter alia*, the following:

*“...Our records on file show that we did receive a request for provision of Quantity Surveying Services and that we prepared a response.”<sup>13</sup>*  
Mr. Mills further indicated, *that to date they have “... received no response to our proposal.”<sup>14</sup>*

5.1.14 The Tender Evaluation Report detailed, *inter alia*, the justification for the recommendation in relation to the award of contract to Michael Robinson Associates as follows:

*“Bid prices ranged from a low of \$5,996,660.00 (Goldson Barrett Johnson) to a high of \$ 7,554,953.57. The bid prices was (sic) divided*

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<sup>12</sup> Response dated June 25, 2019 from B.G.W. Cawston and Partners

<sup>13</sup> Response dated July 5, 2019 from Neville A. Mills Associates and addressed to the Integrity Commission

<sup>14</sup> Response dated July 5, 2019 from Neville A. Mills Associates and addressed to the Integrity Commission at response #3





into two components, pre contract and post contract services. The cost of each service was evaluated as a percentage of total bid price.

The two lowest bidders Barrett Goldson Johnson and Michael Robinson and Associates Ltd. were evaluated. The pre contract and post contract services for the variable items i.e. Preparation of the BQ and preparation of payment Certificates etc. were evaluated. **The lowest price bidder Goldson Barrett Johnson had a price ratio of 40% and 34% respectively. Michael Robinson had a cost ratio of 37% and 32%**

The percentage ratios for the variable cost are important because they will increase with the cost of construction, therefore the higher the ratios the higher the final cost of the service. Although it was indicated in the Cost Methodology... Goldson Barrett Johnson did not provide a rate for any of the services; they were all stated as lump sums<sup>15</sup>.

5.1.15 The National Insurance Fund further indicated that they would find it “difficult to project how these costs would change as the project evolves”<sup>16</sup>.

5.1.16 The DI reiterates here that both B&W and BGW, in their responses dated June 20, 2019 and June 25, 2019 respectively, indicated that they were not

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<sup>15</sup> Ibid.

<sup>16</sup> Ibid



able to locate any evidence of having submitted bids to the NIF in respect of the referenced contract. Notwithstanding the foregoing, both B&W and BGW were observed on the list of invitees provided by the NIF.

5.1.17 It should be noted that Mr. Ludlow Bowie, Property Manager, NIF, in his response dated November 30, 2018 indicated that “we are unable to locate copies of any of the five (5) invitations that were issued by the NIF<sup>17</sup>”

5.1.18 Notwithstanding the foregoing, the DI has in his possession what appears to be the bids submitted by BGW Cawston and Partners and Dean Burrows (B&W) dated November 5, 2015 and November 6, 2015 respectively<sup>18</sup>.

*The Evaluation Process utilized by the National Insurance Fund in the Award of Contract to Michael Robinson & Associates for the Provision of Quantity Surveying Services*

5.2.0 Having regard to the caption, the DI sought to ascertain the evaluation process, utilized by the National Insurance Fund (NIF) in the award of contract for the provision of Quantity Surveying services.

5.2.1 The Tender Evaluation Report indicated that the method of evaluation was the Least Cost Basis (LCB)<sup>19</sup>. In his January 31, 2017 response, Mr. Ludlow Bowie, Director Real Estate, NIF indicated that the recommendation for the

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<sup>17</sup> Response from Mr. Ludlow Bowie dated Novemembr 30, 2018 at response #1

<sup>18</sup> Ibid.

<sup>19</sup> Ibid



award of contract to Michael Robinson Associates (MRA) was sent to the Procurement Committee through Mrs. Audrey Deer-Williams, Senior Director, Investment<sup>20</sup>.

5.2.2 The NIF further indicated by way of a response dated November 30, 2018 to an Integrity Commission requisition, that no Evaluation Committee was established for the evaluation of the submissions<sup>21</sup>.

5.2.3 Having regard to the foregoing, it is important to note that Section 2.2.6 of the GoJ Handbook<sup>22</sup> provides, *inter alia*, the following:

*“Procuring Entities are responsible for establishing Evaluation Committees in accordance with the type of procurement and the relevant expertise required to carry out the evaluation process. Evaluation Committees are responsible for the preparation of the Bid Evaluation Report.*

*During the bid evaluation period, GoJ requires that all Evaluation Committees adhere strictly to the following principles:*

- (a) ensure that the bid evaluation process is strictly confidential;*
  - (b) reject any attempt or pressure to distort the outcome of the evaluation;*
  - (c) reject any proposed action likely to lead to fraud and corruption;*
- and*

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<sup>20</sup> Response from Mr. Ludlow Bowie dated January 31, 2017 addressed to The Office of the Contractor General

<sup>21</sup> Response from Mr. Ludlow Bowie dated November 30, 2018 and which was addressed to then The Office of the Contractor General

<sup>22</sup> Government of Jamaica Handbook of Public Sector Procurement Procedures Section 2.2.6

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(d) **ensure that only the evaluation and qualification criteria specified in the bidding documents are applied.**<sup>23</sup>

5.2.4 At response number 8 Mr. Ludlow Bowie stated, *inter alia*, the following:

*"In keeping with Government of Jamaica Procurement Guidelines, the Procurement Committee is charged with the responsibility to evaluate all proposals received to provide goods and services to the Ministry and to approve the most efficient and cost effective proposal.*

...

*b) The Procurement Committee met and deliberated on the subject procurement on December 10, 2015*

...

*e) The Committee granted approval for the contract to be awarded to Michael Robinson & Associates*

*f) The projected variable costs for four (4) of the contractors were higher than the projected variable cost for Michael Robinson & Associates (MRA). Hence, the contractor with the lowest variable cost, i.e. MRA, was approved"*<sup>24</sup>.

### *Evaluation of the Quotation/Proposal*

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<sup>23</sup> Ibid.

<sup>24</sup> Response from Mr. Ludlow Bowie, Director, Real Estate, National Insurance Fund, dated January 31, 2017 at response #8



5.2.5 The DI reiterates that the evaluation methodology employed was that of the Least Cost Basis (LCB). Mr. Ludlow Bowie, Director, Real Estate, NIF, advised, *inter alia*, that “the Cost Methodology for service form was not completed by Goldson Barrett Johnson, as was prescribed in the RFQ”<sup>25</sup>.

5.2.6 On reviewing the RFQ, a form labelled “Cost Methodology for service” was observed; however, there were no instructions specifically indicated in the RFQ requiring the completion of same. Note, Clause 5 of the RFQ which outlined the NIF’s requirements, stipulated the submission of the following documents:

- I. Copy of TCC
- II. Copies of Professional Qualification
- III. Copy of RICS Registration<sup>26</sup>”.

5.2.7 The DI highlights that NIF’s RFQ did not indicate that an incomplete *Cost for Methodology for Services* form would have been a disadvantage to the proposals submitted.

5.2.8 Having regard to the foregoing, the DI sought to ascertain from Goldson Barrett Johnson (GBJ) whether instructions were received from the NIF in relation to the completion of the referenced *Cost Methodology for Services* form. In this regard, Mr. Brian Goldson, Goldson Barrett Johnson, in his response dated November 30, 2018, stated, *inter alia*, the following:

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<sup>25</sup> Response dated January 31, 2017 from Mr. Ludlow Bowie for National Insurance Fund addressed to the then Office of the Contractor General at response 5 c

<sup>26</sup> National Insurance Fund Request for Quotation dated October 22, 2015



*“We have not received any formal instructions from the NIF requiring the “Cost Methodology for Services”. Item 8 in the Request for Bids indicated that this Contract shall be awarded on a LEAST COST BASIS (LCB)”*

5.2.9 Mr. Michael Robinson, MRA, also made the following representations as regards instructions received by the NIF for the completion of the “Cost for Methodology for Services” form:

*“Neither I, Michael G. Robinson, nor any person acting on my behalf received any formal instruction from the NIF as it relates to completing the “Cost for Methodology for Services Form” prior to the submission of our cost proposal for the award of the referenced contract.”*

5.2.10 The DI reiterates Section 2.2.6 of the GPPPH which stipulates that Procuring Entities should *“ensure that only the evaluation and qualification criteria specified in the bidding documents are applied”*.

5.2.11 By way of a response dated January 31, 2017, Mr. Ludlow Bowie stated, *inter alia*, the following as regards the process which was employed in the evaluation of the submissions made by the five (5) entities:

a) *“The proposals were assessed, first, by the Property Manager and then by the Procurement Committee. The proposal from Goldson*



*Barrett Johnson was incomplete as the Cost Methodology for service form was not completely filled out.<sup>27</sup>*

5.2.12 The Tender Evaluation Report outlined the Evaluation Criteria as, *inter alia*, the following:

*“Bids were received as follows and were evaluated using the formula prescribed in RFQ ad (sic) outlined below;*

1. Goldson Barrett Johnson - \$5,996,660.00
2. Michael Robinson & Associates Ltd. - \$6,320,888.00
3. BGW Cawston & Partners - \$ 6,782,187.30
4. Burrowes & Wallace - \$ 7,164,750.00
5. Neville Mills & Associates - \$ 7,554,953.57

*The bids were evaluated using the Least Cost Basis (LCB.)<sup>28</sup>*

5.2.13 The DI, highlights here that on reviewing NIF's RFQ, no 'prescribed formula' was observed as indicated in Mr. Bowie's response.

5.2.14 In keeping with the GPPH, the Procurement Committee is charged with the responsibility to evaluate all proposals received to provide Goods and services to the Ministry and to approve the most efficient and cost-effective

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<sup>27</sup> Response dated January 31, 2017 from Mr. Ludlow Bowie for National Insurance Fund addressed to the then Office of the Contractor General at response 7

<sup>28</sup> Tender Evaluation Report attached to response dated January 31, 2017 from Mr. Ludlow Bowie for National Insurance Fund



proposal. In this regard, Mr. Ludlow Bowie, in his response dated January 31, 2017 indicated, *inter alia*, the following:

*“The projected variable costs for four (4) of the contractors were higher than the projected variable costs for Michael Robinson & Associates (MRA). Hence, the contractor with the lowest variable cost, i.e. MRA, was approved<sup>29</sup>”.*

5.2.15 During the course of the investigation it was observed that the NIF’s RFQ, outlined the Eligibility of the bidding entities, which provided, *inter alia*, the following:

**“Eligibility Criteria**

*Eligible Bidders **must** meet the following criteria:*

- *Possess a valid Tax Compliance Certificate*
- *Be RICS Registered<sup>30</sup>”*

5.2.16 Based on the foregoing, the DI highlights Appendix A8.12.1.4 of the GPPPH which provides, *inter alia*, the following:

*“A substantially responsive bid is one that conforms to all the terms, conditions and specifications in the Bidding Documents without **material** deviations, reservations, or omissions.<sup>31</sup>”*

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<sup>29</sup> Response dated January 31, 2017 from Mr. Ludlow Bowie for National Insurance Fund addressed to the then Office of the Contractor General at response 8f

<sup>30</sup> Letter dated October 26, 2015 and addressed to MRA and GBJ

<sup>31</sup> GoJ Handbook of Public Sector Procurement Procedures 2014 at A8.12.1.4





### Contract Value Thresholds

5.3.0 Having regard to the value of the contract awarded to MRA in the amount of \$6,320,888.00, the DI sought to determine whether an estimate and/or a budget was prepared by the NIF prior to the Request for Quotation. In this regard, Mr. Ludlow Bowie, Director, Real Estate, NIF, in his response dated November 30, 2018 stated, *inter alia*, that he was not aware that a budget and / or estimate was prepared and that “*there is no documentation on file which indicates that one was done.*”<sup>32</sup>

5.3.1 Section 1.3 volume 3 of the GPPPH provides that limited tender Procurement for contracts with values exceeding \$5 Million should follow the following:

*“Limited Tender*

- 1. The Procuring Entity invites participation from a minimum of three (3) consultants.*
- 2. A valid TCC is required for contracts above \$500,000*
- 3. Evaluation is carried out by the Evaluation Committee.*
- 4. The contract is approved and signed by the Head of the Procuring Entity.”*

5.3.2 Michael Robinson Associates was contracted on a fixed budget of \$6,320,888.00<sup>33</sup>, in this regard, the DI highlights that the referenced

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<sup>32</sup> Response dated November 30, 2018 from Mr. Ludlow Bowie which was addressed to the Integrity Commission at response 7

<sup>33</sup> Contract agreement between National Insurance, Ministry of Labour and Social Security and Michael Robinson Associates dated December 31, 2015



contract value exceeded the applicable threshold of \$5,000,000.00 for the utilization of the Limited Tender procurement methodology in keeping with Appendix 6 of the GPPPH March 2014 Guidelines.

5.3.3 As it relates to the approval of the referenced contract, Mr. Ludlow Bowie, Director Real Estate, NIF in his response dated January 31, 2017 provided the following representations:

*“The Procurement Committee of the Ministry of Labour & Social Security (MLSS) approved the award of the referenced contract. Thereafter, it was approved by the Permanent Secretary of the Ministry of Labour and Social Security.”<sup>34</sup>*

### **Circumstances Surrounding the Selection of the Entities which were Invited to Participate in the Procurement Opportunity for the Provision of Quantity Surveying Services**

5.4.0 Having regard to the circumstances which led to the NIF's utilization of the Limited Tender procurement methodology in the award of the referenced contract, and the invitation of five (5) entities to participate in the procurement opportunity, Mr. Ludlow Bowie advised the DI, *inter alia*, that the selection criteria were that the entities are registered qualified Chartered Quantity Surveyors, with at least ten (10) years' experience<sup>35</sup>. Mr. Bowie further advised that the “*procedure that was used in the selection of*

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<sup>34</sup> Response dated January 31, 2017 from the National Insurance fund which was addressed to the Integrity Commission at response #5 (i)

<sup>35</sup> Response from Ludlow Bowie, National Insurance Fund, dated November 30, 2018 to the Integrity Commission  
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*the five (5) quantity surveyors relates to their relevant experience and qualification”<sup>36</sup>.*

5.4.1 Following the selection process, the NIF initiated Procurement procedures through the Procurement Committee by dispatching invitations to qualified contractors to submit Cost Proposals for the provision of Quantity Surveying services on October 26, 2015<sup>37</sup>.

5.4.2 Mr. Ludlow Bowie, Director Real Estate, NIF, in a response dated January 31, 2017, indicated, *inter alia*, the following:

*“On Friday, November 6, 2015, I attended and observed the tender opening. In addition, the recommendation to the Procurement Committee was sent through me, prior to it being submitted to the Procurement Committee for approval.”<sup>38</sup>*

5.4.3 The referenced response further provided that, the Limited Tender Procurement methodology was utilized. This Procurement Methodology is appropriate for consulting services as outlined in the GoJ GPPPH when:

*“The process of selecting a consultant is based on obtaining a limited number of proposals from a short-list of consultants who have expressed an interest and possess the relevant qualifications. It is time-consuming and expensive to invite and evaluate proposals*

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<sup>36</sup> Ibid.

<sup>37</sup> Response dated January 31, 2017 from Ludlow Bowie, National Insurance Fund at response 5 a) addressed to the Integrity Commission

<sup>38</sup> Response dated January 31, 2017 from Ludlow Bowie, National Insurance Fund at response 5 a) addressed to the Integrity Commission



*from All consultants who wish to compete ... is, therefore, based on limited competition among qualified firms, which in the Procuring Entity's view, are capable of delivering the required services at the desired quality level.*

*In keeping with the principles of the procurement policy, procuring entities are required to ensure that the following considerations guide the selection process for the engagement of consultants:*

- (a) high quality services;*
- (b) economy and efficiency;*
- (c) fairness and equity;*
- (d) transparency in the selection process; and*
- (e) equal opportunity for qualified consultants<sup>39</sup>*

### **The Notification of Award of Contract by the National Insurance Fund**

5.5.0 The Request for Quotation prepared by the NIF which was issued to the Quantity Surveyors outlined the basis upon which the notification of award of contract would be made. The document provides, *inter alia*, the following:

- "i. The contract shall be awarded on a **Least Cost Basis (LCB)**.*
- ii. Prior to the expiration of the period of bid validity, NIF shall notify the successful Bidder, in writing, that its Bid has been accepted.***

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<sup>39</sup> Handbook of Public Sector Procurement Procedures 2014 Vol. 3 section 1  
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*iii. Until a formal Contract is prepared and executed, the notification of award shall constitute a binding Contract.<sup>40</sup>*

5.5.1 Having regard to the foregoing provision, the DI highlights Michael Robinson's response dated May 18, 2018, which indicates that they "were contacted via telephone and informed that ...were successful in the Bid process following which the hard copies of the Contracts were hand delivered to our office for signature.<sup>41</sup>"

5.5.2 In relation to whether the unsuccessful Bidders were notified of the award of contract, Mr. Ludlow Bowie, Director Real Estate, NIF, advised the DI as follows:

*"There is no evidence in our records indicating that any notification was made to unsuccessful bidders<sup>42</sup>".*

5.5.3 Having regard to the foregoing, the DI also notes the following representations made by Mr. Brian Goldson of Goldson Barrett Johnson by way of correspondence which was dated April 1, 2016:

*"We have not had any communication from the NIF despite many telephone calls to them. However, we understand that an award has been made.<sup>43</sup>"*

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<sup>40</sup> NIF's Request for Quotation dated October 22, 2015 under item #8 "Notification of Award"

<sup>41</sup> Response dated May 18, 2018 from Michael Robinson Associates

<sup>42</sup> Response dated November 30, 2018, from Mr. Ludlow Bowie to the Integrity Commission requisition at response # 10

<sup>43</sup> Letter dated April 1, 2016, from Goldson Barrett Johnson, addressed to the Integrity Commission

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5.5.4 Having regard to the foregoing, Appendix A8. 17 of the GoJ Handbook of Public Sector Procurement Procedures provides, *inter alia*, the following:

***“Once a decision has been made on the award, the Procuring Entity shall:***

- (a) obtain the necessary approval to award the contract;*
- (b) send notification of the award – a Contract Form, and a Performance Security Form (indicating the amount of security) to the successful Bidder, in a manner and within the time specified in the Bidding Documents;*
- (c) request the contractor to return the signed contract, together with the required Performance Security within the time specified in the bidding documents; and*
- (d) notify the unsuccessful Bidders as soon as possible after receiving the signed contract and the Performance Security<sup>44</sup>”.***

***(Our Emphasis)***

5.5.5 Further, Appendix A8. 18 provides, *inter alia*, the following:

**“RETURN OF UNSUCCESSFUL BIDS**

*Once the successful Bidder has provided the Performance Security and put in place the required insurance, the tenders of the unsuccessful Bidders should be returned with a covering letter thanking them for their participation. All Bidders shall also be provided with a table showing the price of their bid and the successful bid<sup>45</sup>”.*

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<sup>44</sup> Government of Jamaica Handbook of Public Sector Procurement Procedures 2014 Volume 2 A8. 17

<sup>45</sup> Government of Jamaica Handbook of Public Sector Procurement Procedures 2014 Volume 2 A8

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5.5.6 Additionally, provision **A8.19** of the mentioned Guidelines outline that the Bidder may request a debriefing from the Procuring Entity explaining the grounds upon which the proposal submitted, was not accepted. The GoJ Handbook provides, *inter alia*, the following:

**“NOTIFICATION OF UNSUCCESSFUL BIDDERS**

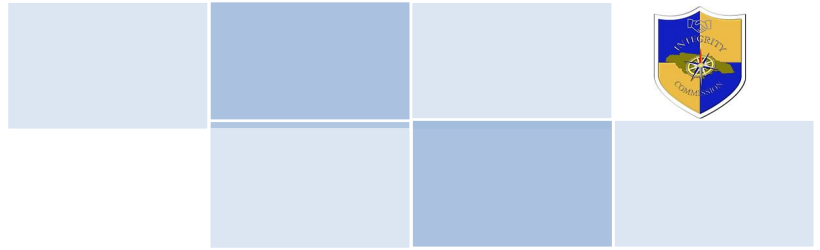
*After publication of the contract award, unsuccessful Bidders may request a written debriefing explaining the grounds on which their bids were not selected. The Procuring Entity shall respond promptly in writing to any unsuccessful Bidder who requests such a debriefing<sup>46</sup>”.*

5.5.7 Mr. Brian Goldson, Goldson Barrett Johnson, in his response dated November 20, 2018, stated that they did make attempts to contact the Procuring Entity, this however proved futile. Consequently, the DI further sought to ascertain whether they requested such justification. The firm provided, *inter alia*, the following response:

*“GBJ did not request a written justification from the NIF though we did attempt to obtain a status report from the property manager... we attempted to get an explanation from the Property Manager by way of telephone. I was informed that the NIF reserves the right not to accept the lowest or any other tender process at any time prior to the award. That answer not proving satisfactory to me I contacted Mr. Ludlow Bowie with whom I had previously contacted at the NIF who advised that*

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<sup>46</sup> Government of Jamaica Handbook of Public Sector Procurement Procedures 2014 Volume **A8.19**  
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*he had no knowledge of this matter and that he would make enquires and respond to me, which I have not yet had any contact on the matter<sup>47</sup>".*

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<sup>47</sup> Response from Goldson Barrett Johnson dated November 20, 2018, addressed to the Integrity Commission at response #2





## Chapter 6– Conclusion

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6.1.0 This chapter outlines the conclusions determined by the DI.

### **Instruction to Bidders and Evaluation Criteria**

6.1.1 The DI concludes that an award of contract was made by the NIF to Michael Robinson Associates for the provision of Quantity Surveyor services on December 31, 2015, in the amount of J\$6,320,888.00.

6.1.2 The DI concludes that the NIF acted in contravention of Section 2.2.6 of the GPPH in its failure to utilize solely the terms expressly outlined in the Request for Quotation (RFQ) in its assessment of the Bids. The DI's conclusion is supported by the fact that the NIF's RFQ required the submission of only the following documents: a) a Copy of Tax Compliance Certificate (TCC), b) Copies of Professional Qualification and c) a Copy of Royal Institute of Chartered Surveyors (RICS) Registration<sup>48</sup>. It is to be noted that there was no stated requirement for the completion and submission of the Cost for Methodology for Services Form, yet this was employed as a selection criterion at the evaluation stage.

Having regard to the foregoing, the DI further concludes that the NIF failed to provide clear instructions in the evaluation criteria which would be utilized to assess the Bid submissions.

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<sup>48</sup> National Insurance Fund Request for Quotation dated October 22, 2015  
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Having regard to the lack of clarity concerning the Cost Methodology for Services form, the DI finds that the award of contract by the National Insurance Fund to Michael Robinson Associates lacked fairness, impartiality and transparency as stipulated in Section 1 of the GPPPH 2014.

6.1.3 As it relates to the failure on the part of the NIF to commission an Evaluation Committee for the purpose of evaluating the Bids in relation to the provision of Quantity Surveying services, the DI concludes that the entity breached Section 2.2.6 of the GoJ Handbook. The DI is of the view that the foregoing breach materially compromised the entity's ability to ensure fairness, impartiality and transparency in the procurement process.

### **Appropriateness of Procurement Methodology**

6.1.4 The DI concludes that the utilization of the Limited Tender procurement methodology in the award of contract to Michael Robinson Associates for the provision of quantity surveying services in the amount of \$6,320,888.00 was consistent with the provisions of the GPPPH. The DI further concludes that the fact that the contract value exceeded the permissible \$5,000,000.00, did not operate to offend the referenced provisions as the necessary approval by the Permanent Secretary of the Ministry of Labor and Social Security was granted on November 25, 2015.

6.1.5 The DI concludes that the Ministry of Labour and Social Security's (MLSS) Procurement Committee was integral in the procurement process employed by the NIF, which resulted in the award of contract to Michael Robinson Associates. Specifically, and as indicated in the findings of this



report, the recommendation and approval for the award of the referenced contract was made through the MLSS' Procurement Committee.

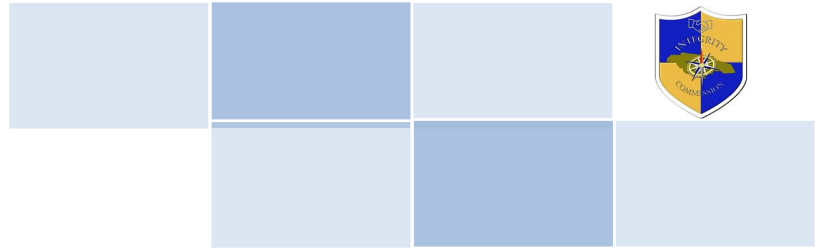
### **Notification to Bidders**

6.1.6 The DI concludes that the NIF's failure to notify all bidders, including Goldson Barrett Johnson, of the outcome of their bid submission for the provision of quantity surveying services breached Appendix A8. 17 of the GPPPH, and as such was irregular.

Appendix A8. 17 d) of the GPPPH 2014 stipulates that the Procuring Entity shall notify the unsuccessful Bidders, as soon as possible, after receiving the signed contract and the Performance Security".

The significance of providing notification to Bidders should not be lost as Appendix A8.19 provides that unsuccessful Bidders may then "request a written debriefing explaining the grounds on which their bids were not selected." Therefore, by the foregoing omission, the bidders were deprived of the opportunity to seek clarity and to voice any concerns they may have had.

6.1.7 As it relates to whether five (5) consultants were indeed invited to participate in the procurement opportunity, and the noted discrepancy between the representations made by the NIF and the representations made by both BGW and B&W, The DI concludes based on the evidence that the five (5) consultants were invited in this regard.



The DI's posture in this regard is premised on the fact that Bid submissions to NIF's RFQ from both B&W and BGW were observed in relation to the provision of Quantity Survey Services for the referenced location.



## Chapter 7– Recommendations

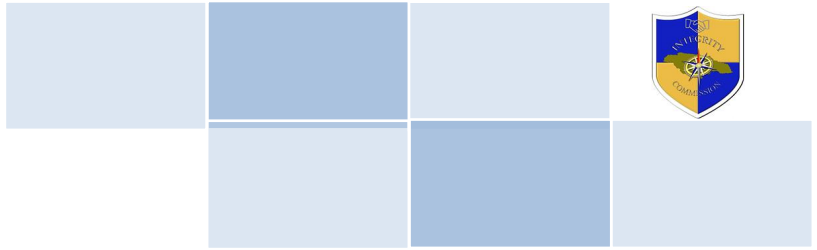
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7.1.0 This chapter outlines the recommendations and corruption prevention initiatives identified by the DI.

### **Accounting/Accountable Officers National Insurance Fund and the Ministry of Labour and Social Security**

7.1.1 The DI recommends that the procurement officers at the NIF strictly observe Section 2.2.6 of the GPPPH by ensuring that only the evaluation and qualification criteria specified in the bidding documents are applied. In light of the referenced section, the DI further recommends that the NIF refrains from utilizing terms which are not expressly outlined in Bidding Documents i.e. RFQ/RFPs, as part of their evaluation criteria and by extension, in its assessment of Bids submissions in respect of the award of contracts.

7.1.2 The DI recommends that the NIF's Head of Entity ensures that the procurement methodology utilized in the award of GoJ contracts is consistent with the contract value thresholds outlined in Section 1.3 of the GPPPH. Additionally, the DI further recommends strict compliance with this provision, particularly as it relates to procurement methodologies which limit or remove competition.



7.1.3 The DI recommends that the NIF's Head of Entity amends its internal procurement procedures to ensure that the requisite notifications are provided to unsuccessful Bidders who participated in the procurement process so as to bring them in line with provision of Appendix A8. 17 d) of the GPPPH. The provision stipulates that Procuring Entities should ensure that all unsuccessful bidders are notified of the result of their respective bid submissions for each procurement opportunity initiated.

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

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Kevon A. Stephenson, J.P  
Director of Investigation

February 26, 2023  
Date